

23072

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JAN 20 2017

SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
COURT OF COMMON PLEAS

THE HONORABLE BENJAMIN H. CULBERTSON
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2016-000251
CIVIL ACTION NO. 2009-CP-22-0325

Willie Singleton and Julia Thomas, Heirs at Law of
Victoria Gadson, deceased

PLAINTIFFS

v.

City of Georgetown Building Official Stephen Stack,
Mayor Lynn Wood Wilson, Mayor Pro Temp Brendon M.
Barber, Sr., Council Member Peggy P. Wayne, Council
Member Clarence Smalls, Council Member Paige B.
Sawyer, III, Council Member Rudolph A. Bradley,
Council Member Jack Scoville, Director of Building
Planning Sabrina Morris, Steve Thomas, City
Administrator and The City of Georgetown,

DEFENDANTS

Of whom Willie Singleton is the

APPELLANT/RESPONDENT

And

The City of Georgetown is the

RESPONDENT/APPELLANT.

RECORD ON APPEAL
Volume I of II

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THE CITY OF GEORGETOWN

**WILLIE SINGLETON AND JULIA THOMAS, HEIRS AT LAW OF VICTORIA GADSON V.
CITY OF GEORGETOWN BUILDING OFFICIAL STEPHEN STACK, MAYOR LYNN
WOOD WILSON, MAYOR PRO TEMP BRENDON M. BARBER, SR., ET. AL.**

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-22-0325

Willie Singleton, et al.
PLAINTIFF(S)

City of Georgetown
DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge

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

DISPOSITION TYPE (CHECK ONE)

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

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

Defendant's post-trial Motion for Judgment Notwithstanding the Verdict, New Trial Absolute and Remittitur of Verdict is DENIED.
(This motion is decided without oral arguments.)

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

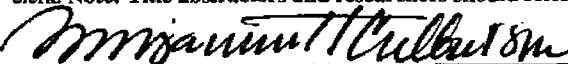
INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$ N/A

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

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


Benjamin H. Culbertson, Circuit Court Judge

2148
Judge Code

Feb. 25, 2016
Date

FILED
GEORGETOWN COUNTY S.C.
2016 FEB 26 PM 4:43
ALMA Y. WHITE
CLERK OF COURT

For Clerk of Court Office Use Only

This judgment was entered on the 26 day of Feb., 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 29 day of Feb., 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Henry

Douglas Charles Baxter

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jennifer Lawrence, Deputy
CLERK OF COURT

Court Reporter: None

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

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

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-22-325

Willie Singleton, et al.
PLAINTIFF(S)

City of Georgetown
DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge

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

DISPOSITION TYPE (CHECK ONE)

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

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

Jury verdict rendered in favor of the plaintiff, Willie Singleton, against the defendant, City of Georgetown in the amount \$45,000.00. (See attached Verdict Form.)

See pages 2 and 3 for decisions on pre-trial, trial and post-trial motions.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Willie Singleton	City of Georgetown	\$45,000.00
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Benjamin H. Culbertson
Benjamin H. Culbertson, Circuit Court Judge

2148
Judge Code

Jan. 14, 2016
Date

For Clerk of Court Office Use Only

This judgment was entered on the 19th day of Jan, 20 16 and a copy mailed first class or placed in the appropriate attorney's box on this 20th day of Jan 20 16 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Henry

Douglas Charles Baxter

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Deputy Bailey Deputy
CLERK OF COURT

Court Reporter: Grace Hurley

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

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

Plaintiff's pre-trial motion for recusal of Benjamin H. Culbertson as presiding judge in this case is DENIED.

Plaintiff's pre-trial motion for recusal of Grace Hurley as court reporter in this case is DENIED.

Defendant's pre-trial motion for summary judgment as to the defendant Julia Thomas is DENIED.

Defendant's pre-trial motion in limine to suppress consent order from SCDLLR is DENIED.

Defendant's pre-trial motion in limine to suppress plaintiff Willie Singleton's testimony as owner to property value of house is DENIED.

Defendant's trial motion to sequester witness is DENIED.

Defendant's trial motion for directed verdict at the close of the plaintiff's case as to the plaintiff Julia Thomas for failure to substitute party due to the plaintiff's death is DENIED.

Defendant's trial motion for directed verdict at the close of the plaintiff's case as to the plaintiff Willie Singleton's recovery for damage to the demolished house is GRANTED since the plaintiff was not the owner of the house at the time of demolition. However, said motion is DENIED as to the contents in the house personally owned by the plaintiff Willie Singleton.

Defendant's trial motion for directed verdict at the close of the plaintiff's case on the grounds that the defendant is immune under the South Carolina Tort Claims Act is DENIED.

Defendant's trial motion for directed verdict at the close of the plaintiff's case as to the plaintiff Willie Singleton on the grounds that the plaintiff failed to mitigate damages is DENIED.

Defendant's trial motion for directed verdict at the close of the plaintiff's case as to any recovery for damage to the house due to the plaintiff's failure to produce any evidence of the amount of damage is GRANTED.

Plaintiff's trial motion for directed verdict at the close of the plaintiff's case is DENIED.

Plaintiff's trial motion for directed verdict at the close of the defendant's case is DENIED.

Defendant's trial motion for directed verdict at the close of the plaintiff's case is DENIED.

Plaintiff's post-trial motion for additur or new trial nisi is DENIED.

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NUMBER 2009-CP-22-325

Willie Singleton,

Plaintiff,

vs.

City of Georgetown,

Defendant.

VERDICT

ALMA Y. WHITE
CLERK OF COURT

2016 JAN 19 AM 9:47

FILED
GEORGETOWN COUNTY, S.C.

(Check one)

- ☒ We, the jury, find in favor of the **plaintiff, Willie Singleton**, and grant the plaintiff judgment against the defendant, City of Georgetown, in the amount of:

\$ 45,000;

- ☐ We, the jury, find in favor of the **defendant, City of Georgetown**.

January 14, 2016


Michael S. Keough, Jr.
Foreperson

0006

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2009CP2200325

Willie Singleton
Victoria Gadson Est

Julia Thomas

Georgetown City of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

Notice Of Motion And Motion For Summary Judgment By Attorney Baxter; Denied.
Motion/Motion For Summary Judgment By Attorney Baxter; Denied.

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

0007
SCANNED

SCM
Circuit Court Judge

2154
Judge Code

4/23/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on April 23, 2015, and a copy mailed first class or placed in the appropriate attorney's box on April 24, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Henry 1708 B Richland St. Columbia, SC 29201

Douglas Charles Baxter PO Box 3646 Myrtle Beach, SC 29578

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jennifer Lawrence, Deputy for

Court Reporter *Teresa J. Bautz*

Alma Y. White - Clerk of Court

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

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

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

ORDER

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

Defendants,)

This matter is before the court upon motions of the Defendants requesting that the individual Defendants be dismissed from the action (pursuant to §15-70-70(a) Code of Laws of South Carolina) and that the Plaintiffs request for punitive damages be stricken from the Complaint (pursuant to §15-78-120(b) Cod of Laws of South Carolina). This lawsuit arises out of the demolition of a building located at 1929 Front Street in Georgetown, South Carolina. The Plaintiffs allege that they are the owners of the property and contend that the Defendants failed to follow "proper statutory procedures" in effectuating the demolition.

Generally in a motion to dismiss based upon a failure to state facts sufficient to constitute a cause of action, the Court must base its ruling solely upon the allegations set forth on the face of the Complaint. Doe v. Marion, 605 S.E.2d 556 (Ct. App. 2004). The Court must consider

Willie Singleton

ATTACHMENT

0009

whether the Complaint, viewed in the light most favorable to the Plaintiffs, states any valid claim for relief. Id. If the alleged facts and inferences reasonably deducible from the allegations show that the Plaintiffs can not prevail on any theory of the case, then the motion should be granted.

Id.

statement incorrect
In the Complaint, the Plaintiffs allege that the individual Defendants were either elected officials or employees of the City of Georgetown and that "at all times relevant to these proceedings were serving in such capacity." The South Carolina Tort Claims Act is the exclusive remedy for the torts committed by an employee of a governmental entity while acting within the course and scope of their employee (§15-78-10 Code of Laws of South Carolina). Section 15-78-70(a) Code of Laws of South Carolina provides that an employee with a governmental entity to commit tort by acting within the scope of his official duty is not liable therefore. Section 15-78-30(c) Code of Laws of South Carolina provides that employee means any officer, employee, or agent, including elected or appointed officials. Section 15-78-30(i) Code of Laws of South Carolina provides that "scope of the official duty" or "scope of their employment" means (1) acting in and about the official business of the governmental entity and (2) performing official duties.

In the present case, the Plaintiffs' damages arise out of the demolition of a building, and Section 5-7-80 Code of Laws of South Carolina provides that a municipality may take such actions. However, the Plaintiffs contend that the individual Defendants failed to follow the proper procedure and this therefore takes their actions outside the course and scope of their official duties.

What is within the scope of employment may be determined by implication from the circumstances of the case. Padgett v. South Carolina Insurance Reserve Fund, 531 S.E.2d 305 (Ct. App. 2000). One factor is whether the employee was acting in furtherance of the employer's business when the accident happened. Id. See also, South Carolina State Budgeting Control

Board v. Prince, 43 S.E.2d 643 (1991) (It is not necessary to find a particular act creating liability was within the servant's authority. If the servant was doing some act in furtherance of the master's business, he will be regarded as acting within the scope of his employment, although he may exceed his authority.)

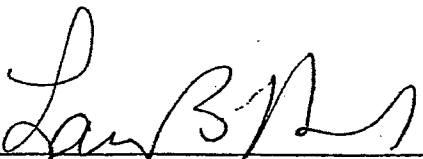
In the present case, viewing the allegations in this Complaint most favorable to the Plaintiff, the alleged actions on the part of the individual Defendants involved acts all which were in furtherance of the City's "business." Thus, the fact that the proper procedure may or may not have been followed does not take their actions outside the course and scope of their official duties. Based upon the foregoing comments it is therefore

ORDERED, ADJUDGED, AND DECREED that Defendants City of Georgetown Building Official Stephen Stack, Mayor Lynn Wood Wilson, Mayor Pro Temp Brendon M. Barber, Sr., Council Member Peggy P. Wayne, Council Member Clarence Smalls, Council Member Paige B. Sawyer, III, Council Member Rudolph A. Bradley, Council Member Jack Scoville, Director of Building Planning Sabrina Morris, and Steve Thomas, City Administrator hereby dismissed from this action.

FURTHER ORDERED that this action is governed by the South Carolina Tort Claims Act and the Plaintiffs cannot recover punitive damages from the City; according, the request for same is hereby stricken from the Complaint.

It is so Ordered

8-4, 2009



Judge Larry B. Hyman, Jr.
Fifteenth Judicial Circuit

City of Georgetown Building)
 Official Stephen Stack, Mayor)
 Lynnwood Wilson, Mayor Pro)
 Temp Brendon M. Barber, Sr.,)
 Council Member Peggy P. Wayne,)
 Council Member Clarence Smalls,)
 Council Member Paige B. Sawyer,)
 III, Council Member Rudolph A.)
 Bradley, Council Member Jack)
 Scoville, Director of Building)
 Planning Sabrina Morris, Steve)
 Thomas City Administrator, and)
 The City of Georgetown,)
 Defendants.)

**CIVIL ACTION NO: 08-CP-
2009CP220325
COMPLAINT
(JURY TRIAL REQUESTED)**

FILED
GEORGETOWN COUNTY S.C.
2009 MAR -6 AM 10:28
ALMA T. WHITE
CLERK OF COURT

1. That Plaintiffs are citizens and residents of Georgetown County, South Carolina and the legal heirs of Victoria Gadson, deceased.
2. That Defendant, Stephen Stack, is a citizen and resident of Georgetown County, South Carolina and serves as the Building Official for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
3. That Defendant, Lynwood Wilson, is a citizen and resident of Georgetown County, South Carolina and serves as the Mayor for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.

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ROAS

Willie Singleton

4. That Defendant, Brendon M. Barber, Sr., is a citizen and resident of Georgetown County, South Carolina and serves as the Mayor Pro Temp for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
5. That Defendant, Peggy P. Wayne, is a citizen and resident of Georgetown County, South Carolina and serves as a member of the City Council for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
6. That Defendant, Clarence Smalls, is a citizen and resident of Georgetown County, South Carolina and serves as a member of the City Council for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
7. That Defendant, Paige B. Sawyer, III, is a citizen and resident of Georgetown County, South Carolina and serves as a member of the City Council for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
8. That Defendant, Rudolph A. Bradley, is a citizen and resident of Georgetown County, South Carolina and serves as a member of the City Council for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
9. That Defendant, Jack Scoville, is a citizen and resident of Georgetown County, South Carolina and serves as a member of the City Council for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
10. That Defendant, Sabrina Morris, is a citizen and resident of Georgetown County, South Carolina and serves as the Director of Building Planning for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant to these proceedings was serving in such capacity, except as otherwise indicated herein.
11. That the Defendant Steve Thomas is citizen and resident of Georgetown County, South Carolina and served as the City Administrator for the City of Georgetown, County of Georgetown, and the State of South Carolina and at all times relevant

0013

Willie Singleton

ROA 9

to these proceedings was serving in such capacity, except as otherwise indicated herein.

12. That the Defendant City of Georgetown is a body politic and corporate which acts through the actions of its agents, servants, employees, and elected government officials and is responsible for their conduct.
13. That Plaintiffs, as the legal heirs of Victoria Gadson, are the owners of property located in the City of Georgetown, South Carolina bearing the address of 1929 Front Street, Georgetown, South Carolina 29440.
14. That Plaintiff, Willie Singleton, has the legal right to manage, repair, and otherwise control the property due to his legal relationship with the decedent and the Power of Attorney granted to him by Plaintiff, Julia Thomas, evidencing such rights.
15. That the property which is the subject of this litigation is located in Georgetown County, South Carolina.
16. That this court has jurisdiction over the subject matter of this action and venue is proper in proper in Georgetown County as the property which is the subject matter of this action is located in Georgetown County and all parties reside in Georgetown and Horry County.
17. That the property which is the subject of this action was in need of repairs and Plaintiff, Willie Singleton, was in the process of attempting to obtain the necessary permit to effectuate the repairs when officials of the City of Georgetown, without proper notice to Plaintiff or the opportunity for a hearing, demolished the premises and removed all contents of the same causing Plaintiff to suffer great pecuniary loss as a direct and proximate result of such actions.

FOR A FIRST CAUSE OF ACTION

(Improper Taking)

18. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.
19. Plaintiff, as the heir of Victoria Gadson and the person with Power of Attorney, had the legal right to do all things necessary to repair and preserve the property and was in the process of making arrangements to do the same when the City of Georgetown, through the wrongful conduct of its agents, servants, employees and elected officials, deprived Plaintiffs of the value of such property by ordering demolition of the same in violation of the statutory and common law of this state.
20. That such denial of access and wrongful demolition of the property with the knowledge, acquiescence, and consent of such agents, servants, employees and

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Willie Singleton

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elected officials constituted a wrongful taking of such property and constitutes a performance of official duties, or failure to perform such duties, in a grossly negligent, willful and wanton fashion thereby entitling Plaintiffs to actual and consequential damages for such wrongful taking suffered as a direct and proximate result of such taking.

21. That Defendants' action in wrongfully denying Plaintiffs' access to their property and demolishing the same without following proper statutory procedures applicable to such action amounts to a wrongful taking of Plaintiffs' property and entitles Plaintiffs to have judgment against Defendants for all damages proximately caused by the same including actual, consequential, and punitive damages, costs and reasonable attorney's fees.

22. Plaintiffs are informed and believe that they are entitled to have judgment against all Defendants for an appropriate amount to compensate them for the actual and consequential damages they have suffered to be determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Denial of Due Process)

23. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

24. That Plaintiffs were deprived of Due Process of Law by Defendants' failure to give them notice and an opportunity to be heard and failing to follow prescribed statutory procedures governing condemnation and demolition of alleged unsafe properties before demolishing their property, thereby entitling Plaintiffs to the value of all property which was destroyed as a direct and proximate result of Defendants' wrongful conduct.

25. That Plaintiffs are informed and believes that they are entitled to have judgment against all Defendants in an appropriate amount to compensate them for all losses sustained including, but not limited to, actual and consequential damages, and costs including reasonable attorney's fees, as determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Waiver of Sovereign Immunity)

26. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

0015

Willie Singleton

ROA 11

27. That the Defendants who are public and elected officials acted outside the scope of their official positions when they failed to allow Plaintiffs to repair their property.
28. That as a result of such wrongful conduct, Defendants waived any claim for sovereign immunity or other statutory protections granted to elected officials and public employees protecting them from liability for acts performed in their official capacity, thereby making them liable to Plaintiffs for all damages proximately caused by such actions.
29. That Defendants' conduct deprived Plaintiffs of the use and value of the property and its contents making Defendants liable to Plaintiffs for the value of the same and all consequential damages associated therewith, including, but not limited to, all costs associated with prosecution of this action including reasonable attorney's fees.

FOR A FOURTH CAUSE OF ACTION
(Violation of S. C. Condemnation Statute)

30. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.
31. That Defendants failed to follow prescribed statutory procedures necessary to effectuate condemnation of Plaintiffs' property which is a prerequisite to demolition of such property.
32. That Defendants' conduct in improperly demolishing the property without adherence to such procedures was the proximate cause of Plaintiffs' being deprived of the replacement value of the property and its contents, fruit trees, shrubbery, fencing, and property elements, and the additional expenses Plaintiffs have incurred seeking redress of the same including, but not limited to, loss of use, diminution in value, and legal costs, including reasonable attorney's fees.

FOR A FIFTH CAUSE OF ACTION
(Violation of S.C. Code 1-23-320)

33. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim
34. That Defendants violated the provisions of the Administrative Procedures Act by failing to afford Plaintiffs notice and the opportunity to be heard on a contested case resulting in the wrongful taking of Plaintiffs' property thereby entitling them to have judgment against all Defendants in an amount sufficient to compensate

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Willie Singleton

ROA 12

them for the actual, consequential, and punitive damages, costs and reasonable attorney's fees they incurred as a direct and proximate result of such wrongful conduct.

FOR A SIXTH CAUSE OF ACTION

(Negligence/Gross Negligence)

35. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.
36. That the actions of Defendants in wrongfully denying Plaintiffs access to their property, failing to follow prescribed statutory procedures governing condemnation and demolition of property, violation of the provisions of the Administrative Procedures Act governing contested cases, violation of statutory laws governing unsafe dwellings and demolishing Plaintiffs' property without allowing them an opportunity to repair the same constitutes negligence in that the officials knew or should have known that such conduct was wrongful in that it violated the statutory laws of this state and that Plaintiffs would suffer the type of damages proximately caused by the same which were foreseeable.
37. That Defendants' failure to properly investigate the circumstances surrounding the demolition of Plaintiffs' property and to follow proper procedures for the same constitutes gross negligence, willfulness, and wantonness entitling Plaintiffs to have judgment against all Defendants for the damages proximately caused by the same including, actual, consequential, and punitive damages as such conduct was outside the scope of the official duties of such officials, employees, agents and servants.

FOR A SEVENTH CAUSE OF ACTION

(Conversion)

38. Plaintiffs reallege, reassert, and incorporate herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.
39. That Defendants' conduct in removing the contents of Plaintiffs' property without Plaintiffs' consent, secreting such contents from Plaintiffs, using the property for their own purposes without Plaintiffs' consent, and disposing of the property without Plaintiffs' consent amounts to conversion of the property.
40. That Plaintiffs are informed and believe that Defendants' conversion of their property entitles them to have judgment against all Defendants in an appropriate amount to compensate them for all damages resulting from such conversion including, but not limited to, the value of such property, consequential damages

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Willie Singleton

ROA 13

relating to the same, costs, including reasonable attorney's fees, and all other expenses proximately caused by the wrongful conversion.

RESERVATION OF ADDITIONAL CAUSES OF ACTION

38. Plaintiffs reallege, reassert and incorporate by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.
39. Plaintiffs hereby reserve the right to amend their pleadings as necessary to assert any additional causes of action revealed during the discovery process.

WHEREFORE, Plaintiffs pray this honorable court inquire into the matters raised in their Complaint and issue its Order awarding Plaintiffs judgment against all Defendants for actual, consequential and punitive damages, and costs including reasonable attorney's fees as follows:

- a. City of Georgetown \$ 3,675,000.00;
 - b. Building Official, Stephen Stack, \$2, 675,000.00
 - c. Mayor Lynwood Wilson \$ 1,000,000.00;
 - d. Mayor Pro Temp Brendon M. Barber, Sr. \$ 1,000,000.00;
 - e. Council Member Peggy P. Wayne \$ 1,000,000.00;
 - f. Council Member Clarence C. Smalls \$ 1,000,000.00;
 - g. Council Member Paige B. Sawyer, III \$ 1,000,000.00;
 - h. Council Member Rudolph A. Bradley \$ 1,000,000.00;
 - i. Council Member Jack M. Scoville \$ 1,000,000.00;
 - j. Director of Planning and Building Sabrina Morris \$ 1,000,000.00;
 - k. City Administrator Steven E. Thomas \$ 1,000,000.00; and
- such other and further relief as the court deems just and proper.

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Willie Singleton

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JOSEPH HENRY, P. C.

By:

Joseph Henry
Joseph Henry

1708-B Richland Street

Columbia, S.C. 29201

Telephone: (803) 929-3484

ATTORNEY FOR PLAINTIFFS

Columbia, South Carolina
March 5, 2009

0019

Willie Singleton

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

ANSWER OF THE DEFENDANTS

(Jury Trial Requested)

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

Defendants,)

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GEORGETOWN DISTRICT
2009 APR -2 PM 4:20

The Defendants respond to the Complaint of the Plaintiff as follows:

FOR A FIRST DEFENSE

1. Each and every allegation not hereinafter specifically admitted is denied.
2. The Defendants have insufficient information in which to admit or deny the allegations as contained in Paragraph 1.
3. With regards to Paragraph 2, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.

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4. With regards to Paragraph 3, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
5. With regards to Paragraph 4, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
6. With regards to Paragraph 5, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, admit the remaining allegations.
7. With regards to Paragraph 6, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
8. With regards to Paragraph 7, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
9. With regards to Paragraph 8, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
10. With regards to Paragraph 9, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.

11. With regards to Paragraph 10, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
12. With regards to Paragraph 11, the Defendants are unable to admit or deny the statement "except as otherwise indicated herein"; however, upon information and belief, they admit the remaining allegations.
13. With regards to Paragraph 12, the Defendants admit the City of Georgetown is a body politic and would show that this action is governed by the South Carolina Tort Claims Act.
14. The Defendants have insufficient information in which to admit or deny the allegations as contained in Paragraphs 13 and 14 of the Complaint.
15. The Defendants, upon information and belief, admit the allegations as contained in Paragraphs 15 and 16 of the Complaint.
16. The Defendants deny the allegations as contained in Paragraph 17 of the Complaint.
17. With regards to Paragraph 19, the Defendants deny any allegations of wrongful conduct; they have insufficient information in which to admit or deny the allegations as contained in Paragraph 19.
18. The Defendants deny the allegations as contained in Paragraphs 20, 21, 22, 24, 25, 27, 28, 29, 31, 32, 34, 36, 37, 39 and 40 of the Complaint.

FOR A SECOND DEFENSE

19. The Defendants reiterate the allegations as contained in the first defense as if repeated verbatim within this the second defense.

20. The Defendants would show that this action is governed by the South Carolina Tort Claims Act, and the Defendants asserts the applicable provisions, immunities, limitations on recovery and statutory cap as affirmative defenses.

FOR A THIRD DEFENSE

21. The Defendants reiterate the allegations as contained in the first two defenses as if repeated verbatim within this the third defense.

22. The Defendants assert the applicable exceptions to waiver of immunity as contained in §15-17-60 of the *Code of Laws of South Carolina*.

FOR A FOURTH DEFENSE

23. The Defendants reiterate the allegations as contained in the first three defenses as if repeated verbatim within this the fourth defense.

24. The Defendants assert the Plaintiffs' lack of standing.

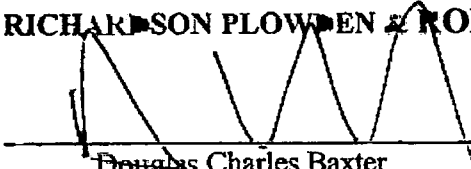
FOR A FIFTH DEFENSE

25. The Defendants reiterate the allegations as contained in the first four defenses as if repeated verbatim within this the fifth defense.

26. The Defendants assert equitable estoppel as an affirmative defense.

Wherefore, having fully responded to the Complaint of the Plaintiff, the Defendants request that same be dismissed with prejudice together with the costs and disbursements in the defense of this matter and for such other and further relief as this Court deems just and proper.

RICHARDSON PLOWDEN & ROBINSON, P.A.



Douglas Charles Baxter
S. C Bar No.: 4778
2103 Farlow Street, Suite B
Post Office Box 3646
Myrtle Beach, SC 29578

(843) 448-1008
(843) 448-1533 (fax)
dbaxter@richardsonplowden.com

Attorney for the Defendants

March 31, 2009

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

CERTIFICATE OF SERVICE

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

Defendants,)

I, the undersigned employee of Richardson Plowden & Robinson, P.A., attorneys for the Defendant, certify that I have served the foregoing Answer of the Defendants by personally depositing in the United States Mail a copy of the same, postage prepaid, addressed to the attorney(s) as indicated below:

Joseph Henry, Esquire
Joseph Henry, P.A.
1708-B Richland Street
Columbia, SC 29201


Jerrie S. Springer

March 31, 2009

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)
Plaintiffs,)

vs.)

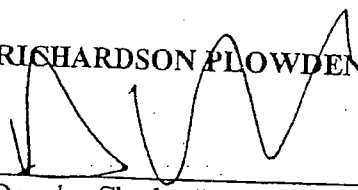
NOTICE OF MOTION AND MOTION TO
DISMISS INDIVIDUAL DEFENDANTS

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)
Defendants,)

TO: THE PLAINTIFFS ABOVE NAMED BY AND THROUGH THEIR
ATTORNEY, JOSPEH HENRY, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE, that the above-named Defendants,
Stephen Stack, Lynnwood Wilson, Brendon M. Barber, Sr., Peggy P. Wayne, Clarence
Smalls, Paige B. Sawyer, III, Rudolph A. Bradley, Jack Scoville, Sabrina Morris and
Steve Thomas by and through their undersigned attorney, will move before this
Honorable Court upon ten (10) days notice or as soon thereafter as possible for an Order
dismissing this action as against these Defendants. Said Motion is made pursuant to The
South Carolina Tort Claims Act, and it is based upon the fact these Defendants were

acting within the scope of their official duties with the City of Georgetown and cannot be sued individually.


RICHARDSON PLOWDEN & ROBINSON, P.A.

Douglas Charles Baxter
S.C. Bar No.: 6272
2103 Farlow Street, Suite B
Post Office Box 3646
Myrtle Beach, SC 29578

(843) 448-1008
(843) 448-1533 (fax)
dbaxter@richardsonplowden.com

Attorney for the Defendants
Stephen Stack, Lynnwood Wilson,
Brendon M. Barber, Sr., Peggy P. Wayne,
Clarence Smalls, Paige B. Sawyer, III,
Rudolph A. Bradley, Jack Scoville,
Sabrina Morris and Steve Thomas

March 31, 2009

Willie Singleton

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

NOTICE OF MOTION AND MOTION
TO STRIKE PUNITIVE DAMAGES

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

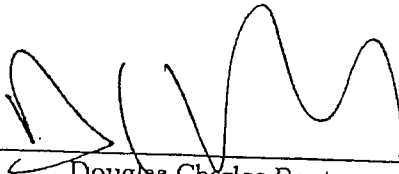
Defendants,)

TO: THE PLAINTIFF ABOVE NAMED, BY AND THROUGH THEIR
ATTORNEY, JOSEPH HENRY, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that the Defendants will move before this
Honorable Court, upon ten days notice of as soon thereafter as possible, for an Order
striking punitive damages. Said Motion is made pursuant to the South Carolina Tort
Claims Act (§15-78-10, et. seq.) which prohibits the recovery of punitive damages.

Willie Singleton

RICHARDSON PLOWDEN & ROBINSON, P.A.



Douglas Charles Baxter
S.C. Bar No.: 6272
2103 Farlow Street, Suite B
Post Office Box 3646
Myrtle Beach, SC 29578

(843) 448-1008
(843) 448-1533 (fax)
dbaxter@richardsonplowden.com

Attorney for the Defendants

March 31, 2009

Willie Singleton

COUNTY OF GEORGETOWN

CASE NO.: 2009-CP-22-0325

Willie Singleton and Julie Thomas et al

Plaintiff,

vs.

City of Georgetown Building Official et al,

Defendant.

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Joseph Henry, Bar No. _____

Address:

1708-B Richland Street, Columbia, SC 29201

Phone: 803-929-3484 Fax _____

E-mail: _____ Other: _____

Defendant's Attorney:

Douglas C. Baxter, Bar No. 06272

Address:

P.O. Drawer 3646, Myrtle Beach, SC 29578

Phone: (843) 448-1008 Fax (843) 448-1533

E-mail: dbaxter@richardsonplowden.com Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment

Estimated Time Needed: 30 min.

Court Reporter Needed: ☒ **YES** / ☐ **NO**

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

8/19/13

Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$**

☐ **EXEMPT:**
(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: SOM Date Filed: 8/22/13

☒ **MOTION FEE COLLECTED: \$ 25.00**

☐ **CONTESTED - AMOUNT DUE: \$** _____

FILED
GEORGETOWN COUNTY, S.C.
2013 AUG 22 AM 11:08
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

**NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT**

City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley,)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

Defendants,)

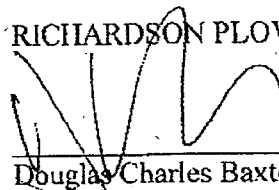
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GEORGETOWN COUNTY
2013 AUG 22 AM 11:08
ALMA Y. WHITE
CLERK OF COURT

TO: PLAINTIFF AND THEIR ATTORNEY JOSEPH HENRY:

YOU WILL PLEASE TAKE NOTICE that the Defendant, The City of
Georgetown, hereby moves for an order granting summary judgment as to the Plaintiff,
Julia Thomas. This motion is based upon the fact that the Plaintiff Julia Thomas died on
or about May 5, 2009, and, it is believed that she died intestate and no probate estate has
been opened. This motion will be supported by the deposition of testimony of Willie
Singleton, and the public records for Georgetown County.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.



Douglas Charles Baxter, S.C Bar No.: 06272
2103 Farlow Street
Post Office Box 3646
Myrtle Beach, SC 29578

(843) 448-1008
(843) 448-1533 (fax)
dbaxter@richardsonplowden.com

Attorney for the Defendants

August 16, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 09-CP-22-0325

Willie Singleton and Julia Thomas,)
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiffs,)

vs.)

CERTIFICATE OF SERVICE

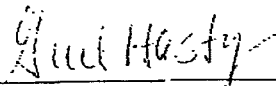
City of Georgetown Building Official)
Stephen Stack, Mayor Lynn Wood)
Wilson, Mayor Pro Temp Brendon)
M. Barber, Sr., Council Member)
Peggy P. Wayne, Council Member)
Clarence Smalls, Council Member)
Paige B. Sawyer, III, Council)
Member Rudolph A. Bradley.)
Council Member Jack Scoville,)
Director of Building Planning)
Sabrina Morris, Steve Thomas, City)
Administrator, and The City of)
Georgetown,)

Defendants,)

FILED
GEORGETOWN COUNTY, SC
2013 AUG 22 AM 11:07
ALMA Y. WHITE
CLERK OF COURT

I, the undersigned employee of Richardson Plowden & Robinson, P.A., attorneys for the Defendant, certify that I have served the foregoing Notice of Motion and Motion for Summary Judgment by personally depositing in the United States Mail a copy of the same, postage prepaid, addressed to the attorney(s) as indicated below:

Joseph Henry, Esquire
Joseph Henry, P.A.
1708-B Richland Street
Columbia, SC 29201


Gail Hasty, Legal Assistant

August 19 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
	)	
Willie Singleton and Julia Thomas,	)	Case No. 2009-CP-22-0325
Heirs at Law of Victoria Gadson,	)	
deceased,	)	
	)	
Plaintiff,	)	MEMORANDUM IN SUPPORT OF
	)	DEFENDANT CITY OF GEORGETOWN'S
vs.	)	MOTION FOR SUMMARY JUDGMENT
	)	
City of Georgetown	)	
	)	
Defendants.	)	

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, the Defendant, The City of Georgetown (hereinafter "City" or "Defendants") moves for an Order Granting Summary Judgment in the above referenced case on the grounds that there is no genuine issue of material fact, and the Defendant is entitled to Judgment as a matter of law as Plaintiff Willie Singleton does not have standing to pursue this action as he does not have valid ownership of the property and as more fully set forth below.

PROCEDURAL POSTURE

Plaintiff instituted this lawsuit on March 6, 2009 against the City and several City employees and officials whom were individually named as co-defendants. In his Complaint, Plaintiff alleges the Plaintiffs are "legal heirs of Victoria Gadson" and "are owners of property located in the City of Georgetown, South Carolina bearing the address of 1929 Front Street, Georgetown, South Carolina 29440." (Complaint, para. 13) The Defendants filed an Answer to the Complaint on or about March 31, 2009, and subsequent thereto, the individually named City employees and officials have been dismissed from this case. The Defendant files its Motion for Summary Judgment on the basis that Willie Singleton lacks standing to pursue the claims asserted in the Complaint and that the claims brought by Willie Singleton should be dismissed with

prejudice. The Defendant submits this Memorandum in Support of its Motion for Summary Judgment.

FACTUAL BACKGROUND

No genuine issue of material fact exists regarding Plaintiff's lack of standing because Willie Singleton does not own the property which is the subject of the present lawsuit, as admitted in Mr. Singleton's deposition testimony (Exhibit A) and as evidenced by the Title to Real Estate (Exhibit B), Power of Attorney (Exhibit C) and the Affidavit for tax exempt transfers of property signed by Willie Singleton (Exhibit D), as discussed more fully below.

Plaintiff, in the Complaint, alleges that Willie Singleton "has the legal right to manage, repair, and otherwise control the property due to his legal relationship with the decedent and the Power of Attorney granted to him by Plaintiff, Julia Thomas, evidencing such rights." (Complaint, para. 14) The Complaint refers to the property as the "Plaintiffs'" property; however, the record in the case shows that there is no question of fact that Willie Singleton did not at the time of the incident, nor does he presently, have a valid ownership interest in the property which would allow him to recover damages relating to the allegations asserted against the Defendant. Consequently, the Defendant is entitled, as a matter of law, to an order granting summary judgment.

LEGAL STANDARD

Summary judgment is appropriate if the Court finds that "there is no genuine issue as to any material fact" South Carolina Rules of Civil Procedure 56(c). "In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn therefrom should be viewed in the light most favorable to the non-moving party." *Gilmer v. Martin*, 323 S.C. 154, 156, 473 S.E.2d 812, 813 (Ct. App. 1996), *cert. dismissed as improvidently granted*, 326 S.C. 267, 487 S.E.2d 854 (1997). "The purpose of summary judgment is to obviate delay where there is no material issue of fact involved." *Manley v. Manley*, 291 S.C. 325, 329, 353 S.E.2d 312, 314 (Ct. App. 1987). "[S]ummary

judgment is [used] to expedite disposition of cases [that] do not require the services of a fact finder.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Once the moving party has met the initial burden of demonstrating the absence of a genuine issue of material fact, the nonmoving party cannot simply rest on the mere allegations or denials contained in the pleadings, but rather must come forward with specific facts showing that there is a genuine issue for trial. *Boone v. Sunbelt Newspapers, Inc.*, 347 S.C. 571, 556 S.E.2d 732 (Ct. App. 2001). Summary judgment should be granted when there is a failure of the nonmoving party to make a showing sufficient to establish the existence of an essential element of that party’s case. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986).

Therefore, the issue before this Court is whether the Plaintiff has produced sufficient evidence in support of their theories of liability against this Defendant to survive summary judgment. Even viewing the evidence and emphasis in the light most favorable to the Plaintiff, the record in the cases is patently insufficient to withstand this Motion for Summary Judgment.

ARGUMENT

The Plaintiff has the burden of proving an interest in the subject property that would give William Singleton standing to pursue claims for damage to the property. Here, William Singleton has no valid interest in the property.

“Standing to sue is a fundamental requirement in instituting an action.” *Town of Arcadia Lakes v. South Carolina Dept. of Health and Environmental Control*, 404 S.C. 515, 528, 745 S.E.2d 385, 392 (Ct. App. 2013) (citing *Bodman v. State of S. C.*, 403 S.C. 60, 66, 742 S.E.2d 363, 366 (2013) (quoting *Joytime Distribs. & Amusement Co. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999)). “When no statute confers standing, the elements of constitutional standing must be met.” *Id.* at 528 (quoting, *Youngblood v. S.C. Dep’t of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013)).

Three requirements must be met, for which Plaintiff carries the burden of proof, to satisfy "the irreducible constitutional minimum of standing" are as follows:

First, the plaintiff must have suffered an "injury in fact"—an invasion of a legally protected interest which is (a) concrete and particularized and (b) "actual or imminent, not "conjectural" or "hypothetical." Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be "fairly trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."

Town of Acadia, at 529 (citations omitted)

Plaintiff Singleton here must prove that, first, there is an injury suffered by him. If the Plaintiff does not own the property, he has suffered no injury in this case.

"An agent acting for a principal pursuant to a power of attorney may not make a substantially gratuitous conveyance of the property of the principal to himself unless the power to do so is expressly granted by the instrument itself." *Loftis v. ECK*, 288 S.C. 154, 157, 341 S.E.2d 641, 643 (1986) (citing *Fender v. Fender*, 285 S.C. 260, 329 S.E.2d 430 (1985)). In the *Loftis* case, the court held that there was no express grant of power to the operative power of attorney to transfer the property, and thus, the conveyance of the property was not valid. *Id.*

Willie Singleton testified that the document granting Singleton power of attorney over Plaintiff Julia Thomas gave him power to sign a deed on behalf of Julia Thomas transferring ownership of the property to himself. (Exh A, Singleton Dep., p. 8, l. 10 to p. 9, l. 16; Exh B., Deed to Property; Exh. C, Power of Attorney) Singleton further testified that the property was a gift from Plaintiff Thomas to himself. (Exh. A., Singleton Dep., p. 9, l. 17 to p. 10, l. 10; Exh. D) The only way the Plaintiff Singleton is claiming an interest in the property is through the deed signed by Singleton as power of attorney for Plaintiff Julia Thomas. (Exh. A., Singleton Dep., p. 15, l. 10 to 13) Singleton himself, as power of attorney, signed the deed transferring Thomas's ownership interest to Singleton. Singleton did not pay any consideration for the property transfer. (Exh. A,

Singleton Dep., p. 9, l. 17 to p. 10, l. 10) There is no express grant of authority from Plaintiff Thomas to Singleton authorizing the transfer of the property to Singleton's ownership. Under South Carolina law, this property transfer is inadequate to make the gratuitous property transfer conveyance valid.

Without an express grant of power to transfer the property from Plaintiff Thomas to Plaintiff Singleton, the property conveyance is invalid and leaves Plaintiff Singleton with no ownership interest in the property. Singleton lacks standing to pursue any claims for damage to the property because he has not suffered an injury in fact. As a result, the claims brought by Singleton must be dismissed.

CONCLUSION

For the foregoing reasons, the Defendants respectfully request that this Court grant the Motion for Summary Judgment and dismiss the Plaintiff Willie Singleton's claims against the Defendants with prejudice.

RICHARDSON PLOWDEN & ROBINSON, P.A.



Douglas Charles Baxter, S.C. Bar No.: 06272

E. B. Davis Inabnit, Jr. S.C. Bar No.: 73700

2103 Farlow Street

Post Office Box 3646

Myrtle Beach, SC 29578

(843) 448-1008

(843) 448-1533 (fax)

dbaxter@richardsonplowden.com

dinabnit@richardsonplowden.com

Attorney for the Defendants

April 17, 2015

1 Q. Other than Singleton.

2 A. Thompson, Barr. That's it.

3 Q. Now, this lawsuit involves a piece of property
4 located at 1929 Front Street; is that correct?

5 A. That's correct.

6 Q. And you're claiming ownership or some ownership
7 interest in that piece of property; is that
8 correct?

9 A. That's correct.

10 Q. And what is the basis for your claim of ownership?

11 A. The basis is that my sister gave me a power of
12 attorney to transfer the property to my name.

13 MR. BAXTER: Let's mark that.

14 (Defendant's Exhibit No. 1 was marked.)

15 Q. I know I have a copy of that somewhere. I'm
16 showing you what has been marked as Defendant's
17 Exhibit No. 1, and ask you, if you could, just to
18 identify that document.

19 A. Yes.

20 Q. Is that the deed from your sister?

21 A. Yes.

22 (Defendant's Exhibit No. 2 was marked.)

23 Q. I'm now showing you, I should have stapled this,
24 but a two-page document which has been marked as
25 Defendant's Exhibit No. 2 and ask you if you can

1 identify that particular document.

2 A. Yes.

3 Q. And what is that document?

4 A. Power of attorney from my sister to me.

5 Q. Okay. And is that the power of attorney you
6 referred to earlier by which the deed was conveyed
7 to you?

8 A. That's correct.

9 Q. Now, Defendant's Exhibit No. 1, on the second page,
10 signed by you with POA, which I'm assuming is power
11 of attorney; is that correct?

12 A. Yes.

13 Q. It also has a signature of Julia Ruth Thomas. Did
14 she actually sign that or did you sign on her
15 behalf?

16 A. I signed that.

17 Q. Okay.

18 (Defendant's Exhibit No. 3 was marked.)

19 Q. Now I will show you what's been marked as Exhibit
20 No. 3, which is an affidavit, and if you would--
21 well, first of all, is that document signed by you?

22 A. Yes.

23 Q. And it's my understanding this document is an
24 affidavit that would have been filed in conjunction
25 with the deed to you; is that correct?

1 A. Yes, it is an affidavit.

2 Q. Okay. And in here it indicates that it is exempt
3 from the fee for recording the deed because the
4 consideration is less than \$100; is that correct?

5 A. That's what it says.

6 Q. Okay. And the deed to you was a gift from your
7 sister, correct?

8 A. That's correct.

9 Q. You did not pay her for that?

10 A. That's correct.

11 Q. Now, the 1929 property, 1929 Front Street property,
12 do you know how your sister became an owner or how
13 she got her ownership interest in it?

14 A. From her mother.

15 Q. And who is her mother?

16 A. Victoria Gadson.

17 Q. And Victoria Gadson, my understanding, died
18 intestate, meaning she died without a will?

19 A. Yes.

20 Q. Where was she living when she died?

21 A. 1929 Front Street.

22 Q. Do you know, is there an estate set up for her?

23 A. No, not that I know of.

24 Q. And who would have been-- and you may not know, but
25 who, as you're understanding, would have been the

1 James Gadson's estate, correct?

2 A. That's correct.

3 Q. And assuming that Victoria Gadson died intestate,
4 without a will--

5 A. Yes.

6 Q. -- you would not have claimed any interest through
7 her, you were not a beneficiary of her; is that
8 correct?

9 A. That's correct.

10 Q. Okay. So the only way that you're claiming an
11 interest is through the deed which is Defendant's
12 Exhibit No. 1?

13 A. Yes.

14 Q. Now, I want to back up. And you indicated that
15 there was no deed to James Gadson from Victoria, or
16 it wasn't conveyed to him; is that correct?

17 A. That's correct.

18 Q. And what are you basing that upon?

19 A. I base that upon that there was never a deed in his
20 name on the property.

21 Q. Was there a deed to Julia Thomas?

22 A. There was-- there was not a deed to Julia Thomas.

23 Q. And to your knowledge, Julia Thomas never conveyed
24 or attempted to convey the property to anyone other
25 than you?

200700028455
 Filed for Record in
 GEORGETOWN SC
 WANDA PREVATTE
 11-30-2007 At 11:17 AM
 DEED 11.00
 STATE TAX .00
 COUNTY TAX .00
 Book 776 Page 48

lot
itg
STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

TITLE TO REAL ESTATE

Julia Ruth Thomas

to

Willie Lee Singleton

501 N. Congdon Street

Georgetown, SC 29440

KNOW ALL MEN BY THESE PRESENTS, that I, Julia Ruth Thomas (hereinafter referred to as Grantor), in the state aforesaid FOR AND in consideration of the sum of FIVE AND 00/100 (\$5.00) DOLLARS, to me in hand paid at and before the sealing of these presents by Willie Lee Singleton (hereinafter referred to as Grantee) in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Grantee, his Heirs and Assigns the following described property:

SEE ATTACHED EXHIBIT "A" FOR DESCRIPTION

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said premises, belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said Grantee, his Heirs and Assigns forever.

AND I do hereby bind myself and my Heirs, Executors, and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, his Heirs and Assigns, against me and my Heirs, and all persons whomsoever may be lawfully claiming, or to claim the same of any part thereof.

Ex. "B"
0044

5-17-162
SPE
GEORGETOWN COUNTY PARCEL

WITNESS my Hand and Seal this 30th day of November in the year of our Lord Two Thousand Seven and in the Two Hundred and Thirty-Second Year of the Sovereignty and Independence of the United States of America.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**


Manica M. Morant

Julia Ruth Thomas
Julia Ruth Thomas
Willie Lee Singleton
By: Willie Lee Singleton, POA

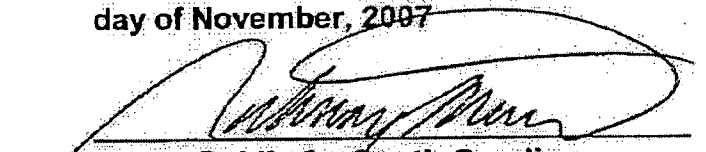
STATE OF SOUTH CAROLINA)

ACKNOWLEDGMENT

COUNTY OF GEORGETOWN)

I, the undersigned, a Notary Public for the above County and State, do hereby certify that **Julia Ruth Thomas by Willie Lee Singleton, POA**, personally appeared before me this date and acknowledged the due execution of the foregoing instrument.

Sworn to before me this 30th
day of November, 2007


Notary Public for South Carolina
My Commission Expires 7/12/2012

Ex. "C"

CERTIFIED TRUE
AND CORRECT COPY

Wanda J. Prevatt

REGISTER OF DEEDS
GEORGETOWN COUNTY, S.C.LF205-04
R205-04**GENERAL POWER OF ATTORNEY**

(With Durable Provision)

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. YOU MAY SPECIFY THAT THESE POWERS WILL EXIST EVEN AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

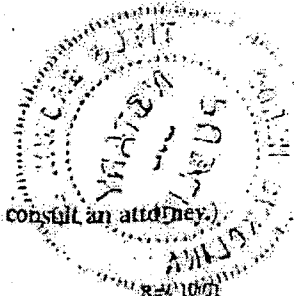
TO ALL PERSONS, be it known that I, *Julia Ruth Thomas*
of *200 Montford Rd apt 77 Georgetown S.C 29440*
the undersigned Grantor, do hereby make and grant a general power of attorney to *Willie Lee Singleton*
of *86 Pennsine st Georgetown S.C 29440*
and do thereupon constitute and appoint said individual as my attorney-in-fact/agent.

My attorney-in-fact/agent shall act in my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters, to the extent that I am permitted by law to act through an agent:

(NOTICE: The grantor must write his or her initials in the corresponding blank space of a box below with respect to each of the subdivisions (A) through (O) below for which the Grantor wants to give the agent authority. If the blank space within a box for any particular subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Cross out each power withheld.)

[*JS*]
[*JS*]
[*JS*]
[*JS*]
[*JS*]
[*JS*]
[*JS*]

- (A) Real estate transactions
 - (B) Tangible personal property transactions
 - (C) Bond, share and commodity transactions
 - (D) Banking transactions
 - (E) Business operating transactions
 - (F) Insurance transactions
 - (G) Gifts to charities and individuals other than Attorney-in-Fact/Agent
- (If trust distributions are involved or tax consequences are anticipated, consult an attorney.)



- ## Durable Provision:

Other Terms:

0047

STATE OF SOUTH CAROLINA }
COUNTY OF GEORGETOWN }

Affidavit

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Julie Ruth Thomas to Willie Lee Singleton on November 30, 2007 and is designated as TRLS No.: 5-17-102
3. Check one of the following:
(a) ☐ subject to the deed recording fee as a transfer for consideration paid or to be paid in money's worth
(b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust of its distribution to a trust beneficiary.
(c) ☒ EXEMPT from the deed recording fee because (exemption #)
(Explanation if required) in consideration of sum less than ONE HUNDRED (\$100.00) DOLLARS.
(If exempt, please skip items 4 - 6, and go to item 7 of this Affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked:
(a) ☐ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$
(b) ☐ The fee is computed on the fair market value of the realty which is \$
(c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$
5. Check YES ☐ or NO ☐ To the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$
6. The DEED Recording Fee is computed as follows:
(a) ☐ the amount listed in item 4 above.
(b) ☐ the amount listed in item 5 above (no amount place zero)
(c) ☐ Subtract Line 6(b) from Line 6(a) and place the result.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor
8. I further understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Willie Lee Singleton
Grantor, Grantee, or Legal Representative
connected with this transaction.

SWORN to before me this
30th day of November, 2007

[Signature]
Notary Public for South Carolina
My Commission Expires 11/4/2010

Willie Lee Singleton
Print or Type Name Here

Ex. "D"

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

Willie Singleton and Julia Thomas Heirs at
Law of Victoria Gadson, deceased

Plaintiff,)

vs.)

City of Georgetown Building Official Stephen
Stack, Mayor Lynnwood Wilson et al

Defendant.)

IN THE COURT OF COMMON PLEAS
15TH JUDICIAL CIRCUIT

CASE NO.: 2009 -CP- 22 - 00325

MOTION AND ORDER INFORMATION

FORM AND COVERSHEET

Plaintiff's Attorney:

Joseph Henry, Bar No. 7898

Address:

1708B Richland St. Columbia, SC 29201

Phone: 803-929-3484 Fax 803-929-3485

E-mail: josephhenry929@bellsouth.net Other:

Defendant's Attorney:

Douglas Baxter, Bar No. _____

Address:

PO Box 3646 Myrtle Beach, SC 29578

Phone: 843-448-1008 Fax _____

E-mail: _____ Other: _____

☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)

☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)

☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Recusal

Estimated Time Needed: 30 min.

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

January 5, 2016
Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$**

☐ **EXEMPT:**

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: HL

Date Filed: 01/05/16

☒ **MOTION FEE COLLECTED: \$ 25.00**

☐ **CONTESTED - AMOUNT DUE: \$ _____**

FILED
GEORGETOWN COUNTY, S.C.
2016 JAN - 8 PM 2:15
ALMA Y. WHITE
CLERK OF COURT

0050

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Willie Singleton and Julia Thomas,
Heirs at Law of
Victoria Gadson, deceased
Plaintiff,

V.

City of Georgetown Building
Official Stephen Stack, Mayor
Lynnwood Wilson, Mayor Pro
Temp Brendon M. Barber, Sr.,
Council Member Peggy P. Wayne,
Council Member Clarence Smalls,
Council Member Paige B. Sawyer,
III, Council Member Rudolph A.
Bradley, Council Member Jack
Scoville, Director of Building
Thomas City Administrator, and
The City of Georgetown,
Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL
CIRCUIT

CIVIL ACTION NO:2009-CP-22-00325

MOTION TO RECUSE JUDGE

FILED
GEORGETOWN COUNTY, S.C.
2016 JAN -8 PM 2:16
ALMA Y. WHITE
CLERK OF COURT

TO: THE HONORABLE BENJAMIN H. CULBERTSON, CIRCUIT COURT JUDGE, FIFTEENTH JUDICIAL
CIRCUIT:

YOU WILL PLEASE TAKE NOTICE, that the Plaintiff by and through undersigned counsel moves before his honor, the Honorable Benjamin H. Culbertson, for an Order recusing him from presiding over the above-referenced case. The motion is based upon, but not limited to, the following grounds:

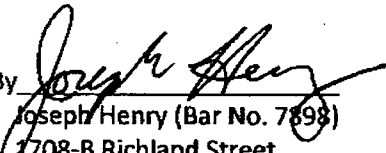
1. Cannon 3(E)(1) and the Comment to the same which states:
"a judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no basis for disqualification." [Emphasis Added];
2. Cannon 3(E) (1) "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned..." ; and
3. Cannon 2(A) which states:

"A judge must avoid all impropriety and the appearance of impropriety. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by ordinary citizens and should do so freely and willingly. " [Emphasis Added]

The motion will further be based upon the arguments of counsel, case law, the correspondence from Plaintiff, Willie Singleton, dated January 5, 2016 and directed to Georgetown County Clerk of Court, the Honorable Alma White, and such other and further proof as the Court may allow.

JOSEPH HENRY, P.C.

Columbia, South Carolina
January 5, 2016

By 
Joseph Henry (Bar No. 7898)
1708-B Richland Street
Columbia, S.C. 29201

Willie Singleton
501 N. Congdon Street
Georgetown, SC 29440
843 359-6363

January 5, 2016

The Honorable, Alma Y. White
Clerk of Court
PO Box 479
Georgetown, SC 29442-0479

RE: Judge Assignment for case number 2009-CP-22-00325, Willie Singleton, plaintiff, et al VS City of Georgetown, Stephen Stack, defendant, et al.

Dear: Ms. White,

Last night while reading the court roster for the upcoming term of court, I notice that the above reference jury trial case is scheduled to be heard by the Resident Circuit Court Judge, the Honorable Benjamin H. Culbertson, and it is set for January 11, 2016 in court room 3A and will start at 9:30am.

Base on several case laws which state ; a judge should not hear a case if it could prejudice a party to the action because the judge has a conflict of interest and knows either party or has some involvement with the action

I have followed some of the Honorable Benjamin H. Culbertson cases and based on my personal experience with the Honorable Benjamin H. Culbertson, as it relates to cases that I have been involved with involving the defendant, City of Georgetown, I feel that he cannot be fair and unbiased in this case. Judges are supposed to be fair and unbiased and I feel that I am entitled to a different judge. My attorney is in the process of sending a request to ask the Honorable Benjamin H. Culbertson to recuse himself from this case.

Most judges pride themselves for being open-minded in even very emotional cases, they know their reputation for fairness and honesty is more important than pride. If a judge assign to a case, could prejudice a party to the action because the judge has a conflict of interest and knows either party or has some involvement with the action.

0054

After completing law school, Judge Culbertson moved to Georgetown, SC and joined the firm of Schneider and O'Donnell, P.A., where he practiced for 5 years. During that time Robert O'Donnell was Municipal Court Judge for the City of Georgetown. While in solo practice serving clients in Georgetown, SC Judge Culbertson worked for the City of Georgetown serving as an Assistant Municipal Court Judge for the City of Georgetown, SC for eleven {11} years from 1985 until 1996. Judge Culbertson is a member of the Georgetown County Bar Association, the Brigadier Club, the Georgetown Cotillion Club, and the Winyah Indigo Society. Judge Culbertson and his family make their residence in Georgetown, SC.

The standard allows for the chance that a judge could be fair and impartial but this situation calls this into doubt. So it just appears that the judge might not be able to give me a fair hearing, so I am allowed to ask for a different judge. There is a lot of case law that I could point to, to support my position.

If you refuse to assign another judge or the judge refuses my request, I intend to file an immediate or interlocutory appeal, before the trial gets underway. I will be asking the Appeals Court, the South Carolina Supreme Court or if need be the US Supreme Court to consider the fact that the refusal hindered a fair trial guaranteed by the Constitution's Fifth Amendment. Strange as it may seem, this issue is familiar to the Supreme Court. Just last year it ruled a state Supreme Court justice acted incorrectly in refusing to recuse himself from a case involving a campaign donor. The Justices called it an obvious and extreme conflict and a due process violation. Once more, there is a lot of case law that I could point to, to support my position.

The Resident Circuit Court Judge, the Honorable Larry B. Hyman Jr., is not a good alternative because I have filed a complaint with the South Carolina office of Judicial Conduct for his actions as it relates to me. I am attaching a copy of a transcript to this document showing where Judge Hyman suggested that a court proceeding in this case should not be recorded.

Please respond in writing with your decision as to whether or not you are willing to assign another judge or the judge refuses my request.

I am very truly yours.

Willie Singleton
Cc Attorney
File

Grace L. Hurley
P.O. Box 30878
Myrtle Beach, SC 29598
February 17, 2010

Willie L. Singleton
501 North Congdon Street
Georgetown, SC 29442

Re: Willie Singleton, et al. versus
Stephen Stack, et al.
09-CP-22-0325
Date of Hearing: June 18, 2009

Mr. Singleton:

This is in response to your letter of February 7, 2010, concerning the above case.

I did not take any motion heard in your case on that date. According to my notes, during the initial roster call for all motions scheduled that day, only Attorney Douglas C. Baxter was present appearing for the motion in the above case. Your attorney, nor you, were present. Mr. Baxter stated that Plaintiff's attorney was in Columbia and that your attorney had sent the court an e-mail and that the motions scheduled for that day would be heard via telephone.

Later in the day when all the motions in other cases scheduled for that day had concluded, Mr. Baxter and the Judge exited the courtroom stating that the motions would be heard via telephone. Attorney Baxter was asked if the motions needed to be on the record and he responded no, thus, they were not put on the record and there is no transcript of same.

Sincerely,

Grace L. Hurley
Grace L. Hurley

Glh

Willie Singleton

ROA 4
0056

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN)
CIRCUIT) FOR THE FIFTEENTH JUDICIAL

Willie Singleton and Julia Thomas,) Case No. 2009-CP-22-0325
Heirs at Law of Victoria Gadson,)
deceased,)

Plaintiff,)

vs.)

MOTION *IN LIMINE*

City of Georgetown,)

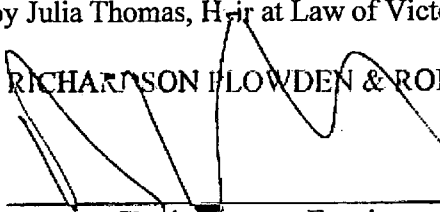
Defendant.)

TO: PLAINTIFF AND HIS ATTORNEY, JOSEPH HENRY:

YOU WILL PLEASE TAKE NOTICE that the Defendant hereby moves for an Order
excluding the introduction of any evidence or argument to the jury related to:

- 1) The Consent Order entered into between Stephen Stack and the South Carolina Building Code Counsel;
- 2) The testimony by the Plaintiff which would be premised upon his being the owner of the property in question; and
- 3) Damages allegedly suffered by Julia Thomas, Heir at Law of Victoria Gadson, deceased.

RICHARDSON PLOWDEN & ROBINSON, P.A.



Douglas Charles Baxter, Esquire
2103 Farlow Street, Myrtle Beach, SC 29577
Post Office Box 3646, Myrtle Beach, SC 29578
(843) 448-1008; (843) 448-1533 (fax)
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Attorney for the Defendant

January 8, 2016

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Willie Singleton and Julie Thomas et al

vs.

City of Georgetown Building Official et al,

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

CASE NO.: 2009-CP-22-0325

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Joseph Henry, Bar No. _____

Address:

1708-B Richland Street, Columbia, SC 29201

Phone: 803-929-3484 Fax _____

E-mail: _____ Other: _____

Defendant's Attorney:

Douglas C. Baxter, Bar No. 06272

Address:

P.O. Drawer 3646, Myrtle Beach, SC 29578

Phone: (843) 448-1008 Fax (843) 448-1533

E-mail: dbaxter@richardsonplowden.com Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Post Trial Motions

Estimated Time Needed: 30 min.

Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff ☒ Defendant

1/22/16

Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$**

☐ **EXEMPT:**

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: JB Date Filed: 1/27/16

☒ **MOTION FEE COLLECTED: \$** 25

☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Willie Singleton and Julia Thomas,
Heirs at Law of Victoria Gadson,
deceased,

Plaintiffs,

vs.

City of Georgetown,

Defendant.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No. 2009-CP-22-0325

POST TRIAL MOTIONS

FILED
GEORGETOWN COUNTY, SC
2016 JAN 27 AM 9:52
ALMA Y. WHITE
CLERK OF COURT

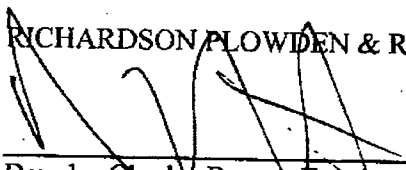
TO: THE PLAINTIFFS AND THEIR ATTORNEY, JOSEPH HENRY:

The Defendant, City of Georgetown, hereby makes the following post-trial Motions for that jury verdict entered on January 14, 2016:

1. The Defendant moves for a judgment notwithstanding the verdict on the basis that the Plaintiffs failed to present sufficient evidence upon which a jury could make a determination of the actual value of the personal property alleged to have been destroyed.
2. The Defendant hereby moves for a new trial absolute as to the Plaintiffs' cause of action for loss of personal property on the basis that the verdict amount was in excess of the total amount testified to by the Plaintiff, and the jury was moved or actuated by passion, caprice, prejudice or other considerations not found in the evidence.
3. The Defendant hereby moves for a remittitur of the verdict on the basis that the Plaintiffs testified that the total value of the property was \$42,500.00, and the Defendant requests that the verdict be reduced to that amount.

Respectfully submitted,

~~RICHARDSON PLOWDEN & ROBINSON, P.A.~~



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Attorneys for the Defendant

January 22, 2016

That plaintiffs' was deprived of Due Process of Law by Defendants' failure to give them notice and an opportunity to be heard and failing to follow prescribed statutory procedures governing condemnation and demolition of alleged unsafe properties before demolishing their property, thereby entitling plaintiff to the replacement value of all property which was destroyed as a direct and proximate result of Defendants' wrongful conduct.

That Plaintiffs' is informed and believes that they are entitled to have judgment against all Defendants in an appropriate amount to compensate them for all losses sustained including, but not limited to actual and consequential damages, and costs including reasonable attorney's fees, as determined by a jury.

FOR THE THIRD CAUSE OF ACTION

(Waiver of Sovereign Immunity)

Plaintiffs reallege, reasserts, and incorporates herein by reference allegations of the foregoing paragraphs as if repeated herein verbatim.

That the Defendants who are public and elected officials acted outside the scope of their official positions when they failed to allowed Plaintiffs to repair their property.

That as a result of such wrongful conduct, Defendants waived any claim for sovereign immunity or other statutory protections granted to elected officials and public employees protecting them from liability for acts performed in their official capacity, thereby making them liable to plaintiffs for all damages proximately caused by such action.

That Defendants' conduct deprived plaintiffs of the use and replacement value of the property and its contents, fruit trees, shrubbery, fencing, and property elements, making Defendants liable to plaintiffs for the value of the same and all consequential damages associated therewith, including, but not limited to, all cost associated with prosecution of this action including reasonable attorney's fees.

FOR A FOURTH CAUSE OF ACTION

(Violation of S.C. Condemnation Statute)

Plaintiff realleges, reasserts, and incorporates herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

That Defendants failed to follow prescribed statutory procedures necessary to effectuate condemnation of Plaintiff's property which is a prerequisite to demolition of such property.

That Defendants' conduct an improperly demolishing the property without adherence to such procedures was the proximate cause of Plaintiff's being deprived of the replacement value of the property and its content, fruit trees, shrubbery, fencing, and property elements, and the additional expenses Plaintiff has incurred seeking redress of the same including, but not limited to, loss of use, diminution in value, and legal costs, including reasonable attorney's fees.

FOR A FIFTH CAUSE OF ACTION
(Violation of S.C. Code 1-23-320)

Plaintiff realleges, reasserts, and incorporates herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

That Defendants violated the provisions of the Administrative Procedures Act by failing to afford Plaintiff notice and the opportunity to be heard on a contested case resulting in the wrongful taking of Plaintiff's property thereby entitling him to have judgment against all Defendants in an amount sufficient to compensate him for the actual, consequential, and punitive damages, costs and reasonable attorney's fees he incurred as a direct and proximate result of such wrongful conduct.

FOR A SIXTH CAUS OF ACTION
(Negligence/Gross Negligence)

Plaintiff realleges, reasserts, and incorporates herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

That the actions of Defendants in wrongfully denying Plaintiff access to his property, failing to follow prescribed statutory procedures governing condemnation and demolition of property, violation of provisions of the Administrative Procedures Act governing contested cases, violation of statutory laws governing unsafe dwellings and demolishing plaintiff property without allowing them an opportunity to repair the same constitutes negligence in that the officials knew or should have known that such conduct was wrongful in that it violated the statutory laws of this state and Plaintiff would suffer the damages proximately caused by the same which were foreseeable.

That Defendants' failure to properly investigate the circumstances surrounding the demolition of Plaintiff's property and to follow proper procedures for the same constitutes gross negligence, willfulness, and wantonness entitling Plaintiff to have judgment against all Defendants for the damages proximately caused by the same including, actual, consequential, and punitive damages as such conduct was outside the scope of the official duties of such official duties of such officials, employees, agents and servants.

FOR A SEVENTH CAUS OF ACTION
(Conversion)

Plaintiff realleges, reasserts, and incorporates herein by reference the allegations of the foregoing paragraphs as if repeated herein verbatim.

That Defendants' conduct in removing the contents of Plaintiffs' property without Plaintiffs' consent, secreting such contents from Plaintiffs' using the property for their own purposes without Plaintiffs' consent, and disposing of the property without Plaintiffs' consent amounts to conversion of the property.

That Plaintiffs are informed and believe that Defendants' conversion of their property entitles them to have judgment against all Defendants in an appropriate amount to compensate them for all damages resulting from such conversion including but not

limited to, the replacement value of such property, consequential damage expenses proximately caused by the wrongful conversion.

The Plaintiffs contend that none of the above causes of action simply say that the Defendants simply tear down the home. The South Carolina Code of Laws allow the Defendants to tear down building if they follow all of the procedure set forth in the International Building Code, and the South Carolina Code of Laws, and the City of Georgetown code of ordinances for the demolition of building in the City of Georgetown. At the time of the demolition the Defendants did not follow the procedure set forth in the International Building Code for declaring the building un-safe. At the time of the demolition the Defendants did not follow the procedure set forth in the South Carolina Code of Laws, by not allow the Plaintiff to repair the home. Also at the time of the demolition, the Defendants did not have an ordinance in the City of Georgetown code of ordinances that govern the demolition of buildings in the City of Georgetown. The City pled guilty to violating State Law in the demolition of the home. How can the Plaintiff prove that if the Plaintiff is not allow to mention that?

"A plaintiff, to establish a cause of action for negligence, must prove the following four elements: (1) a duty of care owed by defendant to plaintiff; (2) breach of that duty by a negligent act or omission; (3) resulting in damages to the plaintiff; and (4) damages proximately resulted from the breach of duty." **Thomasko v. Poole**, 349 S.C. 7, 11, 561 S.E.2d 597, 599 (2002) (citing **Bloom v. Ravoira**, 339 S.C. 417, 422, 529 S.E.2d 710, 712 (2000)).

At the close of evidence, the Defendants could simply make a motion for a directed verdict on the fact that the Plaintiffs did not prove their case and there will be no testimony to the contrary.

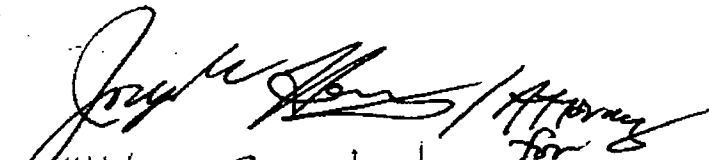
The motion to exclude certain fact would create some evidentiary errors. The exclusion of evidence in this case would be an abuse of discretion and would be contrary to public law. A ruling in favor of limited admissions on the record would create prejudice. Prejudice is a reasonable probability that the jury's verdict will be influenced by the lack of evidence.

The Plaintiffs has the right to present a complete case at trial, they should be allowed to produce witnesses and proofs in their favor. The exclusion of proof of guilt is a drastic remedy; it should therefore be cautiously invoked to prevent the improper deprivation of a trial on the factual

issues, even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them.

For the reasons started above and presented, the Plaintiffs respectfully request that any motion allowing admissions on the record to simply demolishing the home without including an admissions be denied.

Georgetown S.C.
January 11, 2016


Willie Singleton ^{for Willie Singleton}
By: Willie Singleton
501. N. Congdon St
Georgetown SC 29446
843-359-6363

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN) 2009-CP-22-325

Willie Singleton,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	January 11-14, 2016
	)	
City of Georgetown,	)	
	)	
Defendant.	)	

B E F O R E:

Honorable Benjamin H. Culbertson
Georgetown County Courthouse
Georgetown, South Carolina

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

Joseph Henry, Esquire
Attorney for Plaintiff

Douglas Charles Baxter, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

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1 (On the record, January 11, 2016. The following takes
2 place outside the presence of the jury.)

3 THE COURT: All right. This is case 2009-CP-22-325,
4 Willie Singleton and others versus City of Georgetown. All
5 right. Mr. Joseph Henry, present as attorney for the
6 Plaintiff. Douglas Baxter, present as attorney for the
7 Defendant. I understand we have a pretrial motion we need to
8 address at this time; is that correct?

9 MR. HENRY: That's correct, Your Honor.

10 THE COURT: All right. Mr. Henry, this is your motion?

11 MR. HENRY: Thank you, Your Honor. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. HENRY: This is a motion for recusal filed by the
15 Plaintiff. The case involves some previous proceedings that
16 were held before the Court of Common Pleas down here with --
17 before the other resident Judge. Those matters involve
18 specifically a motion that was filed by the Defense to have
19 the individual council members and others who work for the
20 County dismissed as individual Defendants in the case. They
21 were initially sued in their individual capacity based upon
22 allegations of things they did that were outside the scope and
23 course of their employment because the genesis of the claims
24 was that these people tore down Mr. Singleton's house without
25 having adequate measures on the books, such as the adoption of

1 the International Building Codes and/or the abatement codes in
2 order to have a legal condemnation and demolition of the
3 property. Mr. Singleton filed this suit trying to recoup
4 damages for the loss of his property as a result of improper
5 procedures by the City and the City officials.

6 The Defense filed a motion to exclude punitive damages
7 and to relieve the individual Defendants of any burden of
8 defending the lawsuit. There was an arrangement made between
9 myself and the Court. There was a, there was a roster meeting
10 where the motion was going to be heard that was filed by the
11 Defense. I had to be in another court that morning. So I
12 called the Court here to make arrangements to see whether or
13 not that could be done, whether the motion could still go
14 forward but probably by telephone because I'm about three and
15 half hours away, had to be in Federal Court. When I got out
16 of Federal Court I made a call here to argue the motion over
17 the telephone. We were the last motion on the roster that
18 day. The motion was heard by the Judge. He indicated that he
19 was going to convene in his chambers because there was some
20 stuff going on in the courtroom that might be distracting to
21 the hearing of the motion. My understanding was they convened
22 to his chambers, I think Mr. Baxter, the Judge and the court
23 reporter. The motion was then -- the Judge called me back at
24 my office. We argued the motion by telephone and that was it.
25 The Judge sent out a ruling later denying -- well, actually,

1 allowing the individual Defendants to be dismissed from the
2 case and striking the punitive damages claim.

3 Mr. Singleton, upon learning of the ruling, decided he
4 wanted to appeal that. So Mr. Singleton was going to do a pro
5 se appeal. He requested a transcript or had me to request one
6 initially. I made a request for the transcript, never
7 received it. Mr. Singleton then made a request for the
8 transcript and actually spoke with the court reporter. In his
9 speaking with the court reporter he learned that the motion
10 hearing had not been recorded. That being the case, Mr.
11 Singleton felt that he had been dealt a disservice because he
12 now did not have a record upon which to base an appeal of the
13 Judge's decision to release the individual Defendants from the
14 case. That being said, he felt that as a court of record
15 there should have been some record of that proceeding because
16 courts of record are supposed to have written records of
17 proceedings that take place in front of them. He then filed
18 some grievances, as I understand. I was not involved with
19 those, but my understanding is that there were grievances
20 filed against the Judge and against Mr. Baxter and some
21 others. I was not present in the court. So I don't know what
22 happened as far as the transcript was concerned, but my
23 understanding is that there was no transcript and that was the
24 basis upon which Mr. Singleton felt that he had not received a
25 fair, fair hearing because the Court failed to make a record.

1 That being the case, it caused him to have trepidations
2 about having the case heard by a Judge from this jurisdiction.
3 He didn't want to have a Judge from either Horry or Georgetown
4 County to hear his case because he felt that he couldn't get a
5 fair opportunity to have it heard.

6 The arguments on the claims about the record not being
7 prepared went all the way to the U.S. Supreme Court. There
8 was no finding by the Court from what I understand, one of the
9 reasons being there was no record upon which the Court could
10 rely to make a decision as to whether there was a proper
11 decision by the Court below. Mr. Singleton continues to have
12 concerns over having this matter heard by a Georgetown County
13 or Horry County Judge for the same reasons. He felt that the
14 initial blow to his case, which released several Defendants
15 and took out claims of punitive damages, was a big blow to the
16 case, and he felt that there was some basis for him to believe
17 that it might have something to do with protection of the
18 City.

19 He has raised the issue with me about your serving as the
20 Judge on the case because of past dealings he's had with you.
21 He indicated that you have had some dealings with cases that
22 he's involved with concerning a former law partner of yours
23 who is now a City Judge for the City of Georgetown and that
24 being Judge O'Donnell. He has a current pending collateral
25 suit against Judge O'Donnell in Federal Court, and he

1 indicates that you had some dealings with the case that he was
2 appealing that Judge O'Donnell made some decisions on, and he
3 said one of the concerns he had was that you didn't disclose
4 that you worked for the firm that O'Donnell used to work for
5 when you heard his case. He also was concerned that you
6 didn't disclose that you were a City Judge prior to hearing
7 the case as well. He said you worked for the City for 11
8 years and you worked for the firm Snyder and O'Donnell for
9 five years, and when he came before you, none of that was
10 disclosed. So he's concerned that that might have some impact
11 on your decision in this case. Excuse me. He's also
12 concerned that there were other matters that he said -- he's
13 also suing some other folks from Georgetown, the current, Ms.
14 Janet Grant who is the code -- one of the code enforcement
15 officers. He's suing her in Federal Court. He indicated that
16 you had -- that he had appeared before you with her as well
17 and he has present suits pending in Federal Court that are
18 collateral to this particular case.

19 So that being the case, he's concerned that he may not
20 get a fair opportunity to be heard here. He's also concerned
21 that Mr. Baxter was present when the -- when the previous
22 Judge did not record the motion hearing. So he believes that
23 there might be an implication that somehow that might affect
24 the outcome of this case if it were to be heard by you because
25 he has collateral cases that you had some dealings with that

1 are currently going in Federal Court with people who are
2 closely associated with you and the fact that you had been a
3 City Judge for the City of Georgetown and the City is a
4 Defendant in this suit and you had a previous involvement with
5 cases that he's -- that he was involved in that he thought
6 there was some disclosures that should have been made. So in
7 that regard, he believes that it is the -- that the appearance
8 of impropriety would be, would be involved in any proceedings
9 before you on this case because of your close associations
10 with persons with whom he is currently involved in litigation
11 and with the previous concerns that he had about the way the
12 case -- the way the motion was handled, which led to his
13 grievances, to the grievances that he filed, which did not
14 result in sanctions against anyone, but the fact that those
15 things occurred, and he believes that that effects the way it
16 appears if you hear this case, and he's relying in that regard
17 on Canon 3(E) of the Code of -- Code of Judicial Conduct,
18 several provisions of Canon 3, first which is 3(E)(1), [as
19 read], "A Judge should disclose on the record information that
20 the Judge believes the parties or their lawyers might consider
21 relevant to the question of disqualification, even if the
22 Judge believes there is no basis for disqualification." He's
23 also relying on this part of the Canon which says, [as read],
24 "A Judge shall disqualify himself or herself in a proceeding
25 in which the Judge's impartiality might reasonably be

1 questioned." That part of the Canon goes on to list several
2 bases upon which that might come into play, but it also in the
3 commentary says, [as read], "Even if none of those particulars
4 come into play, the Judge still should look at how does that
5 action that he's about to take impact upon whether or not it
6 appears to be improper, and if it appears improper, the Judge
7 should disqualify himself." Then there's a provision of Canon
8 2(A) which states, [as read], "A Judge must avoid all
9 impropriety and the appearance of impropriety. A Judge must,
10 therefore, accept restrictions on the Judge's conduct that
11 might be viewed as burdensome by ordinary citizens and should
12 do so freely and willingly." He believes that those Canons
13 come into play in this case because of the historical
14 information that was just shared with the Court, and he's
15 asking that you recuse yourself because there may be other
16 Judges who would not have the same concerns or the same close
17 connection to parties with whom he's currently involved in
18 litigation who have associations with the Trial Judge. That
19 being the case, we would ask that the Court take the motion
20 into consideration.

21 THE COURT: All right.

22 MR. HENRY: Beg the Court's, beg the Court's indulgence
23 one moment.. Thank you, Your Honor.

24 THE COURT: All right. Now, I see in the file, the Clerk
25 of Court file, there is an order by Judge Hyman, who struck

1 the individual Defendants and struck punitive damages. I'm
2 assuming that was the Judge that heard the motion in chambers?

3 MR. HENRY: That's correct, Your Honor.

4 THE COURT: Okay. Now, if you can explain to me a little
5 bit more, I'm having a hard time understanding. He's saying I
6 was involved in a former case dealing with Judge O'Donnell and
7 Janet Grant that is now pending in Federal Court. What is
8 the, what is --

9 MR. HENRY: Your Honor, I'm not familiar with that. May
10 I ask Mr. Singleton to address the Court on it?

11 THE COURT: No. You're going to -- you're his attorney.
12 You're going to need to address it.

13 MR. HENRY: Okay.

14 THE COURT: I need to know what the, what the -- I don't
15 understand. If it's pending in Federal Court how I was
16 involved in a case that dealt with them, and that's what I'm
17 not sure.

18 MR. HENRY: If the Court will give me just a moment.

19 THE COURT: All right.

20 MR. HENRY: Okay. To the best of my understanding, Your
21 Honor, there was a case in which Judge O'Donnell was involved
22 where there was some property that he had done work on for Mr.
23 Singleton, and he heard the case, and Mr. Singleton said that
24 he didn't think Judge O'Donnell should've heard the case
25 because he had done work on the case as a lawyer. He appealed

1 Judge O'Donnell's decision, I think before you, and that's
2 where he has the concern, that that case came before you and
3 he's currently suing Judge O'Donnell in Federal Court about
4 that particular matter.

5 THE COURT: Was there an appeal of my decision?

6 MR. HENRY: He says there was an appeal of your decision.

7 THE COURT: And what was the result of that appeal?

8 MR. HENRY: That appeal, from what I'm understanding, was
9 dismissed for an -- there was an untimely filing of a document
10 that was necessary for the appeal. So that appeal was
11 dismissed as a -- because of a technicality. He said that the
12 case was -- the appeal went on for over a year, but the appeal
13 was ultimately dismissed due to an untimely filing of some
14 document that was necessary for --

15 THE COURT: I see.

16 MR. HENRY: -- pursuit of the appeal.

17 THE COURT: All right. Mr. Baxter.

18 MR. BAXTER: Your Honor, just -- I, I, I -- just I want,
19 I want to address really quickly what happened -- occurred
20 just because of I want to -- it, it is on the record.

21 The, the issue about the transcript, what occurred is Mr.
22 Henry contacted me as indicated, he had a problem, wanted to
23 know if I would agree to having the motion heard by telephone.
24 I told him I had no objection to it. What actually -- that
25 hearing had been scheduled a couple of times and had to be

1 postponed.

2 THE COURT: This is the motion in front of Judge Hyman?

3 MR. BAXTER: In front of Judge Hyman.

4 THE COURT: Okay.

5 MR. BAXTER: Right. And the -- it was -- we were in the
6 old courthouse, and it was about a week or two before the new
7 courthouse opened up. He went through the motion roster, and
8 I informed him of Mr. Henry's situation. He -- there was no
9 telephone in the old courtroom at the time, and he asked me
10 would I agree to -- he asked me did we need a record, and I
11 said no because it was a 12(B)(6) motion based upon the
12 pleadings alone, there would be no testimony, you know, my
13 motion stood for itself. We then -- at the -- I had to wait
14 around till he finished everything up. He then put on the
15 record about the fact that, you know, that he was going to
16 contact Mr. Singleton. He went back to the office, called Mr.
17 Singleton --

18 MR. HENRY: Henry.

19 MR. BAXTER: I mean, excuse me, Mr., Mr. Henry, not Mr.
20 Singleton.

21 MR. HENRY: Henry.

22 MR. BAXTER: And in fact, the -- my recollection is I
23 don't even think the speakerphone worked. I think it was one
24 of these where he called, talked to Mr. Henry, relayed to me
25 what was said. He then at that point in time because of

1 circumstances told Mr. Henry, told me that he was going to
2 give the parties 30 days to submit whatever they wanted either
3 in support of or opposition to the motion. He left, you know,
4 he, he said anything you want to submit you can put on the
5 record. I'll give you 30 days. He also requested the parties
6 submit detailed orders. He didn't want briefs, but he said,
7 "I want a, you know, multipage order that kind of sets out all
8 your arguments." So that, that is what happened. There was
9 no -- of course, our position is that type of motion there is
10 no -- you don't need a record because there was no evidence,
11 there was nothing to put on the record, and more importantly,
12 he allowed the parties 30 days to submit whatever they wanted.

13 He then at the conclusion of 30 days issued a ruling,
14 and, and, and you know, we ended up with, you know, requesting
15 cert before the United States Supreme Court, which was denied.
16 It was upheld throughout the South Carolina Appellate Courts
17 and, and I believe that issue was raised at least before the
18 South Carolina Supreme Court. I don't have that in front of
19 me, but, but that, that's what happened. I mean, there was no
20 -- it, it was more a kind of an accommodation to allow
21 something to go forward. The, the Judge, again, if we -- we,
22 we could not have held the motion that day if someone had
23 insisted upon a record. So it wasn't a situation where he
24 just flippantly said, "We don't need a court reporter." It
25 was a situation to attempt to accommodate Mr. Henry, and I

1 understand Mr. Henry wasn't present. So he, he may not have
2 understood that the court reporter wasn't in the room, but
3 again, it was a situation where the Judge was talking to him
4 and then he would talk to me and then talk to Mr. Henry on the
5 telephone. So we, we believe that that, at the end of the
6 day, that, that, that was a non-issue. The, the law is the
7 law. I mean, the, the order has been upheld, and that's where
8 we are.

9 Now, as far as the, the motion to recuse you for the --
10 and I've just really had an opportunity -- I've, I've seen
11 there's, there's actually two letters or two documents, and it
12 would be our position that under Canon 3(E) of the Judicial
13 Code of Conduct where it sets out a kind of a laundry list of
14 reasons why a Judge should recuse -- well, actually disqualify
15 himself, it would be our position that, that none of those
16 come into play in this particular case. The other thing is is
17 that in the case of Doe versus Howe, which was a Court of
18 Appeals' decision, the Court talked about that it's not enough
19 for a party to allege bias in order to disqualify a Judge.
20 Party seeking disqualification of a Judge must show evidence
21 of or some evidence of bias or prejudice. So you just can't
22 say, you know, you know, "You worked with Judge O'Donnell
23 years ago and you may have done this," there has to be
24 evidence of actual prejudice, not just these are things that
25 could lead to prejudice. There has to be some showing of

1 prejudice.

2 THE COURT: Well, let me ask you this, is Judge O'Donnell
3 involved in this pending lawsuit at all?

4 MR. BAXTER: No, Your Honor.

5 THE COURT: Okay. All right. Go ahead.

6 MR. BAXTER: And, and, and my understanding he would not
7 -- he, he had, he had no involvement in this, not only in this
8 litigation but the facts involving this litigation. He --
9 Robbie -- or Robert O'Donnell would not have had any
10 involvement.

11 The, the other issue I would just point out is that a lot
12 of the things they've raised are not necessarily specific to
13 this case. They're just kind of in general saying that
14 because of your, you know, previously working with him, that
15 you were a City Judge at some point in time, those are, those
16 are things that if you disqualify yourself in this case we,
17 we'd have future issues with other issues coming before you
18 with the City of Georgetown. So we'd, we'd just point that
19 out as well, and just, you know, in closing, this is a -- my
20 understanding of the rule is that the, the law requires this
21 is kind of in the discretion of the Judge, and we just think
22 that the, the evidence does not support that there is -- that
23 you are biased or prejudiced with regards to this particular
24 case.

25 THE COURT: All right. Mr. Henry, anything in reply?

1 MR. HENRY: The reference I made previously to one of the
2 comments to the rule, if I may, I'll read that into the
3 record, and this is a comment to Cannon 3(E). [As read],
4 "Under this rule, a Judge is disqualified whether the Judge's
5 impartiality -- whenever the Judge's impartiality might
6 reasonably be questioned, regardless whether any of the
7 specific rules in Section 3(E)(1) apply." So it's if there is
8 a basis upon which a person might reasonably question the
9 Judge's impartiality, the Judge should disqualify himself.

10 The issue of the motion, there was a motion to strike
11 punitive damages. I'm not sure that was done as a 12(B)(6),
12 but it's a motion, and I'll show Mr. Baxter a copy of it.
13 This was the motion that was filed, one part of it to strike
14 the, strike the punitive damages. I don't see that it was
15 done as a 12(B)(6).

16 THE COURT: But let me ask you this, Mr. Henry, how does
17 that prior motion heard by Judge Hyman and ruled upon by Judge
18 Hyman constitute a bias warranting my recusal?

19 MR. HENRY: The issue is that it would create the
20 possibility of the appearance of impropriety because it is a
21 court of record here in Georgetown, presided over by a
22 resident Judge wherein Mr. Singleton was deprived, in his
23 opinion, of a record, and that being the case, it makes it
24 look as though he can't get a fair trial because he can't even
25 get a record from a court of record, which is in Georgetown

1 County and you are also a resident Judge. So he's concerned
2 that the resident Judges might have some basis for trying to
3 protect the City, and because of your previous dealings as a
4 City Judge and the association with a City Judge who is
5 currently seated that he's suing in Federal Court over a
6 matter that he said came before you.

7 THE COURT: All right.

8 MR. HENRY: So there's a connection. It might be a
9 broad-scale connection, but there is a connection, and there's
10 current collateral litigation taking place on a matter in
11 which he says you had involvement.

12 THE COURT: All right. Anything else?

13 MR. HENRY: That's it.

14 THE COURT: All right. I'll note your motion. I'm going
15 to deny it. I'm not going to recuse myself.

16 MR. HENRY: Thank you, Your Honor.

17 THE COURT: All right. It is -- what time do you all
18 want to -- you all know more about what's pending and how much
19 time we need. What time do you all want to reconvene this
20 afternoon to take up the pretrials?

21 MR. HENRY: 2:00 o'clock?

22 THE COURT: 2:00 o'clock. All right. Well, let's see,
23 it's 12:20, 1:20, yeah. We'll do 2:00 o'clock. Sounds good.
24 We'll be in recess until 2:00 o'clock.

25 MR. HENRY: Thank you, Your Honor.

1 THE COURT: Thank you.

2 OFF THE RECORD

3 (On the record. The following takes place outside the
4 presence of the jury panel.)

5 THE COURT: All right. Let's go back on the record.
6 Case number 2009-CP-22-325, Willie Singleton and others versus
7 City of Georgetown. We're here for some pretrial motions. I
8 need to go ahead and put on the record, Mr. Henry, as I
9 advised you during jury qualifications, and based upon the
10 prior motions before the Court, I want to go ahead and put on
11 the record Ms. Grace Hurley is the court reporter, and as I
12 understand, she was the court reporter for Judge Hyman at the
13 time he heard the prior motion in chambers without a record.
14 So I want to put on notice that Ms. Hurley is the court
15 reporter in this case so that I can hear any arguments in
16 support of or in opposition to her serving as court reporter
17 in these proceedings.

18 MR. HENRY: Your Honor, Mr. Singleton is not
19 currently present, but just -- I can pretty much assume
20 that he would object to her serving as the court
21 reporter.

22 THE COURT: And what would be the basis for his
23 objection?

24 MR. HENRY: The previous matter. I don't know, excuse
25 me, probably would be -- the basis would be the previous

1 involvement with the -- well, he may not object to that
2 because he was not concerned about her actions. So I would
3 withdraw that unless he tells me otherwise.

4 THE COURT: Okay. Well, now is the time to raise any
5 objections if there's going to be any.

6 MR. HENRY: There may not be an objection to her serving
7 as -- well, see, I don't know what his relationship was with
8 her. I don't know whether he's filed something against her or
9 not because I wasn't involved with any of that.

10 THE COURT: Okay.

11 MR. HENRY: So I'm --

12 THE COURT: As I understand, I don't know that -- you had
13 told me down in jury qualifications that you thought she had
14 -- that he had filed some type of a complaint, but as I
15 understand that there was not a complaint filed but a threat
16 of litigation, a threat of --

17 MR. HENRY: I think Mr. Baxter told you that because I
18 don't know --

19 THE COURT: Okay.

20 MR. HENRY: -- anything about any of that.

21 THE COURT: All right.

22 MR. BAXTER: Your Honor, I -- my understanding he did
23 file a grievance of some sort with Court Administration.

24 THE COURT: All right. Now, in speaking with Ms. Hurley
25 I understand he did not file a grievance but that he did

1 threaten to sue her.

2 MR. BAXTER: Oh, oh, oh. I'm sorry. I thought -- I was
3 --

4 THE COURT: Okay.

5 MR. BAXTER: I had gotten some paperwork indicating that
6 he had filed -- he was filing a grievance against her and also
7 a grievance against Judge Hyman. So I, I, I apologize for
8 that.

9 THE COURT: Okay.

10 MR. BAXTER: I, I have, I have no concrete information.
11 I was just going by some of the paperwork I had received at
12 some point in time.

13 THE COURT: All right.

14 MR. HENRY: And I have not been privy to that paperwork.
15 So I have no idea what happened with that.

16 THE COURT: All right. Any objection from the Plaintiff
17 as to Ms. Hurley serving as court reporter in these
18 proceedings and at this trial?

19 MR. HENRY: Out of an abundance of caution I would enter
20 an objection based upon the belief that Mr. Singleton may have
21 filed a grievance. If he did not file a grievance, then I
22 would leave that objection as open to withdrawal.

23 THE COURT: All right. Well, I'm going to, based upon
24 the arguments presented thus far, I'm not going to recuse her.
25 I'm going to let her serve as court reporter and, and direct

1 her to do so.

2 MR. HENRY: Thank you, Your Honor.

3 THE COURT: All right. Anything before we get into these
4 pretrial motions? All right. What do we have outstanding and
5 what do we need to, I mean, what order do we take them in? Is
6 anything dispositive of others or what do we need to do?

7 MR. BAXTER: Well, Your Honor, one, and I just -- we, we,
8 we probably need to have some clarification of this. I had --
9 Mr. Singleton had testified that his claim to ownership of
10 this house was based upon a quitclaim deed which was -- he, he
11 had a power of attorney of, of Julia Thomas.

12 THE COURT: Okay.

13 MR. BAXTER: And after this house was torn down, he did a
14 quitclaim deed to himself, signed -- he signed it as power of
15 attorney for Julia Thomas, and we had filed a motion for
16 summary judgment as to that issue based upon the fact that
17 South Carolina law says a holder of a power of attorney cannot
18 convey property to himself. Also, the power of attorney
19 itself says that the, the power of -- whatever -- the, the
20 attorney-in-fact/agent can do beneficiaries and gifts except
21 to himself. So we, we had raised that issue that he did not
22 have standing to bring the lawsuit. That motion was heard. I
23 wasn't present. The Judge denied it. We got a form order
24 saying question -- it didn't say question of fact, just says
25 motion denied. I mean, there's no, there's no ruling one way

1 or the other. We also, just so you're aware, Julia Thomas,
2 what -- this lawsuit was filed in March of 2009, and it's my
3 understanding that the lawsuit that, that Mr. Henry's hired
4 and the directive is to file the lawsuit on behalf of Julia
5 Thomas was pursuant to the power of attorney, which I agree,
6 he does have -- that is something he has a right to do --

7 THE COURT: All right.

8 MR. BAXTER: -- is pursue lawsuits. Ms. Thomas died in
9 May of 2009, died intestate, no will, no estate has been
10 opened up, and we have also in the, the, the -- a motion as to
11 Mr. Singleton was filed in 2009. We also filed a motion in
12 2013 based upon the fact that Ms. Thomas having died
13 intestate, there's no estate, that she should be dismissed
14 from the action. I'm not sure whether the Judge ruled on that
15 or not. Irregardless, we would renew that motion because we
16 now -- we have a -- we have two parties named, Willie
17 Singleton and Julia Thomas. Julia Thomas is dead. There's no
18 estate. She, she, she does not exist in the eyes of the law
19 and should not be a party to the lawsuit. So I do think we
20 need to have that straightened out and, and Rule 25 addresses
21 that particular issue on what you have to do, and none of that
22 has occurred in this case. Specifically, it talks about the
23 -- [as read], "If a party dies and a claim is not hereby
24 extinguished the Court may order substitution of the proper
25 parties. The motion for substitution may be made by any party

1 or the successor or representative of the deceased party
2 together with notice of hearing shall be served on the parties
3 as provided under Rule 11," and it talks about, [as read], "If
4 substitution is not made within a reasonable time, the action
5 may be dismissed as to the, the deceased party. Counsel of
6 record for each deceased party shall give notice to all the
7 parties of the death of such party as soon as practical and of
8 the name and address of the proper parties who should be
9 substituted." So it's our position that the -- where, where
10 I've done this in the past is where a party dies, you open up
11 an estate and then you substitute the estate for the party.

12 THE COURT: But it says may substitute. It doesn't --
13 it's not required that it be mandated; does it?

14 MR. BAXTER: Well, that, that, that's talking about
15 you're, you're being allowed to substitute a party. She, she
16 is deceased. I mean, my position is the only, the only party
17 in this case would be Willie Singleton because Julia Thomas --

18 THE COURT: So did Julia Thomas have any heirs or
19 beneficiaries --

20 MR. BAXTER: Well --

21 THE COURT: -- or if --

22 MR. BAXTER: -- she's got heirs, but she died, you know,
23 the -- to my -- my understanding the proper party would be to
24 open an estate up and then the Court can just determine
25 whether they're going to allow the estate to be substituted or

1 not. It's not, it's not a matter of that the lawsuit can
2 proceed against -- a Plaintiff who has died can proceed on
3 with a claim, you know, and if you, if you look at the cases
4 that talk about it, it's all a situation of you've got to
5 have, you've got to have a party who's alive or you have to
6 have an entity, in this case which would be the estate.

7 THE COURT: Well, let me, let me -- have you got -- let
8 me see your rule for a minute. Thank you. All right.
9 There's your rule book back. All right. Mr. Henry, let me
10 hear from you on that.

11 MR. HENRY: Thank you, Your Honor. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. HENRY: Two things. First of all, this is a
15 successive motion. There was a summary judgment motion
16 directed to the issue of ownership of this property. That
17 motion was denied. That is an interlocutory ruling, which is
18 not subject to appeal. This motion would be a successive
19 motion in violation of the rules against filing successive
20 motions on the same issue, so that issue would have been
21 resolved by his summary judgment motion. He would have -- the
22 only appropriate action that he could take at this point would
23 be to file an appeal and raise the issue on appeal. It's not
24 subject to review at this point because it's already been
25 ruled upon by the Court in a previous motion.

1 The issue of Julia Thomas having a motion being filed to
2 dismiss her, I have not been served with a motion asking to
3 dismiss Julia Thomas. So that is not really an issue in this
4 case, plus even if I get a motion, it still falls under the
5 auspices of the prohibitions of successive motions because of
6 the summary judgment motion, which has already been ruled
7 upon. You can't raise the same issue by successive motions,
8 and that's exactly what's happening here.

9 THE COURT: All right.

10 MR. BAXTER: Your Honor, just for clarification --

11 THE COURT: Mr. Baxter, anything in reply?

12 MR. BAXTER: -- the -- I -- we're, we're not -- I agree
13 that the rule -- summary judgment as to Mr. Singleton's
14 property interest was denied, which is going to have to be
15 something that, that you or the Court will address. I mean,
16 there was no ruling saying he has property interest. It just
17 says summary judgment denied, which means there could be a
18 question of fact or it could be whatever reason. So that,
19 that is something that, yes, I agree should go forward.

20 We filed a motion in 2013 as to Ms. Thomas and would have
21 served Mr. Singleton. I mean, that -- this, this is not
22 something I did recently. This is something that happened
23 sometime back.

24 THE COURT: Yeah. Well, and I'm going to be honest with
25 you, I've got August 22nd, 2013, filed motion for summary

1 judgment, City of Georgetown moves for an order granting
2 summary judgment as to the Plaintiff, Julia Thomas. This
3 motion is based upon the fact that the Plaintiff, Julia
4 Thomas, died on or about May 5th, 2009. It is believed that
5 she died intestate and no probate estate has been opened.
6 Then on filed April 23rd, 2015, motion for summary judgment by
7 Attorney Baxter denied, two motions for summary judgment by
8 Attorney Baxter denied. That was on April 23rd, 2015. It's a
9 Form 4.

10 MR. BAXTER: Right. But irregardless, I don't think we
11 can go forward with a deceased person as a party.

12 THE COURT: Okay. All right. I'm going to deny your
13 motion. I think we can go, go forward. You're representing
14 all Plaintiffs in this case.

15 MR. HENRY: I'm -- all Plaintiffs in this case.

16 THE COURT: Okay.

17 MR. HENRY: And just for the record, Ms. Thomas died
18 intestate. She had no other heirs other than Willie Singleton
19 because she, Willie and a brother of Willie's were the only
20 parties to -- the only persons who were heirs to, to Victoria
21 Gadson's estate. Julia Thomas is dead and so is the other
22 brother. The only person left is Willie Singleton.

23 THE COURT: Well, and I think that's what he's asking is
24 why not just proceed in the name of Willie Singleton.

25 MR. HENRY: I mean, it really doesn't matter at this

1 point because everything would go to Willie anyway. So I
2 mean, it doesn't -- I don't -- if, if for purposes of cleaning
3 up the record, unless he's going to make an issue of Julia
4 Thomas in the case, I don't have a problem with that so long
5 as we're not going to get into, "Well, Julia Thomas was
6 involved, so she has some claim in this, and she's deceased."
7 If he's not planning to go down that road, then we can clean
8 up, we can clean up the caption. Otherwise, I think it should
9 proceed as it is. It's not going to make any difference in,
10 in the eyes of the law as to who gets whatever if there's
11 anything recovered.

12 THE COURT: All right. What's your position on that, Mr.
13 Baxter.

14 MR. BAXTER: Your Honor, just one, one thing for
15 clarification, the -- I, I do -- we, we, we took Mr.
16 Singleton's deposition and he said that he identified John
17 Gadson as being -- this was in -- this was after the lawsuit
18 was filed, so that he, he identified -- he said at the time
19 the only people alive would have been John Gadson and himself.
20 So there was another -- there was a brother alive at the time
21 Ms. Thomas died per his testimony. Now, the -- I, I don't
22 necessarily agree with that because in her obituary it says
23 she was survived by five brothers and sisters or it lists all
24 these different people out. Also, there is in some probate
25 records she files she identified another individual who was a

1 son of James Gadson, who was her father. So we've got -- we,
2 we don't know who the successors in interest are of Ms. Thomas
3 at this point in time.

4 THE COURT: Okay. And I understand. So I'm going to
5 deny your motion because if that is going to be an issue, it
6 is a successive motion for summary judgment. It's already
7 been ruled on and denied.

8 MR. BAXTER: Okay.

9 THE COURT: So it will -- it is a successive motion. So
10 I'm going to deny your motion on, on the, on that grounds.
11 All right.

12 MR. BAXTER: Your Honor, we have, we have filed a motion
13 in limine, and I just filed it but I'd sent a copy to Mr.
14 Singleton last week, and -- not Mr. Singleton, Mr. Henry,
15 sorry -- last week and I was just -- I don't know if it made
16 it to your file.

17 THE COURT: Okay. Yes. I've got a -- it's in the file.

18 MR. BAXTER: Okay.

19 THE COURT: I've got it right here.

20 MR. BAXTER: Your Honor, the, the first one, this case
21 involves a condemnation of a piece of property, and the City
22 of Georgetown originally it -- there was an individual by the
23 name of Jason Goude who was a then building official, kind of
24 got the process started. Stephen Stack, who was employed
25 after him, took over for and for, for Mr. Goude and kind of

1 finished up the process. He, he sent some notices out, posted
2 it. There was some back-and-forth about getting a permit,
3 which was denied. The house was demolished in April of 2007,
4 and shortly thereafter, the -- Mr. Singleton filed a complaint
5 against -- with the South Carolina Department of Labor,
6 Licensing and Regulation before the Building Code Council
7 saying that, you know, making allegations against Mr. Stack in
8 conjunction with the condemnation. Turns out Mr. Singleton
9 was correct because what had happened is the City had adopted
10 a building code and South Carolina had some laws, there,
11 there'd been some changes over the years with regards to South
12 Carolina law, state laws pertaining to cities, condemnation
13 and demolition of houses, and the ordinance that was in effect
14 at the time did not comply with the state law. So Mr. Stack,
15 being the building official, is who caught the brunt of the --
16 with regards to the Building Code Council because their
17 position is that the building code official, one of their
18 responsibilities is to ensure that the proper laws are on the
19 book, ordinances, etcetera, etcetera, with regards to building
20 codes, demolitions, things of that nature. So they, they,
21 they -- before -- they, they didn't have any kind of
22 adjudication but they did enter into a consent agreement with
23 Mr. Stack wherein his license was placed on a six-month
24 probationary period, and then also it said, [as read],
25 "Respondent shall adopt an ordinance covering the correct

1 procedure and the demolition of a residential structure within
2 a six-month probation period." The -- our position is that a
3 -- I'm assuming that the Plaintiffs want to introduce this to
4 show, okay, this is evidence of the City's wrongdoing with
5 regards to the condemnation process. It would be our position
6 that it is a consent agreement, it's not an order, it's a
7 consent agreement between an individual who is no longer
8 employed with the City of Georgetown, and in fact, he, in, in
9 a subsequent matter, he surrendered his license, and he's
10 actually living in Florida somewhere now. So the -- it would
11 be our position that the, the consent agreement as to a claim
12 against the City of Georgetown would not be relevant to the
13 issues at hand, the mere fact that an employee entered into a
14 consent agreement with regards to an issue and there is no,
15 you know, I, I mean, I mean, that -- it, it says what it says.
16 It says here, here's what we agree to do.

17 THE COURT: All right. Have you got it?

18 MR. BAXTER: Yes, sir.

19 THE COURT: Let me see what it says.

20 All right. Mr. Henry.

21 MR. HENRY: Yes, sir.

22 THE COURT: Let me hear from you.

23 MR. HENRY: Thank you, Your Honor. May it please the
24 Court? This is an interesting argument in light of the fact
25 that they have defended this lawsuit by initially attacking

1 the pleadings stating that these individuals couldn't be held
2 accountable because they were working in the scope and course
3 of their employment. They were successful in getting them
4 dismissed from the case, so presumably, the Court agreed with
5 them. That being the case, the doctrine of respondeat
6 superior would hold the City liable for the actions of its
7 agents, servants and employees acting within the scope and
8 course of their employment. That which is done by a general
9 agent on behalf of a principal is imputable to the principal,
10 and it's also known by the principal. So the principal in
11 this case can't have it both ways, either these people were
12 working in the scope and course of their employment and that
13 means that the employers are responsible and they're not
14 individually responsible or they were not.

15 THE COURT: All right. Anything in reply?

16 MR. BAXTER: Well, Your Honor, I just, if you read the
17 document I'm not sure -- all it is it shows he, agreed that he
18 should be on a six-month probationary period, and he agreed
19 that they would -- he would work on addressing the ordinance.
20 I don't know how that's relevant to the facts of this case. I
21 mean, you, you can say -- it, it would take a lot of, you
22 know, innuendo and, and them trying to fill in the gaps about
23 what happened and why he did this, etcetera, etcetera.

24 THE COURT: Well, I mean, it's a finding of fact.

25 MR. BAXTER: Well, but --

1 THE COURT: Findings of fact, April, April 2007
2 Respondent demolished a residential structure that was owned
3 by Willie Singleton.

4 MR. BAXTER: Right.

5 THE COURT: Finding of fact, the Respondent failed to
6 follow the provisions of the South Carolina Code of Laws as
7 required to demolish the structure. I mean, I understand if,
8 if the sole purpose of this was to require him to enact some
9 type of ordinance or legislation for future reference without
10 any further findings, but I mean, these are factual findings
11 contained in the order.

12 MR. BAXTER: Okay.

13 THE COURT: So, I'm, I'm, I'm going to deny your motion
14 in limine. It's a motion in limine. I'm not ruling that as a
15 matter of law it's inadmissible. When they try to introduce
16 it you can raise your objection then and then I'll rule on it
17 then, but I can't say that as a matter of law it's
18 inadmissible at this, at this juncture, and we'll just, we'll
19 just address it when and if it comes up or they seek to
20 introduce it. Okay? All right.

21 MR. BAXTER: Your Honor, the, the next one would be the
22 Plaintiff, Willie Singleton, as, as testified to in his -- we,
23 we, we say we don't think he owns it because we don't think
24 the, the quitclaim deed is proper per the power of attorney.
25 Summary judgment's denied. That'll be an issue for the jury,

1 but irregardless, even if that deed is proper, he -- his
2 ownership of the property occurred some months after the house
3 was demolished. So, he, he never, under their theory, he, he
4 was never the owner of the house, and we are -- we're just
5 asking that he, he not be allowed -- that there be -- he not
6 be allowed to testify anything which would be premised upon
7 his being owner of the property in question. His ownership
8 occurred after the acts occurred, and the reason that, that is
9 important is that the -- he can't come in and say, "I think
10 the house is worth X," and because the law does say that the
11 owner of a house can testify as to its value, but he was never
12 the owner. Okay. He, he was a successor in interest, but by
13 the time he got the property he, he never owned the house
14 period under any, under any theory whatsoever. He was never
15 an owner such that would allow him to testify. In addition,
16 we -- I asked him in his deposition, I said, "Well, how much,
17 you know, what's, you know, just tell me what the house is
18 worth," and I got the, "Well, I couldn't tell you. It was,
19 you know, it was sentimental, no way I can put a value on it,"
20 and then later on he said, "Well, if I, if I were to rebuild
21 that house now it would cost, you know, hundreds of thousands
22 of dollars," which the measure of damages in this case is the
23 diminution in value of the, of the property, the difference
24 between what the property is worth before the house was torn
25 down and what the property was worth after the house was torn

1 down. So we just ask that he not be allowed to give any
2 opinion testimony as to the value of the house when he has
3 never been the owner of the house.

4 THE COURT: All right. Mr. Henry.

5 MR. HENRY: Well, here we go again. We're going back,
6 we're going to come in out of the back door or the side door
7 and revisit the summary judgment issue. That's what this is.
8 It is an issue that goes to the ownership of the property,
9 which was the subject of the summary judgment motion that has
10 already been denied. It is prohibited as a successive motion.
11 He's using another form to try to do what he couldn't do with
12 the summary judgment. He couldn't -- he didn't get the
13 summary judgment to say that Willie didn't own the house. Now
14 he's coming with a motion in limine to try to do the exact
15 same thing from a different angle.

16 THE COURT: No, now -- well, correct me if I'm wrong. I
17 thought your motion was to suppress Mr. Singleton from
18 testifying as to the value of the premises --

19 MR. BAXTER: Right.

20 THE COURT: -- since he was not the owner of the premises
21 at the time it was demolished.

22 MR. BAXTER: Right.

23 THE COURT: I mean, generally, the law is you've got to
24 have certain qualifications to determine value, except an
25 owner can testify as to the value of his or her own property,

1 but that he was not the owner of the house, therefore, he
2 cannot testify as to its value since he didn't own it at the
3 time it was demolished.

4 MR. HENRY: But that issue was the subject of his summary
5 judgment motion. He went -- he tried to show that Mr.
6 Singleton didn't own the property. That was the basis of his
7 summary judgment. Now, he's coming back and saying the
8 testimony -- he wants to prohibit the testimony by the
9 Plaintiff, which would be premised upon his being the owner of
10 the property in question. That's exactly what he's trying to
11 do here.

12 THE COURT: Okay.

13 MR. HENRY: He's, he's --

14 THE COURT: So the Plaintiff's position is he did own the
15 property at the time it was demolished.

16 MR. HENRY: Yes. And the Court's position on the summary
17 judgment was in agreement with the Plaintiff because the Court
18 --

19 THE COURT: Okay.

20 MR. HENRY: -- denied the summary judgment motion --

21 MR. BAXTER: Your Honor, I --

22 MR. HENRY: -- that would have deprived him of the
23 ownership interest in the house that he's claiming.

24 MR. BAXTER: I would, I would -- part of my position here
25 is with, with a motion in limine is I realize 99 percent of

1 the time we're, we're reserving addressing that issue until
2 such time as A, B, C has been established. The -- if, if it's
3 established during the testimony that he had an ownership
4 interest in the house, then we'll be dealing with a different
5 animal. I'm just saying I don't want him to get up and just
6 say, "Well, the house is worth this," and it's not been
7 established that he was an owner of the house.

8 THE COURT: Okay.

9 MR. BAXTER: And I would just think that would be
10 something that should not be presented. That, that to me
11 would be prejudicial to the jury for the jury to hear a number
12 and then later on say, "Well, you, you can't give that
13 number."

14 THE COURT: Okay.

15 MR. BAXTER: I mean, you know, once, once the horse is
16 out the barn it's out of the barn.

17 THE COURT: Well, I'm going to deny your motion in
18 limine, but I do agree with you, he is -- before he can
19 testify as to any value of the premises or value of a
20 structure that was demolished, he is going to have to show
21 either his expertise in that he's a certified real estate
22 appraiser or whatever the case is or that he was the owner of
23 the premises at the time it was demolished, and --

24 MR. HENRY: I think the issue of his ownership has
25 already been established through the summary judgment denied.

1 THE COURT: No. No. No. Summary judgment just means
2 that there was a dispute as to a material fact, and therefore,
3 he was not entitled to judgment as a matter of law. I mean,
4 that the Defendant was not entitled to judgment as a matter of
5 law. It doesn't mean that that material fact is resolved in
6 favor of the Plaintiff. It just means there's a dispute that
7 is subject to --

8 MR. HENRY: Yes.

9 THE COURT: -- determination that has to be presented at
10 trial.

11 MR. HENRY: I'm familiar with the standard for summary
12 judgment. All I'm saying is that the motion itself was
13 directed specifically at his ownership.

14 THE COURT: Right.

15 MR. HENRY: Saying that he didn't own it, the Court
16 disagreed, so --

17 THE COURT: No. No. He said he -- they said he didn't
18 own it.

19 MR. HENRY: Uh-huh.

20 THE COURT: He said he did own it.

21 MR. HENRY: That's correct.

22 THE COURT: The Court says, "All right. There is a
23 dispute as to whether or not he owned it. So we're going to
24 deny the summary judgment. He's going to have to prove he
25 owned it."

1 MR. HENRY: Okay. That, that being --

2 THE COURT: And so -- and that's --

3 MR. HENRY: -- that being the case, Your Honor, he --
4 he's the only person left to own it. Everybody else is dead,
5 and, and --

6 THE COURT: Well, and, and you may be right. That might
7 be 100 percent, Mr. Henry, but he's still going to have --

8 MR. HENRY: Okay.

9 THE COURT: -- the burden of proof is on him to present
10 his evidence at trial, and he's going to have to establish
11 that at trial through his evidence or whatever -- however he's
12 going to proceed in the trial. You may be correct. I don't
13 know. I haven't heard any of the testimony. I haven't seen
14 any of the evidence.

15 MR. HENRY: Yes, sir.

16 THE COURT: But that is a factual issue that is in
17 dispute that is now the burden on the Plaintiff to prove.
18 Okay?

19 MR. HENRY: Okay.

20 THE COURT: All right. But I'm denying the motion in
21 limine. Let's bring -- I mean, when they try -- if they try
22 to introduce a value without laying the proper groundwork as
23 in he's qualified to do it by virtue of ownership or some
24 other education or experience or whatever the case may be,
25 raise your objection and I'll address it then. Okay?

1 MR. BAXTER: Your Honor, and then the -- these are not
2 before you pertaining to motion in limine, but these are some
3 evidentiary matters that you will be presented with and we've
4 kind of discussed, you know, either, either -- go ahead and
5 address it now or at least give you some warning. I have the
6 -- James Gadson, and, and I, and I'm, I'm going to start off
7 with it as if what Mr. Singleton said is correct as far as the
8 kind of family tree, so to speak. James Gadson was married to
9 Victoria Gadson.

10 MR. HENRY: John Gadson.

11 MR. BAXTER: No. No. James.

12 MR. HENRY: No. James.

13 MR. BAXTER: James. James. James was married to
14 Victoria Gadson. According to Mr. Singleton they had one
15 child who was Victoria Gadson. The -- we, we don't
16 necessarily agree, you know, just based on the obituaries I've
17 seen I'm not sure that's the case, but irregardless, the --
18 Ms. Gadson died in 1989, I believe, '88, '89. She was married
19 to James, I mean, excuse me, yeah, married to James Gadson,
20 and according to Mr. Singleton had one daughter, Julia Thomas.
21 In 2008, excuse me, 2007, Mr. Gadson died, and he had a will.
22 No. Okay. October 9th, 1996, Mr. Gadson died. He had a will,
23 and the will directed how his property was going to be
24 parceled out to his kids. In there it said that name and
25 address of devisee, including dates of minors and shows John

1 Gadson, Julia Gadson, Thomas Willie Singleton, Alvin Singleton
2 Walker. His will said, "I'm giving certain property to Willie
3 Singleton. I'm giving certain property to another son, and
4 I'm giving the house at 1929 Front Street," which is the
5 subject matter of this lawsuit, he gave to Julia Gadson
6 Thomas, John Gadson and Maurice Gadson, who according to Mr.
7 Singleton was the son of a sister of his who had died. There
8 is a -- and, and in doing the probate paperwork, Julia Thomas,
9 who was the PR, filled out the paperwork and part of what she
10 did was an accounting wherein she identified the value of the
11 property and in there she put that the value of the house and
12 actually broke it up in here. It said land is worth \$6045.
13 Building is worth \$21,887. This was in 19 -- this was filled
14 out in '97, I believe. We think that this is -- a couple of
15 things, it goes to the issue of -- there's an issue of who the
16 kids were and who the beneficiaries were and everything. We
17 think that this, this shows that who Mr. Singleton identified
18 as the only brothers and sisters surviving is different than
19 what's shown in the documents. Second of all, Julia Thomas,
20 who was the owner of the property at the time under their
21 theory, under oath gave a value of 21,000 some odd dollars.
22 We think that the -- this goes to, and, and my understanding,
23 you know, on these valuation of properties and these where it
24 involves a condemnation and the Court says, "Look, they can
25 consider all kind of different evidence in arriving at a

1 number." We think that this evidence is relevant, is
2 probative. It was signed under oath by Julia Thomas, and so
3 we think it complies with the Dead Man's Statute. It also
4 complies with the, the rules of evidence. It's an official
5 court document. I've got a true and correct copy, attested
6 copy from the probate court. If need be, I can have Judge
7 Maring come up and testify that this is, in fact, the document
8 contained in there. So we think that the -- the second issue
9 is that the -- there was a deed of distribution signed by
10 Julia Thomas and witnessed by Willie Singleton wherein it
11 states that James Gadson is the owner of the property, and
12 he's giving it to -- one-third to Julia Thomas, one-third to
13 John Gadson and one-third to Trevis M. Gadson who we believe
14 was Maurice Gadson. So it -- this, you know, they filed a
15 document saying James Gadson owned the property, not sure how,
16 but they're saying he owned the property and anyone who would
17 have an interest in the property signed off on this deed. I
18 mean, it would be one thing to say, well, somebody who didn't
19 know --

20 THE COURT: But, and excuse me for interrupting you, but
21 what are you asking me to do or --

22 MR. BAXTER: Okay. I'm -- we want to introduce probate
23 records, including the inventory.

24 THE COURT: Well, when it comes time for the Defense or
25 whenever the time is appropriate at trial, make your

1 introduction, and if you've laid the proper groundwork and you
2 followed the rules of evidence then it's going to be admitted.
3 If you haven't then it's not. I'm not going to rule until it
4 comes up at trial. You know, if you all get together and you
5 can stipulate. We can do stipulations, but I'm not going to
6 sit here in a pretrial motion and say, yes, you get those in
7 because I don't know. I haven't heard the testimony. I
8 haven't seen the documents. I haven't seen the
9 certifications. The rules of evidence are pretty clear as to
10 what you need to do to get matters introduced into evidence,
11 and if you follow those and it's relevant and it meets all of
12 the rules of evidence then it's admissible. If it doesn't,
13 then it's not, but I'll address it at that time.

14 MR. BAXTER: Okay. And I -- and I've got tax records as
15 well, and understanding --

16 THE COURT: Right.

17 MR. BAXTER: -- you'll address that when it's -- comes
18 up.

19 THE COURT: I'll, I'll address them when it comes time
20 and you seek to introduce them, but I'm not going to prejudge
21 something without hearing any testimony or anything of that
22 nature. All right?

23 (Mr. Singleton enters courtroom.)

24 MR. BAXTER: Okay. Okay. We, we, we had told the Court
25 we might could come up with a stipulation as to the, the

1 validity of the, the demolition. It's my understanding the
2 Plaintiff does not want a stipulation, that they want to
3 present the evidence --

4 THE COURT: Okay.

5 MR. BAXTER: -- in support of it. So we -- that, that is
6 not -- that's off the table.

7 THE COURT: All right. Anything further?

8 MR. HENRY: Nothing from the Plaintiff.

9 THE COURT: Anything further from the Defense?

10 MR. BAXTER: Nothing, Your Honor.

11 THE COURT: All right. Like I said, this is the only
12 show in town. So what time do you all want to -- because
13 we've got -- I guess just --

14 MR. HENRY: This is the only case?

15 THE COURT: Yeah. This is the only case on the trial
16 roster, I mean, on the jury trial roster. We have some
17 nonjury stuff that I might be dealing with depending on
18 whether or not they get stuff in. So what time do you all
19 want to get going?

20 MR. HENRY: How's 10:00 o'clock?

21 THE COURT: 10:00 o'clock suit you?

22 MR. BAXTER: Ten, ten's good. There's a football game
23 that may go really late tonight so.

24 THE COURT: Well, and I -- that is why I said what time
25 do you all -- rather than telling you what time we were

1 starting in the morning to ask you all. So I can --

2 MR. HENRY: I've got -- the only reason I'm saying --
3 well, I, I need to finish tomorrow. I have another matter on
4 Wednesday.

5 THE COURT: Okay. Well, now, now, keep in mind, and I
6 understand you might say it's a short trial, but we've got
7 voir dire, jury selection, opening statements, opening charges
8 before we even get into testimony and evidence.

9 MR. HENRY: I understand.

10 THE COURT: And then on the backside you've got closing
11 arguments, charge on the law, deliberations. Quite honestly,
12 attorneys have often told me they've got a one-day case. I
13 don't know that I've ever tried a one-day case just because
14 voir dire, jury selection, opening statements, opening
15 charges, closing arguments, closing charges and deliberations
16 usually take a half to three-quarters of a day by themselves
17 without any testimony or evidence. You're coming from
18 Columbia?

19 MR. HENRY: Yes.

20 THE COURT: Okay.. 10:00 o'clock?

21 MR. HENRY: 10:00 o'clock will be fine.

22 THE COURT: All right. We'll get the jury here. Have
23 the jury on the message for the jury have them here at 9:45.
24 I'll try to take the bench at 10:00 o'clock or as soon
25 thereafter as I can, and we'll start with the -- if you have

1 any voir dire, I need a witness list and I've got the standard
2 voir dire as far as anybody ever been represented by any of
3 the attorneys, know any of the parties, know any of the
4 witnesses, things of that nature, but if you have any special
5 requests get them to me first thing in the morning, get me a
6 list of witnesses in the morning. All right.

7 MR. BAXTER: Your Honor, can I give you those right now
8 actually one less thing.

9 THE COURT: Okay. That'll be fine.

10 MR. HENRY: Handwritten okay?

11 THE COURT: As long as I can read it, that's fine.

12 MR. HENRY: I think you ought to be able to read it.

13 THE COURT: That's -- no, that looks good. Willie
14 Singleton, Joe McCray, Andrew Dempsey, Gary Wiggins.

15 MR. BAXTER: Okay. So four?

16 THE COURT: Yeah.

17 MR. BAXTER: Okay. I thought I saw five names in there.

18 THE COURT: No. The top is just potential witnesses.
19 That's just the caption. All right.

20 MR. BAXTER: And I've got -- I'm not going to call all of
21 these but I thought just in case.

22 THE COURT: All right. Rick Martin, Janet Grant, Jason
23 Goude, Teresa Edwards, Judge Waldo Maring. Okay.

24 MR. HENRY: Teresa is the tax assessor. They'll, they'll
25 both be --

1 THE COURT: Okay.

2 MR. BAXTER: -- short and sweet.

3 THE COURT: All right. That'll be good.

4 MR. HENRY: Thank you, Your Honor.

5 THE COURT: Thank you very much. We'll see you all --

6 we'll be in recess till 10:00 o'clock tomorrow morning.

7 MR. HENRY: Thank you.

8 (Adjourned for day.)

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1 (On the record, January 12, 2016. The following takes
2 place outside the presence of the jury panel.)

3 THE COURT: Thank you very much. Please be seated. All
4 right. Good morning, everyone. Anything from the Plaintiff
5 before we bring the jury panel in and start jury selection?

6 MR. HENRY: Nothing from the Plaintiff, Your Honor.

7 THE COURT: Anything from the Defense?

8 MR. BAXTER: Nothing, Your Honor.

9 THE COURT: All right. Have we got -- is the jury panel
10 downstairs or are they out here?

11 THE CLERK: They're out here.

12 THE COURT: All right. Let's go ahead and bring them in.
13 All right.

14 (Whereupon, the following takes place in the presence of
15 the jury panel.)

16 BAILIFF: They're all in, Judge.

17 THE COURT: All right. Everybody is in? All right.
18 Good morning, ladies and gentlemen. Welcome back. Hope
19 everyone had a good evening. We're getting ready to start a
20 civil action. This is the case of Willie Singleton and Julia
21 Thomas, Heirs at Law of Victoria Gadson versus City of
22 Georgetown. Now, all of you have been qualified to serve as
23 jurors for this term of Common Pleas Court, but I do have some
24 questions to go over with you now. These questions are
25 commonly referred to as voir dire questioning. This is to

1 determine whether or not you're qualified to serve as jurors
2 on this particular case, and it also gives the attorneys some
3 additional information that assists them in the jury selection
4 process. The first thing you're going to learn serving jury
5 duty is just like witnesses jurors are constantly taking
6 oaths. So if I could please get everyone to stand and raise
7 your right hand.

8 (Whereupon, the jury panel is sworn by the Court.)

9 THE COURT: Thank you very much. Please be seated. Now,
10 is there any member of the jury panel that did not respond to
11 the oath by saying I do?

12 (No response.)

13 THE COURT: Very well. Thank you. All right. Please
14 listen up. As I said, we're getting ready to start the case
15 of Willie Singleton and Julia Thomas, Heirs at Law of Victoria
16 Gadson versus City of Georgetown. This is a civil action in
17 which the Plaintiffs allege that the City of Georgetown
18 wrongfully demolished a structure located here in Georgetown.
19 Where was the structure located? What was the address?

20 MR. HENRY: 1929 Front Street.

21 THE COURT: It was on 1929 Front Street. Now, is there
22 any member of the jury panel that has heard anything, read
23 anything, discussed anything or knows anything about this
24 case? If so, please stand.

25 (No response.)

1 THE COURT: All right. As I said, the Plaintiffs in this
2 case are Willie Singleton and Julia Thomas who allege to be
3 the heirs of Victoria Gadson. Now, is there any member of the
4 jury panel related by blood or marriage, have a close personal
5 relationship, business relationship, social relationship or
6 any other type of relationship with Willie Singleton, Julia
7 Thomas or Victoria Gadson? If so, please stand. Yes, sir.
8 Your name and number?

9 MR. MARSH: 105, Robbie Marsh.

10 THE COURT: Hold for one second, please. All right.
11 Robbie D. Marsh?

12 MR. MARSH: Yes, sir.

13 THE COURT: All right. Mr. Marsh, who is it that you
14 know or have some type of association with?

15 MR. MARSH: Willie Singleton right there.

16 THE COURT: Okay. Now, how do you know Mr. Singleton?

17 MR. MARSH: Known him for a very long time as a little
18 kid.

19 THE COURT: When you were children?

20 MR. MARSH: Yes, sir.

21 THE COURT: Okay. Do you socialize now or go --

22 MR. MARSH: I speak now and then when I see him.

23 THE COURT: Okay. When was the last time you saw him?

24 MR. MARSH: Last week ago I was getting off from work.

25 THE COURT: Okay. How often do you see him?

1 MR. MARSH: Now and then.

2 THE COURT: Okay. Do you all -- are you all a member of
3 any clubs together or do you all --

4 MR. MARSH: No, sir.

5 THE COURT: -- do you all socialize together?

6 MR. MARSH: No, sir.

7 THE COURT: Okay. Is your relationship with Mr.
8 Singleton such that it would affect your ability to give both
9 the Plaintiffs and the Defendant in this case a fair and
10 impartial trial?

11 MR. MARSH: Repeat that again.

12 THE COURT: I guess my question is would the fact that
13 you know Mr. Singleton would it affect your ability --

14 MR. MARSH: Yes.

15 THE COURT: -- to give the Defendant a fair and impartial
16 trial in this case?

17 MR. MARSH: Yes.

18 THE COURT: Okay. All right. Thank you, Mr. Marsh.
19 I'll excuse you from this particular case. Thank you very
20 much, but stay with us, stay with us right now. Anyone else
21 have any type of relationship with any of the Plaintiffs,
22 Willie Singleton, Julia Thomas or Victoria Gadson? If so,
23 please stand.

24 (No response.)

25 THE COURT: All right. The Defendant in this case is the

1 City of Georgetown. Other than possibly being a resident and
2 paying utilities and having trash collection is there any
3 member of the jury panel that has any contractual
4 relationship, business relationship or any other type of
5 association with the City of Georgetown other than the routine
6 associations of being a resident within the City? If so,
7 please stand. All right. Let's start, the gentleman right
8 here closest to the aisle. Your name and number?

9 MR. MORRIS: Willie Morris, Juror 115.

10 THE COURT: Willie J. Morris?

11 MR. MORRIS: Yes, sir.

12 THE COURT: All right. Mr. Morris, what kind of
13 association do you have with the City?

14 MR. MORRIS: I was employed with the City four years ago.

15 THE COURT: And what --

16 MR. MORRIS: I'm no longer there now.

17 THE COURT: Okay. What department were you employed
18 with?

19 MR. MORRIS: Water and sewer.

20 THE COURT: Okay.

21 MR. MORRIS: I was a maintenance supervisor for the sewer
22 department.

23 THE COURT: And you -- your employment ended how long
24 ago?

25 MR. MORRIS: About four years ago.

1 THE COURT: Okay. Do you still have any other type of
2 relationship, business benefits or anything like that with the
3 City?

4 MR. MORRIS: No, sir.

5 THE COURT: Okay. Would the fact that you were employed
6 by the City -- how long were you employed by the City?

7 MR. MORRIS: About 11 years.

8 THE COURT: Okay. Would that employment affect your
9 ability to give the Plaintiffs a fair and impartial trial?

10 MR. MORRIS: No, sir.

11 THE COURT: And I don't know the circumstances under
12 which you left your employment, but would it affect your
13 ability to give the Defendant a fair and impartial trial?

14 MR. MORRIS: No, sir.

15 THE COURT: Would you be able to disregard your
16 employment in its entirety and base your decision in this case
17 exclusively on the testimony and evidence in this case?

18 MR. MORRIS: Yes, sir.

19 THE COURT: Okay. Did your prior employment involve --
20 were you involved in any way with the inspection, the
21 demolition of properties in the City of Georgetown?

22 MR. MORRIS: No, sir.

23 THE COURT: Okay. All right. Mr. Morris, I'm going to
24 leave you -- well, let me see the attorneys for one second.

25 (Whereupon, a bench conference is held in the presence

1 but out of the hearing of the jury panel.)

2 THE COURT: All right. Mr. Morris, I'm going to excuse
3 you from this particular case but please stay with us for
4 right now. Okay.

5 Yes, sir. Your name and number?

6 MR. CASEY: Craig Casey, Number 26.

7 THE COURT: Craig A. Casey?

8 MR. CASEY: That's correct.

9 THE COURT: All right. Mr. Casey, what kind of
10 involvement do you have with the City?

11 MR. CASEY: I'm a plumbing contractor that gets
12 inspections through the building department.

13 THE COURT: Okay. And that's an ongoing relationship
14 now?

15 MR. CASEY: Yes, sir.

16 THE COURT: Okay. All right. Mr. Casey, I'm going to
17 excuse you from this particular case but please stay with us
18 right now.

19 All right. Yes, sir, your name and number?

20 MR. GOGGANS: Juror 61, William Goggans. I do not have a
21 direct relationship to the City of Georgetown, but my father
22 is a County Council Member and he's an architect. He's one --

23 THE COURT: County Council?

24 MR. GOGGANS: Yes, sir, Stephen Goggans.

25 THE COURT: Does Council, County have any involvement in

1 this case or County Council have any involvement in this case?

2 MR. HENRY: Beg, beg the Court's indulgence.

3 THE COURT: All right.

4 MR. HENRY: May counsel approach?

5 THE COURT: Yes. Come on up.

6 (Whereupon, a bench conference is held in the presence
7 but out of the hearing of the jury panel.)

8 THE COURT: Mr. Goggans, if you'd come forward, please.
9 Well, first, before you come forward, let me go ahead. You
10 said this is your father? He's a County Council member?

11 MR. GOGGANS: Yes, sir

12 THE COURT: Okay. Do you live with your father?

13 MR. GOGGANS: I do.

14 THE COURT: Okay. All right. So you see him every day?

15 MR. GOGGANS: I do.

16 THE COURT: Okay. All right. Come forward for just a
17 second.

18 (Whereupon, an off-the-record bench conference is held
19 with Juror 61, counsel for the Plaintiff and counsel for the
20 Defendant.)

21 THE COURT: All right. You can go on back. Mr. Goggans,
22 let's go ahead and let's -- I want -- I just want to confirm
23 this on the record. Is it -- you said your father is involved
24 with the County only and not involved in City political
25 system; is that correct?

1 MR. GOGGANS: To the best of my knowledge.

2 THE COURT: Okay. All right. Well, let me ask you this,
3 with this suit being against the City of Georgetown and your
4 father's involvement in County political spectrum would that
5 affect your ability to give both the Plaintiffs and the
6 Defendants in this case a fair and impartial trial?

7 MR. GOGGANS: No, sir.

8 THE COURT: Okay. Would you be able to disregard your
9 father's involvement with County Council in its entirety and
10 base your decision in this case exclusively on the testimony
11 and evidence in this case?

12 MR. GOGGANS: Yes, sir.

13 THE COURT: Okay. Thank you, Mr. Goggans, for bringing
14 that to our attention. All right. Anyone else have any type
15 of relationship with the City of Georgetown?

16 (No response.)

17 THE COURT: All right. Please listen carefully as these
18 are potential witnesses who may testify in this case. You
19 have one of the Plaintiffs, Willie Singleton, Joe McCray,
20 Andrew Dempsey, Gary Wiggins, Rick Martin, Janet Grant, Jason
21 Goude, Teresa Edwards and Probate Judge Waldo Maring. Now, is
22 there any member of the jury panel related by blood or
23 marriage, have a close personal relationship, business
24 relationship, social relationship or any other type of
25 relationship with any of these potential witnesses? If so,

1 please stand?

2 (No response.)

3 THE COURT: All right. The Plaintiff in this case is
4 represented by Attorney Joseph Henry of Joseph Henry Firm in
5 Columbia, South Carolina. The Defendant in this case is
6 represented by Attorney Douglas Charles Baxter of the law firm
7 of Richardson, Plowden and Robinson in Myrtle Beach, South
8 Carolina. Is there any member of the jury panel related by
9 blood or marriage, have a close personal relationship,
10 business relationship, social relationship or any other type
11 of relationship with either of these attorneys? If so, please
12 stand. All right, sir. And your name and number?

13 MR. DUNCAN: William Duncan, Number 44.

14 THE COURT: All right, Mr. Duncan. Who is it that you
15 know or have a relationship with?

16 MR. DUNCAN: I know Doug Baxter.

17 THE COURT: All right. And how is it that you know him?

18 MR. DUNCAN: Over the years I've had a handful of cases.
19 I'm an attorney. Had a handful of cases in which he was a --
20 representing the party, I was representing another party.

21 THE COURT: Okay. Any involvement with Mr. Baxter
22 outside of the legal community in representation of clients
23 and doing legal work?

24 MR. DUNCAN: None whatsoever.

25 THE COURT: Okay. Would that involvement or that

1 relationship effect your ability to give both the Plaintiffs
2 and the Defendant a fair and impartial trial?

3 MR. DUNCAN: It would not.

4 THE COURT: Okay. Would you be able to disregard any and
5 all associations in the past and base your decision in this
6 case exclusively on the testimony and evidence in this case?

7 MR. DUNCAN: Yes, sir.

8 THE COURT: Do you currently have any pending legal
9 business that involves Mr. Baxter?

10 MR. DUNCAN: None -- no. I do not.

11 THE COURT: Okay. All right. Thank you for bringing
12 that to our attention, Mr. Duncan. All right. Anyone else?

13 (No response.)

14 THE COURT: Has any member of the jury panel ever been
15 represented by either of these attorneys? If so, please
16 stand.

17 (No response.)

18 THE COURT: Has any member of the jury panel ever been
19 involved in any legal action in which either of these
20 attorneys represented another party to that action? If so,
21 please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 either personally, has a family member or close personal
25 friend employed with the law office of Joseph Henry or the law

1 firm of Richardson, Plowden and Robinson? If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury panel --

4 well, first let me ask you this, James Gadson, who is that?

5 MR. HENRY: His father.

6 THE COURT: His -- okay.

7 MR. HENRY: Mr. Singleton's father.

8 THE COURT: Okay. He -- but he's, he's a deceased.

9 MR. HENRY: He's deceased.

10 THE COURT: Okay. All right. This is a deceased member
11 of the family of the Plaintiffs, James Gadson. Is there any
12 member of the jury panel related by blood or marriage, have a
13 close personal relationship, business relationship, social
14 relationship or any other type of relationship with James
15 Gadson? If so, please stand.

16 (No response.)

17 THE COURT: Is any member of the jury panel either
18 personally or had an immediate family member that has been
19 involved in a lawsuit? If so, please stand. All right.

20 MS. NEWMAN: I'm Jury Number 121, Virginia Newman.

21 THE COURT: All right. Hold for one second. Virginia K.
22 Newman?

23 MS. NEWMAN: Yes.

24 THE COURT: All right. Ms. Newman, how long -- you --
25 was this you or a family member?

1 MS. NEWMAN: I represented -- I was an attorney in Omaha,
2 Nebraska. I retired to here. So, I --

3 THE COURT: Okay

4 MS. NEWMAN: -- I did have -- I was representing people
5 in lawsuits.

6 THE COURT: Okay. Would that affect your ability to give
7 the Plaintiffs and Defendants in this case a fair and
8 impartial trial?

9 MS. NEWMAN: No.

10 THE COURT: Would you be able to disregard all of your
11 prior legal representations and base your decision in this
12 case exclusively on the testimony and evidence in this case?

13 MS. NEWMAN: I believe so.

14 THE COURT: Okay. And I appreciate your opportunity -- I
15 mean, your honesty in saying you believe so but I have to be
16 sure that you are not influenced by any outside source
17 whatsoever, and if you don't -- and is there any -- do you
18 think it would influence you in any way?

19 MS. NEWMAN: No.

20 THE COURT: Okay. Thank you, Ms. Newman, for bringing
21 that to our attention. All right. And I apologize, but every
22 time you stand we have to make a record of this. If you'd
23 give me your name and number.

24 MR. GOGGANS: Juror Number 61, William Goggans.

25 THE COURT: All right. Mr. Goggans, was this you or a

1 family member?

2 MR. GOGGANS: A family member.

3 THE COURT: All right. And who -- what was the
4 relationship?

5 MR. GOGGANS: It was my father. He's been in lawsuits
6 before with his company business.

7 THE COURT: Okay.

8 MR. GOGGANS: And also my parents through their insurance
9 company were in a lawsuit.

10 THE COURT: Okay. Now, how long ago was the most recent
11 lawsuit?

12 MR. GOGGANS: Going back to 2008.

13 THE COURT: Okay. Would their involvement in that
14 lawsuit and because -- and the reason I ask this is some
15 people because when they get involved in the legal spectrum it
16 does cause them to become jaded at times. Would their
17 involvement in the legal system or involvement in these
18 lawsuits affect your ability to give both the Plaintiffs and
19 the Defendant in this case a fair and impartial trial?

20 MR. GOGGANS: No, sir, Your Honor.

21 THE COURT: Okay. Would you be able to disregard your
22 parents' lawsuits in their entirety and base your decision in
23 this case exclusively on the testimony and evidence in this
24 case?

25 MR. GOGGANS: Yes, sir, Your Honor.

1 THE COURT: Okay. Thank you very much for bringing that
2 to our attention, Mr. Goggins. All right. The lady next to
3 the wall, your name and number?

4 MS. GILMER: Juror Number 59, Karen Gilmer.

5 THE COURT: All right. Ms. Gilmer, with this you, a
6 family member or who that was involved in a lawsuit?

7 MS. GILMER: Family member sued other family members.

8 THE COURT: Okay. And how long ago was this?

9 MS. GILMER: Five years ago.

10 THE COURT: All right. Would that lawsuit affect your
11 ability to give both the Plaintiffs and Defendant in this case
12 a fair and impartial trial?

13 MS. GILMER: No, sir.

14 THE COURT: Would you be able to disregard that lawsuit
15 in its entirety and base your decision in this case
16 exclusively on the testimony and evidence in this case?

17 MS. GILMER: Yes, sir.

18 THE COURT: Thank you very much, Ms. Gilmer, for bringing
19 that to our attention.

20 MS. GILMER: May I add one thing?

21 THE COURT: Yes, ma'am.

22 MS. GILMER: There was another, a second suit.

23 THE COURT: Okay. And who did that involve?

24 MS. GILMER: My son 15 years ago.

25 THE COURT: Fifteen years ago?

1 MS. GILMER: Uh-huh.

2 THE COURT: Would that lawsuit affect your ability to
3 give both the Plaintiffs and Defendant in this case a fair and
4 impartial trial?

5 MS. GILMER: No, sir.

6 THE COURT: Okay. Can you disregard that lawsuit in its
7 entirety?

8 MS. GILMER: Yes, sir.

9 THE COURT: All right. Thank you for bringing that to
10 our attention. All right. The gentleman right next to her,
11 your name and number?

12 MR. HARRINGTON: Dan Harrington, Number 75.

13 THE COURT: Dan A. Harrington, Jr.?

14 MR. HARRINGTON: Yes, sir.

15 THE COURT: All right. Mr. Harrington, was this you or a
16 family member?

17 MR. HARRINGTON: Me.

18 THE COURT: Okay. And how long ago was the lawsuit?

19 MR. HARRINGTON: There's been a number of them in the
20 last 20 years.

21 THE COURT: Okay.

22 MR. HARRINGTON: Real, real estate related.

23 THE COURT: What was the most recent lawsuit?

24 MR. HARRINGTON: At least six years ago.

25 THE COURT: Okay. Would any of those lawsuits affect

1 your ability to give both the Plaintiffs and Defendant in this
2 case a fair and partial trial?

3 MR. HARRINGTON: No.

4 THE COURT: Would you be able to disregard all of those
5 lawsuits in their entirety and base your decision in this case
6 exclusively on the testimony and evidence in this case?

7 MR. HARRINGTON: Yes.

8 THE COURT: Thank you, Mr. Harrington, for bringing that
9 to our attention. Yes, ma'am, your name and number?

10 MS. BRATCHER: Karen Bratcher, Juror Number 11.

11 THE COURT: Karen L. Bratcher?

12 MS. BRATCHER: Yes, sir.

13 THE COURT: All right. Ms. Bratcher, was this you or a
14 family member that was involved in a lawsuit?

15 MS. BRATCHER: It was me.

16 THE COURT: Okay. And how long ago was that?

17 MS. BRATCHER: 2012.

18 THE COURT: Okay. Would that lawsuit and your
19 involvement in that legal action affect your ability to give
20 the Plaintiffs and the Defendant in this case a fair and
21 impartial trial?

22 MS. BRATCHER: No, sir.

23 THE COURT: Would you be able to disregard that lawsuit
24 in its entirety and base your decision in this case
25 exclusively on the testimony and evidence in this case?

1 MS. BRATCHER: Yes, sir.

2 THE COURT: Thank you, Ms. Bratcher, for bringing that to
3 our attention. Anyone else?

4 (No response.)

5 THE COURT: Has any member of the jury panel either
6 personally or had an immediate family member that has had a
7 dispute with the City of Georgetown? If so, please stand.

8 (No response.)

9 THE COURT: Is there any member of the jury panel who
10 either personally or had an immediate family member that was
11 the owner of property that was involved in a governmental
12 condemnation? If so, please stand.

13 (No response.)

14 THE COURT: Has any member of the jury panel either
15 personally or had an immediate family member involved in a
16 dispute or issue pertaining to a building permit? If so,
17 please stand.

18 (No response.)

19 THE COURT: Has any member of the jury panel either
20 personally or had a family member that owned a house, building
21 or other structure that was declared unsafe by a government
22 entity? If so, please stand.

23 (No response.)

24 THE COURT: Has any member of the jury panel formed or
25 expressed an opinion about any issue or matter involved in

1 this case? If so, please stand

2 (No response.)

3 THE COURT: Is there any member of the jury panel aware
4 of any bias or prejudice towards either the Plaintiffs or the
5 Defendant in this case? If so, please stand.

6 (No response.)

7 THE COURT: Does any member of the jury panel know of any
8 reason whatsoever why he or she should not serve as a juror in
9 this case, with particular emphasis being placed on your
10 ability to be fair and impartial to both the Plaintiffs and
11 the Defendant? If so, please stand.

12 (No response.)

13 THE COURT: All right. Ladies and gentlemen, that --
14 well, first, let me ask, is there any additional questions
15 from the Plaintiff?

16 MR. HENRY: Could you ask if anyone has a relative or if
17 anyone is employed by the City of Georgetown?

18 THE COURT: Is there any member of the jury panel who
19 either personally or has a family member employed by the City
20 of Georgetown? If so, please stand.

21 MS. BRATCHER: I have a friend.

22 THE COURT: All right. First, your name and number?

23 MS. BRATCHER: I am Juror Number 11, Karen Bratcher.

24 THE COURT: Okay. When you say a friend, who is the
25 friend?

1 MS. BRATCHER: She works with water, water department,
2 Cindy McDaniels.

3 THE COURT: Okay. Is Ms. McDaniels involved in this case
4 in any way? Okay. Would the fact that your friend is
5 employed with the City of Georgetown affect your ability to
6 give both the Plaintiffs and Defendant a fair and impartial
7 trial in this case?

8 MS. BRATCHER: No, sir. No, sir.

9 THE COURT: Would you be able to disregard her employment
10 in its entirety and base your decision in this case
11 exclusively on the testimony and evidence in this case?

12 MS. BRATCHER: Yes, sir.

13 THE COURT: Thank you very much. All right. Any
14 additional questions from the Plaintiff?

15 MR. HENRY: Nothing further, Your Honor.

16 THE COURT: Any from the Defense?

17 MR. BAXTER: Your Honor, may we approach?

18 THE COURT: Yeah.

19 (Whereupon, a bench conference is held in the presence
20 but out of the hearing of the jury panel.)

21 THE COURT: Is there any member of the jury related by
22 blood or marriage, have a close personal relationship,
23 business relationship, social relationship or any other type
24 of relationship with John Leroy Gadson, Maurice Gadson, Alvin
25 Walker, Fred Ford, Helen Boone or Edna Lowe. If so, please

1 stand.

2 (No response.)

3 THE COURT: All right. Any additional questions from the
4 Defense?

5 MR. BAXTER: None other than what we discussed.

6 THE COURT: Okay. All right. And that's noted.

7 MR. HENRY: Your Honor, counsel would ask that the record
8 reflect an objection to the reading of that particular voir
9 dire.

10 THE COURT: I noted, and we, we discussed in sidebar. I,
11 I know the Plaintiff objects to the last voir dire submitted
12 by the Defense and I overruled it.

13 MR. HENRY: Thank you, Your Honor

14 THE COURT: All right. All right. Ladies and gentlemen,
15 those of you who were not excused during the voir dire
16 process, your names are placed on a list and it's this day of
17 automation, your names are fed into a computer and it's
18 generated out and your names are placed in random order. Now,
19 if this was a criminal case, your name would be called one at
20 a time according to that list and you'd have to come in front
21 the attorneys and stand and face the attorneys while the State
22 decided whether they wanted you and look at you a while and
23 then the Defense would have to decide whether they wanted you
24 and look at you a while, but we don't do that in civil cases.
25 In civil cases your names are just placed on a list, and the

1 attorneys go down and strike, strike potential jurors
2 according to their number. So, number one, you don't even
3 know if you're in the -- on the list, and number two, if you
4 happen to be juror number five and you hear an attorney strike
5 juror number five that's not you because you've been assigned
6 a new number as well. So it's a little bit different in civil
7 cases than it is in criminal cases, but it will take a second
8 -- have we got the list yet?

9 (Clerk and Court confer.)

10 THE COURT: Let's go ahead and get one alternate. Well,
11 let me ask this, do we want an alternate or can the parties go
12 with a jury of less than 12 but not less than 10 if we need
13 to?

14 MR. HENRY: One alternate, I believe, Your Honor, would
15 be.

16 THE COURT: Okay. All right. We'll do, do one
17 alternate. All right. (Clerk and Court confer.)

18 THE COURT: Okay. Yeah. And what we'll do is using the
19 numbers to the left of the list, Plaintiff will strike four,
20 Defense'll strike four alternating out of the first 20.

21 MR. BAXTER: Your Honor, may we approach, please?

22 THE COURT: Yeah.

23 (Whereupon, a bench conference is held in the presence,
24 but out of the hearing of the jury panel.)

25 THE COURT: All right. We can go with this list. Okay.

1 All right. So we'll -- using the list, the numbers to the
2 left of the names, one through 22 Plaintiff will strike four,
3 the Defense will strike four and then 23, 24 and 25 Plaintiff
4 will strike one, Defense will strike one, and that'll get our
5 alternate. How long do you all need to look over the list?

6 MR. HENRY: Five minutes.

7 THE COURT: Five minutes.

8 MR. BAXTER: I always ask for ten.

9 THE COURT: Okay. All right. Ladies and gentlemen, it
10 is going to take the attorneys a couple of minutes to look
11 over this list because, as I said, your names -- every other
12 list they've given you it's been in alphabetical order, and
13 this is in a random order with new numbers assigned, and so
14 it's going to take them a while to review the list. If you'd
15 please sit tight I'm going to give them about 10 minutes to
16 look over the list and then we'll come back out and we'll
17 start the jury selection. Okay. So let's stand in recess for
18 about 10 minutes.

19 OFF THE RECORD

20 (On the record. The following takes place in the presence of
21 the jury panel.)

22 THE COURT: Please be seated. All right. Gentlemen, are
23 we ready to go forward?

24 MR. HENRY: We are, Your Honor.

25 THE COURT: All right. Using numbers to the left of the

1 names one through 22, alternating, Plaintiff will strike four
2 and the Defense will strike four.

3 THE CLERK: Plaintiff?

4 MR. HENRY: Plaintiff strikes number one.

5 THE CLERK: Defendant?

6 MR. BAXTER: Number 10.

7 THE CLERK: Plaintiff?

8 MR. HENRY: Number five.

9 THE CLERK: Defendant?

10 MR. BAXTER: Number 13.

11 THE CLERK: Plaintiff?

12 MR. HENRY: Let's see, number 14.

13 THE CLERK: Defendant?

14 MR. BAXTER: Number six.

15 THE CLERK: Plaintiff?

16 MR. HENRY: Number 16.

17 THE CLERK: Defendant?

18 MR. BAXTER: Number 15.

19 THE COURT: All right. Now, using numbers 23, 24 and 25
20 Plaintiff will strike one and Defense will strike on.

21 THE CLERK: Plaintiff?

22 MR. HENRY: Number 25.

23 THE CLERK: Defendant?

24 MR. BAXTER: Number 23.

25 THE CLERK: Okay. For confirmation, the Plaintiff struck

1 numbers one, five, 14, 16 and 25; is that correct?

2 MR. HENRY: That's correct

3 THE CLERK: All right. The Defendant struck numbers six,
4 13, 15 and 23; is that correct?

5 THE COURT: And 10.

6 MR. BAXTER: Number 10.

7 THE CLERK: 10.

8 MR. BAXTER: And 23

9 THE CLERK: Okay. Yes. 10. All right. Six, 10, 13, 15
10 and 23.

11 MR. BAXTER: That's correct.

12 THE CLERK: All right. Very good.

13 THE COURT: All right.

14 All right. Ladies and gentlemen, please listen up, and
15 if your name is called, please come forward and the bailiff
16 will direct you into the jury box. Bring with you any
17 pocketbooks, coats or whatever you might have. So please
18 listen carefully, and if your name is called, please come
19 forward.

20 THE CLERK: Juror Number 59, Karen Gilmer; Juror Number
21 51, is it Loney Ford, please come and take a seat in the jury
22 box; Juror Number 18, Edith Browne; Juror Number 97, Michael
23 Keough, Jr.; Juror Number 101, Melanie Kuhner; Juror Number
24 165, Nancy Voiselle; Juror Number 122, Amy Newton; Juror
25 Number 55, Natia Gasque.

1 THE COURT: I think you skipped one. No. You're right.

2 THE CLERK: Juror Number 21, Amy Bunn; Juror Number 44,
3 William Duncan; Juror Number 140, Debra Rouse; Juror Number
4 78, Bridget Hawkins; and Juror Number 47, Gale Emery.

5 THE COURT: All right. Ladies and gentlemen, you will be
6 the jury that will preside over this first case. I'm going to
7 excuse you back to the jury room for just a few minutes and
8 then I'll bring you out and give you some, some instructions
9 that we'll follow during the trial of this case, but while
10 you're in the jury room, if I could get you to do me a favor
11 and that would be to select a foreperson for this jury. Now,
12 you may not know everyone, and if you can't select a
13 foreperson, don't worry about it. I can appoint someone to
14 serve as foreperson. Many judges appoint their own
15 foreperson. I like to give the jury the opportunity to select
16 one on their own accord if they're able to do so. So if you
17 can select a foreperson just write his or her name on a sheet
18 of paper with the jury number, give it to the bailiff and
19 we'll bring you back in to the courtroom at that time. Now,
20 the foreperson has absolutely no more authority, no more
21 influence, no more importance than any other juror. The
22 function of the foreperson is to act as a liaison between the
23 Court and the jury. If the jury has a question the foreperson
24 lets the Court know. If the jury has a need, the foreperson
25 lets the Court know. When it's time to deliberate the

1 foreperson will preside over the deliberations, but other than
2 that, the foreperson has absolutely no more authority, no more
3 influence, no more importance than any other juror. The only
4 restriction would be, Ms. Emery, as the alternate you would
5 not be eligible as foreperson at this point in time because
6 you are an alternate at this point in time, but any of the
7 rest of you can serve as foreperson. So if you can select one
8 just write his or her name on a sheet of paper with the jury
9 number and let the bailiff know. Now, when you come back into
10 the courtroom the foreperson will always occupy the first seat
11 on the front row that is closest to the witness stand. Ms.
12 Emery, as long as you're alternate you'll always occupy the
13 seat where you now sit. The rest of you are at liberty to sit
14 in whatever seat you like. If you want to sit in the same
15 seat throughout the trial of the case you can do that. If you
16 want to alternate seats during the trial of the case you can
17 do that as well. The only restriction is that the foreperson
18 occupies the first seat on the front row, and the alternate
19 always occupies the alternate seat.

20 I'm going to excuse you back to the jury room for just a
21 few minutes while I release the jury panel and we'll bring you
22 back out in just a second. Thank you very much.

23 (Whereupon, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Any challenges to the selection

1 or composition of the jury by the Plaintiff?

2 MR. HENRY: None from the Plaintiff, Your Honor.

3 THE COURT: Any from the Defense?

4 MR. BAXTER: None, Your Honor.

5 THE COURT: All right.

6 (Whereupon, the remaining jury panel is excused.)

7 THE COURT: Let's give them a few minutes, see if they
8 can select a foreperson. We'll bring them back in, put them
9 under oath. I can do opening charges. I can't even see -- is
10 that five till 11 or 10 after 11, 10 after 11. Do you all
11 want to do opening statements before lunch?

12 MR. HENRY: Yes.

13 THE COURT: I think we can get opening statements in
14 before lunch, and depending on what time it is, and I don't
15 want to -- I'm not going to hold you to this, but just so we
16 can kind of get a scheduling idea, how long do you think
17 Plaintiffs' first witness'll take?

18 MR. HENRY: Probably from the Plaintiffs' perspective
19 somewhere in the neighborhood of 15, 20 minutes, if that.

20 THE COURT: Okay. All right. So we may be able to get
21 in a witness before lunch. Okay. That sounds good. All
22 right. Let's -- if -- soon as they can get a foreperson just
23 let me know and we'll go ahead. Any stipulations or anything
24 before we, before we bring them in for opening charges?

25 MR. HENRY: No, Your Honor.

1 THE COURT: Okay. All right.

2 MR. BAXTER: Your Honor, can I get that obituary back
3 from you or did you give that back to me?

4 THE COURT: I don't know. If I didn't, I'm going to have
5 to look for it.

6 MR. BAXTER: And, and I -- it's okay if you don't. I've
7 got --

8 THE COURT: Well, the thing, now that you mention it, I
9 don't remember giving it back to you, but for the life of me I
10 swear I don't know what I did with it.

11 MR. BAXTER: I, I've got, I've got other copies.

12 THE COURT: Here it is right here. I got you. Yeah.
13 There you go. All right. Let's take about a five-minute
14 break. I won't give them more than about a five or 10 minutes
15 to select a foreperson. If they can't, then I'll just appoint
16 someone. All right?

17 MR. HENRY: All right.

18 OFF THE RECORD

19 (On the record. The following takes place outside the
20 presence of the jury.)

21 THE COURT: All right. I understand the jury has
22 selected a foreperson, Juror 97, Michael Keough, K-E-O-U-G-H.
23 Michael S., I guess it's Keough, it's Jr., as the foreperson.
24 All right. Let's mark that as Court's Exhibit One.

25 (Court's Exhibit Number One [Foreperson Selection])

1 appropriately marked.)

2 THE COURT: All right. Anything from the Plaintiff
3 before we bring the jury in?

4 MR. HENRY: Nothing at this point, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. BAXTER: Nothing, Your Honor.

7 THE COURT: All right. Let's bring the jury in.

8 (Whereupon, the following takes place in the presence of
9 the jury.)

10 THE COURT: All right. Ladies and gentlemen, welcome
11 back. I understand, sir, you're going to have to pronounce
12 your name for me.

13 MR. KEOUGH: Keough.

14 THE COURT: Keough. All right. Thank you very much, Mr.
15 Keough. I understand you've been selected as foreperson; is
16 that correct?

17 MR. KEOUGH: That is correct.

18 THE COURT: All right. If you would always occupy the
19 seat where you now sit we'd appreciate it, and then Ms. Emery,
20 you always occupy your seat, and as I said, the rest of you
21 are at liberty to sit in whatever seat you like, whether it be
22 the same seat or alternating seats or whatever makes you feel
23 more comfortable during the trial of this case.

24 All right. As I told you when we started the voir dire,
25 we are getting ready to start the trial of the case of Willie

1 Singleton and Julia Thomas, Heirs at Law of Victoria Gadson,
2 versus the City of Georgetown. Now, before we begin the trial
3 I want to let you know what you can expect and what's expected
4 of you during the trial of this case. I know from watching
5 movies, TV shows, reading books and things of that nature
6 trials are often full of a lot of suspense and action and
7 anxiety, and while that might be the case in this trial, it
8 probably won't be. The primary function of this case is a
9 search for the truth, what happened, what the facts are, and
10 that is often a slow, deliberate, repetitive process, the
11 exact opposite of what you might be accustomed to when you
12 watch movies or whatever for entertainment purposes, but I do
13 hope you find the trial entertaining. I hope you find it
14 educational, and I want to thank you from the outset for
15 serving as jurors in this case.

16 The attorneys appearing before you are advocates for the
17 parties they represent, but first and foremost, they are
18 officers of the court. They are sworn to uphold the integrity
19 and the fairness of our judicial system. You can expect them
20 to be professional, competent and ethical in the
21 representation of their clients' interests, and likewise,
22 they'll expect you to be professional, reasonable and ethical
23 as you serve on this jury.

24 Now, as I told you during qualifications, some of the
25 rules we'll go by continue, don't bring any cell phones or

1 pager devices into the courtroom. We'll give you plenty of
2 opportunities to check phone calls, return messages and things
3 of that nature, but please do not bring them into the
4 courtroom with you. Also, when we take breaks please return
5 promptly. If you are having trouble getting back on time
6 please call and let us know. Last, but certainly not least, I
7 ask that you pay, pay close attention during the trial of this
8 case. This is a very important case for these parties, and
9 it's the only way they can resolve the dispute in this case.

10 Now I'll let you know why you're here. As the jury in
11 this case, you are the sole judge of the facts of this case.
12 Your job is to determine what the facts of this case are. You
13 are to determine the facts only from the testimony you hear
14 and any other evidence that is presented during this trial.
15 You're not to be influenced by any opinions or statements you
16 may have heard outside of the courtroom. If at any time I
17 make a comment which leads you to believe that I have an
18 opinion as to what the facts of this case are, you're to
19 disregard my comments. You and you alone must determine what
20 the facts of this case are based upon the testimony and
21 evidence presented at trial.

22 Now, the same law that makes you the judge of the
23 facts of this case makes me the judge of the law. The law as
24 I give it to you is the only law that you can consider. You
25 must accept and follow the law as I give it to you even though

1 you may disagree with it. Just as I cannot tell you what the
2 facts of this case are, you cannot disagree with me about the
3 law to be applied in this case. Your job is to take the law
4 as I give it to you and apply it to the facts as you find
5 those facts to be. Now, until I advise you to begin your
6 deliberations you must not discuss this case with anyone,
7 including your fellow jurors. Do not discuss it with any
8 friends, family members or anyone involved in the case.
9 During the trial you're not to read or listen to or watch any
10 news reports about the case should there be any. Do not
11 conduct any independent investigations into the case. Do not
12 go on the Internet or read any newspaper accounts or watch any
13 television reports, if there are any. Don't listen to the
14 radio reports if there should be any about this case. You are
15 not to consider anything that you may have heard outside of
16 the courtroom, and it's important that you keep an open mind
17 and not decide any issue in this case until all of the
18 evidence has been presented to you. Now, when you're
19 instructed to start your deliberations you can then discuss
20 the case but only in the jury room with your fellow jurors.

21 Now, in just a moment the attorneys will make what's
22 called opening statements. These opening statements are not
23 evidence in this case. It is simply the attorneys'
24 explanation as to what they feel the issues in this case are.
25 After the opening statements, the evidence in this case will

1 be presented to you by testimony of sworn witnesses from the
2 witness stand and any other exhibits that might be introduced
3 into evidence. As the judge of the law, I determine what
4 evidence is admissible at trial. As the judge of the facts,
5 you determine what evidence or testimony is believable. Once
6 testimony is admitted into evidence, whether or not you
7 believe it is solely for you to determine. In deciding whether
8 to believe a witness you have the right to consider whether
9 the witness has an interest in the result of the trial,
10 whether the witness is prejudiced towards either the Plaintiff
11 or the Defendant, the opportunity for the witness to have seen
12 the matters and things about which the witness may testify and
13 the way the witness acts on the witness stand. You have the
14 right to consider anything that is in the record that will
15 help you evaluate the testimony of that witness. That means
16 that it is your duty to pay close attention to the witnesses,
17 to observe the witnesses and to listen to the witnesses.

18 All right. Any additional charges or challenges to the
19 opening charges from the Plaintiff?

20 MR. HENRY: No, sir.

21 THE COURT: Any from the Defense?

22 MR. BAXTER: None, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, we'll begin
24 the trial of this case now with the opening statements, and as
25 I told you these opening statements are not evidence. It is

1 just simply the attorneys' contention as to what they think
2 the issues in this case are. Mr. Henry.

3 MR. HENRY: Has the jury been sworn?

4 THE COURT: Oh, no. You're right. We do need to swear
5 the jury. I apologize for that. All right. Ladies and
6 gentlemen, once again, you've got to take another oath for you
7 to serve as jurors in this particular case.

8 (Whereupon, the jury is sworn by the clerk.)

9 THE COURT: All right. Thank you. All right. Mr.
10 Henry, thank you. You ready to go forward?

11 MR. HENRY: Thank you, Your Honor. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. HENRY: Good morning, ladies and gentlemen of the
15 jury. My name is Joseph Henry. I, as you heard earlier, I am
16 the attorney for Mr. Willie Singleton, who is the Plaintiff in
17 this case. Mr. Singleton has brought this case seeking
18 damages from the City of Georgetown for the wrongful
19 destruction of his home -- of a home that he owned on 1929
20 Front Street. The home in question was approximately a 2000
21 to 2500 square-foot 1800 style Victorian home. The home sat
22 vacant. Mr. Singleton, at the time of the destruction of this
23 home, was using it for the purpose of storing some of his
24 former businesses' equipment and/or property. He formerly had
25 a bookstore. The books from that bookstore that were left

1 over were stored at this home. He also used to own a
2 restaurant. He had restaurant equipment stored in the home,
3 and Mr. Singleton used to be a tailor. He had the remnants of
4 his tailor -- tailoring equipment stored in the home at the
5 time of the destruction. The City of Georgetown, the
6 testimony will reveal in this case, that the City of
7 Georgetown, pursuant to its police powers, the power of a
8 local government to adopt certain international and national
9 codes regulating property, property maintenance, property
10 condemnation and other issues related to that, that the City
11 adopted an ordinance thinking that it had the power under the
12 ordinance as adopted to go in and condemn properties and
13 destroy them. The City prior to adopting this ordinance to
14 say, I guess, to put it mildly, had what's called -- what I
15 would call a hit list. They had gone to the local newspaper
16 and put in the paper that they had the intent to demolish some
17 92 homes along the strip of Front Street where Mr. Singleton's
18 property was located.

19 Now, that wouldn't be a bad thing if, in fact, they had
20 taken the appropriate steps to do that, plus they shouldn't
21 have decided to do demolition before they even got to the
22 point that demolition was an issue. Now, if they had an
23 appropriate ordinance on the books, there are certain things
24 that they still have to do. They have to notify the owner
25 that there's a problem with the property. Now, that notice

1 needs to include among other things a list of specified items
2 that the City considers to be deficiencies that caused that
3 home to be a target for demolition. In addition to that, they
4 have to give the homeowner the right to attempt to remedy
5 those things. They have the right to do so. If you own
6 property you have a right to maintain that property. Once the
7 City notifies you and tells you your property is in violation
8 of our property maintenance codes, they should list in that
9 notice all of the particulars, say it needs a roof, new roof,
10 it needs windows, it needs doors, it needs this, it needs
11 that, and they need to give you a timeframe in which you can
12 make those corrections. The, the evidence in this case will
13 show that Mr. Singleton was sent notices, but the notices
14 never stated what was wrong with the property. The notices
15 also didn't give Mr. Singleton a timeframe in which to correct
16 the alleged deficiencies with the property, What the evidence
17 will also show is that in reliance on receiving those notices
18 Mr. Singleton didn't sit on his hands. He went to the City
19 and took the steps that every homeowner has the right to take.
20 He asked for a building permit to fix the things that the City
21 thought was wrong with his home, although they didn't tell him
22 what they thought was wrong. He made an effort to fix his
23 property.

24 Now, if you fail to comply with a request from a
25 governmental entity to fix your property and you've been given

1 adequate notice of the deficiencies and a timeframe in which
2 to correct them and you fail to do so, if they have the right
3 ordinances on the books, the government has the right to
4 condemn your property and to come in and do a demolition, but
5 all of those things have to fall into place. You're going to
6 hear testimony that that didn't happen in this case. You're
7 going to hear from one of the investigators who investigated
8 this case and what his findings were, and once the
9 investigation began, you're going to hear that there were
10 deficiencies with the City's ordinance, that the actions taken
11 by the City were not authorized. Their own ordinance didn't
12 put in the necessary steps to comply with the state laws
13 regulating condemnation of property and demolition of the
14 property. It was incumbent upon the City. They had the power
15 to put on the books an ordinance that would give them the
16 right to condemn this property and to -- and to come in and do
17 a destruction. That didn't happen.

18 Mr. Singleton is the victim of that. He's the person who
19 owned the property that was destroyed. He also lost his
20 business equipment in this destruction. All of the things
21 that were in the house at the time the house was demolished he
22 lost. He lost the contents of his bookstore. He lost the
23 contents, the equipment from his restaurant, and he lost the
24 equipment from his tailoring shop. He also lost the contents
25 of the home. The home was fully furnished. All of the

1 furnishing in the home, which was antique furniture, was
2 destroyed when the home was demolished. Now, this was not
3 some home that didn't have electricity. At the time the home
4 was condemned, at -- wasn't condemned, but at the time it was
5 destroyed the electricity was still connected to it. If this
6 home was a derelict home at -- it shouldn't have had
7 electricity. You can't put electricity in a home that is not
8 suitable for that. He still had electricity in the home.
9 They had to turn it off.

10 Mr. Singleton's background and experience I think will
11 qualify him to tell you about what he lost, what the home
12 meant to him. This was a home that was built in the 1800s.
13 It had been in his family for some time. The home was
14 originally built by a family by the name of Cohen who became a
15 very prominent family here in Georgetown. That home had some
16 historical significance. All of that Mr. Singleton lost when
17 the home was unduly demolished because you had City officials
18 who refused to be reasonable. Compensation is due to a person
19 who loses property if that property is lost due to no fault of
20 their own. They're entitled to be compensated for it. You
21 don't just tear people's homes down and walk away, and say,
22 "Whoops, sorry. We didn't have the right law on the books but
23 we were able to tear it down." That's what this case is
24 about. Mr. Singleton is simply asking to hold the government
25 accountable as state law says they should be for inappropriate

1 action and inappropriate conduct toward a citizen. That's
2 what we're asking you to listen to.

3 On behalf of Mr. Singleton I want to thank you for your
4 time, your attention and your consideration of his grievances
5 against the City. I know this is a burden upon you, and I'm
6 asking you to bear with us while we go through this. Thank
7 you and please listen to Mr. Baxter.

8 THE COURT: Mr. Baxter.

9 MR. BAXTER: May it please the Court?

10 THE COURT: Yes, sir.

11 MR. BAXTER: Ladies and gentlemen of the jury, as
12 previously introduced my name is Doug Baxter, and I represent
13 the City of Georgetown in this lawsuit. Also with me today is
14 Mr. Rick Martin and Janet Grant who are both employed with the
15 City of Georgetown, the Planning and Building Department. The
16 -- this case and, and, and as much as it pains me as a lawyer
17 to admit things, the City screwed up, and, and, you know, we,
18 we agree that the -- as Mr. Henry indicated, there was some
19 problems with the ordinance, and, and you'll hear testimony
20 about that. What it is, the City had an ordinance that was
21 based upon some older law. The state law changed at some
22 point in time, and basically added some steps that said if
23 you're going to condemn and tear down a house here's what you
24 have to do, and the law changed so that the City went through
25 the steps that had been in effect prior to that. They didn't

1 do the additional steps which was added by the state. So that
2 is, that is not an issue, try to make it as easy as possible,
3 but, but we agree that the ordinance which was on the books
4 did not comply with the state law.

5 Now, the testimony you'll hear is that the -- in May of
6 2006 the City did identify certain pieces of property, houses
7 which were in need of repair, were dilapidated or unsafe.
8 Some of these were just you can drive around and you see a
9 house that's going to fall down. Some of it is neighbors
10 called in and said, you know, "The house next to me I'm afraid
11 it's going to fall in. It's not safe." Whatever reason, that
12 is part of the City of Georgetown's job is to deal with houses
13 that are unsafe and in need of repair. They identified this
14 particular house as being unsafe and in need of repair. A
15 notice was sent on May 31st of 2006. Another notice was sent
16 on July 7th of 2006, and Mr. Singleton did in August went in --
17 I think he said in August, but he'll -- you'll hear his
18 testimony. At some point in time he went in and applied for a
19 permit to repair the house. Now, the problem is the -- what
20 he proposed doing wasn't going to fix the house. It's kind of
21 like the saying of, of putting lipstick on a pig. You know,
22 it was going to address some cosmetic issues but it wasn't
23 going to address the real problems with this house. The
24 permit was not issued. You'll hear testimony, additional
25 letters were sent notifying him, and then he's filed another

1 permit, and again, the decision was, "But you're not
2 addressing the problems with this house." Now, there were a
3 series of four letters sent to Mr. Singleton May 31st of 2006,
4 July 7th of 2006, December 8th of 2006. There was another
5 letter in January, January 20th, 2007 and then March, I think
6 it was March 20th of 2007. So actually there's five letters
7 over a period of time saying, "The house is in need of repair.
8 We're going to tear it down. We're going to tear it down.
9 We're going to tear it down." It wasn't a situation where the
10 City rushed out and said, "We're tearing this house down
11 before you can get your contents out or take any actions."
12 It, it was done. It was a very deliberate process over a
13 period of time. The house was actually torn down in April of
14 2007. So those are, you know, and I think we can all agree
15 those were kind of the facts because you'll see the letters
16 and you'll see the correspondence and you'll see the
17 conversations, the discussions that went, that went on. So,
18 you know, the question is, okay, if that's the case, why are
19 we here? I mean, what, what, you know, why can't you guys
20 resolve this? Well, there's -- and when you have a lawsuit,
21 there's certain -- there's a number of things you have to
22 show. You know, one, you got to show some fault, you know,
23 somebody did something wrong, and then you have to show that
24 that fault actually caused damage or effected someone. We do
25 not believe that Willie Singleton is the proper person to be

1 bringing this lawsuit. We think the evidence will show that
2 he did not own this property and house at the time it was, it
3 was torn down. You know, he, he was not the owner. He was
4 not the party that should be bringing this lawsuit, and, and
5 so that's something that you as a jury will have to decide,
6 and, and it gets a little bit more convoluted because normally
7 you say, well, here's the deed, who owns it. The problem is
8 Victoria Gadson, who was the owner, died without a will.
9 There was no estate. So you get into issues of, okay, well,
10 who owns it? James Gadson, who was Mr. Singleton's father who
11 was married to Victoria Gadson, died. He had a will and he
12 attempted to convey the property and Mr. Singleton is going to
13 say, "Well, no, what he tried to do was not right, even though
14 he gave a deed to someone else he didn't have the right to do
15 it," and then we have Julia Thomas who, who died probably a
16 month or two after this lawsuit was filed. So you have to
17 decide is Mr. Singleton the proper party to bring this
18 lawsuit.

19 The other thing you have to decide is, okay, "We've got
20 to put a number on this," and if you decide that the City did
21 something wrong, Mr. Singleton's entitled to recover, which we
22 dispute, you then have to come up with an amount. We'll show
23 you photographs of the house. We'll show you the condition of
24 the items in there, and you know, our position is the house,
25 because of the condition it was in, because of the disrepair,

1 because of the structural problems really had no value. I
2 mean, you know, sometimes there are houses that just can't be
3 repaired. I mean, if a house gets to the point where it's
4 about to fall in, you know, you just get to that point where
5 it has no value, and in fact, a lot of times the property
6 value goes up when a building like that is removed. So those
7 are the issues that you're going to have to decide as a jury,
8 and I do want to apologize. I, I stayed up way, way past my
9 bedtime last night watching a football game. So if I look a
10 little punch drunk, you'll know why, but we will try to move
11 this along as quickly as possible. We've been dealing with
12 this case for years. I think we're all fairly astute and, and
13 aware of what the facts are. So we're going to try to move it
14 as quickly as possible, and in order to do that, you as the
15 jury please need to pay close attention. I mean, there's
16 going to be some facts and there's going to be some things and
17 some disputes about, you know, you know, who was whose brother
18 and who was whose father and who was whose mothers, but you're
19 going to have to make a decision on it. So it's very
20 important that you pay close attention to all of the evidence,
21 not, not just the evidence we put up, all of the evidence.
22 Listen to all the witnesses. Consider all the documents, all
23 the photos so that when you're asked to make the decision you
24 can make the right decision. You know, I tell people, you
25 know, I can make a decision, but I want to always make an

1 informed decision meaning I made a decision based upon all the
2 evidence, all the information. I gave everybody a chance. I
3 was fair. So that's what you need to do. So if you heard
4 nothing else I've said, you can forget everything I've said,
5 please listen to this, pay close attention. Thank you.

6 THE COURT: All right. Ladies and gentlemen, we'll now
7 begin with the evidentiary portion of the trial with the
8 calling of the Plaintiff's first witness. Mr. Henry.

9 MR. HENRY: Thank you, Your Honor. The Plaintiff calls
10 Mr. Andrew Dempsey.

11 THE COURT: All right.

12 Whereupon, John Andrew Dempsey was called to the stand,
13 duly sworn by the clerk and testified as follows:

14 THE CLERK: Will you please state and spell your name for
15 the record?

16 MR. DEMPSEY: John Andrew Dempsey, J-O-H-N, A-N-D-R-E-W,
17 D-E-M-P-S-E-Y.

18 THE CLERK: Thank you. You may be seated.

19 THE COURT: All right. Mr. Henry.

20 DIRECT EXAMINATION

21 BY MR. HENRY:

22 Q Good morning, Mr. Dempsey.

23 A Good morning.

24 Q How are you today?

25 A Doing fine, sir.

1 Q Can you tell the jury where you're employed?

2 A I work for the South Carolina Department of Labor,
3 Licensing and Regulation. I'm an investigator, investigator
4 for our office, investigation enforcement.

5 Q And just briefly, what are some of the things that Labor,
6 Licensing and Regulation handle?

7 A They actually license professional entities in the state.

8 Q And are building inspectors licensed pursuant to the
9 Labor, Licensing and Regulation?

10 A Yes. They are.

11 Q And you regulate the building inspectors?

12 A They regulate the building code officials. Yes, sir.

13 Q Building code officials. Do you also investigate
14 complaints?

15 A Yes. I do, sir.

16 Q Are you familiar with the case of Willie Singleton versus
17 Stephen Stack?

18 A Yes. I am.

19 Q Did you have any involvement with that case?

20 A Yes. I did, sir.

21 Q Well, tell the jury what your role was with that.

22 A LLR had received a complaint regarding the, the
23 demolition of a house and what I did I did the investigation.

24 Q Okay. Where was the house -- did the house -- was the
25 house located in Georgetown?

1 A Yes, sir.

2 Q And was Mr. Stack employed by Georgetown?

3 A I believe so. Yes, sir.

4 Q And he was their building official, one of their building
5 officials?

6 A That's correct.

7 Q What was the nature of the complaint that you received
8 about Mr. Stack?

9 A That he failed to follow procedures and they, they tore
10 down the house without proper authorization.

11 Q Okay. And what is your understanding of what they would
12 be required to do that Mr. Stack didn't do?

13 A Follow procedures.

14 Q So there are specified procedures for tearing down
15 someone's house?

16 A I believe so. Yes, sir.

17 Q Okay. As a part of your investigation was there, was
18 there any kind of report or resolution made of the complaint?

19 A Yes, sir.

20 Q And would that have been written?

21 A Yes, sir.

22 Q Would it have been served on Mr. Stack?

23 A Yes, sir.

24 Q I'm going to show you a document and ask if you can
25 identify it for me. Can you tell me if you recognize that

1 document?

2 A Yes, sir. I recognize the document.

3 Q Okay. Let me show it to Mr. Baxter.

4 MR. BAXTER: No objection.

5 Q Tell me how you recognize this document.

6 A This document is a document that's created by the
7 attorneys at LLR. This is an agreement that the licensee and
8 the state have come up with.

9 Q And the licensee in this case would be whom?

10 A Stephen Stack.

11 Q So this is a resolution of the complaint against Mr.
12 Stack?

13 A Correct, sir.

14 MR. HENRY: Your Honor, at this time I would move to
15 introduce this as Plaintiff's Exhibit One.

16 THE COURT: Any objection?

17 MR. BAXTER: Your Honor, just we had previously discussed
18 as to the relevance of this particular document.

19 THE COURT: All right. All right. Plaintiff's Exhibit
20 One admitted into evidence over Defendant's objection. Let's
21 get it marked. Has it been marked?

22 REPORTER: No, sir.

23 MR. HENRY: No.

24 THE COURT: All right. Let's get it marked.

25 (Whereupon, Plaintiff's Exhibit Number One [Consent

1 Agreement - Resolution, Stephen Stack] admitted into evidence
2 and appropriately marked.)

3 BY MR. HENRY:

4 Q Can you briefly tell the jury what it was that was done
5 to resolve the case against Mr. Stephen Stack?

6 A Mr. Stack entered in this consent agreement to -- in lieu
7 of appearing before the Council to resolve the matter.

8 Q And when you say he entered into a consent agreement, did
9 he agree with a charge -- the claims that had been made
10 against him that he didn't follow procedures?

11 A That signature that he placed on this document he did
12 agree to it.

13 Q And is -- was that consent agreement sent to Mr. Stack?

14 A Yes. It was.

15 Q Did Mr. Stack agree by signing or any indication that he
16 was not objecting to what was in the consent agreement?

17 A I'm not at liberty to that. The only thing I can testify
18 is that he received it by green card.

19 Q He received it. Does his signature appear on it? Does
20 it appear on the agreement itself?

21 A Yes, sir.

22 Q Okay. And what did Mr. Stack agree that he had done
23 wrong in this?

24 A That on April of 2007 that he demolished a residential
25 structure that was owned by Mr. Willie Singleton at 1929 Front

1 Street, Georgetown.

2 Q And what finding, what finding did or what, what
3 conclusions did the board enter as --

4 A As therefore it's ordered that Respondent's consent that
5 he would receive a public reprimand. He would also understand
6 by -- he would by any -- abide by any aforementioned terms and
7 conditions that the Respondent's license may be immediately
8 temporarily suspended. It is further agree that, that the
9 consent agreement did not satisfy or prejudice or stay any
10 disciplinary action currently pending before the board.

11 Q And that resolved the complaint against him?

12 A That's correct.

13 Q And this complaint arose as a result of Mr. Willie
14 Singleton filing against Mr. Stack indicating that he didn't
15 follow the law?

16 A That's correct.

17 Q Thank you. Answer any questions that Mr., Mr. Doug
18 Baxter might have.

19 THE COURT: All right. Cross examination

20 CROSS EXAMINATION

21 BY MR. BAXTER:

22 Q Mr. Dempsey, you were involved in the investigation; is
23 that correct, sir?

24 A Yes, sir.

25 Q And did you review the documents that the City had in

1 conjunction with what was done?

2 A I, I'm not sure what documents. The only thing I would
3 remember reviewing is maybe a response to the complaint.

4 Q Okay. You didn't -- would you have looked at any photos
5 of the building, anything of that nature?

6 A To be honest with you I can't recollect that.

7 Q Okay. So let me show you some photographs and just if
8 they refresh your memory.

9 MR. BAXTER: May I approach, ask him?

10 THE COURT: All right.

11 MR. HENRY: Your Honor, may counsel approach?

12 THE COURT: All right. Come on up. Hold for a second.

13 (Whereupon, a bench conference is held in the presence
14 but out of the hearing of the jury.)

15 THE COURT: All right. Go ahead.

16 BY MR. BAXTER:

17 Q Sitting here today do you recall reviewing those
18 photographs?

19 A I haven't looked at that file, sir.

20 Q Okay. Can I get those back? So you, you, you may have
21 seen them or you may not have seen them?

22 A I can't recollect. No, sir.

23 Q Okay. And that's what I'm clarifying. You're not saying
24 you didn't see them or you did see them. You're just saying
25 sitting here today you don't recall whether you actually saw

1 them?

2 A I don't -- to be honest, sir, I don't recall. It's been
3 such a long time.

4 Q Now, the, the findings were that the, the Respondent, Mr.
5 Stack, failed to follow the provisions of the South Carolina
6 Code of Laws; correct?

7 A Yes, sir.

8 Q And would that have been Section 31-15-10, which is the
9 chapter in the state law that deals with dwellings unfit for
10 human habitation?

11 A If that's what's referenced in that agreement. I, I'm
12 not sure.

13 Q Okay. Well, it said he, he failed to follow the
14 provisions of code of laws as required to demolish, tear down
15 a structure?

16 A Okay.

17 Q And that's the code section that deals with tearing down
18 a house; correct?

19 A Yes.

20 Q Okay. In, in -- nothing in here that said that it had to
21 do with issuing building permits or that the house should or
22 shouldn't have been, you know, nothing to deal with the
23 condition of the house, the house was safe or unsafe. This,
24 this order does not address.

25 MR. HENRY: Objection. Relevance.

1 THE COURT: Overruled. Go ahead.

2 Q This, this does not address any of that; correct?

3 A It only addresses the, the fact that he did violate that
4 act.

5 Q Okay. But he, he -- the -- he didn't -- the ordinance
6 violated the act; correct?

7 A I'm not sure what you're saying.

8 Q Okay. And, and what was the violation was is that the
9 state law, the newer state law had certain steps you had to go
10 through; correct?

11 A That's my understanding. Yes, sir.

12 Q And, you know, previous to this you would send letters,
13 do posting and then you could tear down the house but this law
14 added a couple of extra steps; correct?

15 A I'm not sure, sir. I just gathered the facts. I'm, I'm
16 not real familiar with that law.

17 Q Okay. But so but as far as you know, this order, the
18 only thing it found is that the ordinance did not have the
19 extra steps required by state law?

20 A He failed to follow prescriptive, I guess, process of
21 eliminating structures that need to be tore down. Yes, sir.

22 Q Okay. And sitting here today can you tell us how they
23 didn't follow the process?

24 A No, sir. Not, not without reviewing my file, sir.

25 Q Okay. Thank you very much.

1 THE COURT: All right. Redirect?

2 MR. HENRY: Just briefly. Just briefly.

3 REDIRECT EXAMINATION

4 BY MR. HENRY:

5 Q Was it a part of your investigation to check into
6 building permits or any of that?

7 A Normally I do check for permits under cases involving
8 construction related issues.

9 Q Was the -- what was the primary focus of this
10 investigation? Was it to look at paperwork or was it to
11 review the conduct of the licensee?

12 A Review the conduct of the licensee. He was made notice
13 of it and he responded accordingly.

14 Q And in resolving this matter the licensee admitted to
15 violating state law; did he not?

16 A That's he -- when he signed that agreement, yes.

17 Q And that was the problem with the City's destruction of
18 this house; was it not?

19 A That was the problem of the complainant's problem because
20 that's what they were complaining about. They took it down
21 without following proper procedure.

22 Q And was the licensee in this case required to do anything
23 by the provisions of that consent agreement?

24 A He was to, if I recollect, he was to receive a public
25 reprimand and I don't really remember the terms because

1 I didn't -- I didn't study up.

2 Q But it, it focused on his -- the things that he did on
3 behalf of the City of Georgetown; correct?

4 A That's correct. Yes.

5 Q Thank you.

6 THE COURT: All right. You may step down.

7 MR. HENRY: I ask that the document be shown to the jury.

8 THE COURT: All right. You can publish it.

9 A May I be excused?

10 THE COURT: Any objection?

11 MR. HENRY: No objection.

12 THE COURT: Any objection from the Defense?

13 MR. BAXTER: None, Your Honor.

14 THE COURT: All right. He's free to go. Thank you very
15 much.

16 A Thank you, Your Honor.

17 THE COURT: Let me see the attorneys for a second.

18 (Whereupon, a bench conference is held in the presence
19 but out of the hearing of the jury.)

20 THE COURT: All right. Ladies and gentlemen, it's 12:00
21 o'clock. I think we're going to go ahead and break for lunch.
22 I'm going to let you go to lunch on your own. Please be back
23 in the jury room at 1:45. That'll give you an hour and 45
24 minutes to eat lunch and to get back. Do not discuss the case
25 even among yourselves. It's still too early for

1 deliberations. So don't talk about the case with anyone even
2 among yourselves. Don't conduct any independent investigation
3 into the case. When we come back, I know you're reviewing an
4 exhibit now, I'll give you an opportunity to review it when we
5 get back as well. Hope everybody has a good lunch and we'll
6 see you back at 1:45. Okay. Just leave that right there on
7 the rail. That'll be good. Thank you very much.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right. Anything from the Plaintiff
11 before we recess?

12 MR. HENRY: Nothing from the Plaintiff, Your Honor.

13 THE COURT: Anything from the Defense?

14 MR. BAXTER: Nothing, Your Honor. Just -- nothing for
15 the record.

16 OFF THE RECORD

17 (On the record. The following takes place outside the
18 presence of the jury.)

19 THE COURT: Excuse me. All right. Anything from the
20 Plaintiff before we bring the jury in?

21 MR. HENRY: Nothing, Your Honor.

22 THE COURT: Anything from the Defense?

23 MR. BAXTER: Your Honor, we would request that -- it's my
24 understanding that Joe McCray, who has been identified as an
25 expert, may also testify as to some factual issues, and

1 pursuant to the rules we would request that he be sequestered
2 during any testimony as to the facts, i.e., I believe Mr.
3 Singleton is going next.

4 THE COURT: All right. What's the Plaintiff's position?

5 MR. HENRY: The fact that Mr. McCray is going to testify
6 as an expert does not mean that he wouldn't have some
7 knowledge of the facts. He does -- he would have knowledge of
8 the facts that he reviewed in order to formulate the opinions
9 that he's going to offer. So I don't think that that's going
10 to make a difference in his testimony. It's not going to be
11 changed by the fact of him hearing Mr. Singleton's testimony
12 because he's -- he already knows the basis from -- upon which
13 he's going to testify independent of that.

14 THE COURT: All right. Anything in reply?

15 MR. BAXTER: Nothing, Your Honor.

16 THE COURT: All right. I'm going to deny the motion. If
17 you would have done it at the start and we sequestered all
18 witnesses, then I'd be more inclined to, have one -- where the
19 Plaintiffs could be present and somebody representative on the
20 Defendant, but none of the Defendant's witnesses -- you got
21 two that have been in the courtroom the whole time and they're
22 both potential witnesses. So I'm going to deny the motion.
23 All right. Anything further from the Defense?

24 MR. BAXTER: Nothing, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

1 Q And that's here in --

2 A Georgetown, South Carolina.

3 Q -- Georgetown? Okay. How long have you lived there?

4 A Approximately 11 years.

5 Q Are you a lifelong Georgetown resident?

6 A Yes, sir.

7 Q You went to school here?

8 A Yes, sir.

9 Q Where did you go to school?

10 A At Howard High and Beck Elementary. I went to school at
11 Tuskegee for business, at Denmark Tech for tailoring and
12 Georgetown Horry Tech to became a state licensed contractor.

13 Q So you are a licensed contractor?

14 A Yes, sir.

15 Q What is your classification as far as contracting?

16 A I -- I'm, I'm limited to -- I was limited to a, a million
17 dollars at the time I became a contractor in 1986, but I
18 hadn't, I hadn't done it in a few years because now I own a
19 business which is a security business.

20 Q In regard to the situation with the property at 1929
21 Front Street, you're, you're familiar with that because you
22 were involved with that?

23 A Yes. I am.

24 Q Okay. What was your involvement with that property?

25 A The property, I started living at 1929 Front Street when

1 I was about 14 years old when Ms., Ms. Victoria Gadson had a
2 stroke. She was not my mother, but at the time only she and
3 my father lived at 1929 Front Street because her only
4 daughter, Julia Thomas, lived in New York.

5 Q Julia Thomas is her only daughter. Is Julia also your
6 sister?

7 A Yes, sir. Through my father.

8 Q Okay. So your father and Victoria had one child?

9 A Yes, sir.

10 Q Or how many children did they have?

11 A They had, they had one child together, and I had one
12 brother who's John Gadson, but that was not Ms. Victoria
13 Gadson's son, and one young man that was adopted. Those are
14 the only children.

15 Q Now, who was the one that was adopted?

16 A It was -- he was Maurice Gadson.

17 Q So Maurice Gadson was adopted by Julia and, and James?

18 A It was adopted by Ms., Ms. -- yeah, my, my stepmother,
19 Victoria, and my father James. He, he was a sister, a
20 deceased sister's son, and they adopted him.

21 Q He was -- whose sister was it? Was it, was it Victoria's
22 sister or was it James's sister?

23 A No. What it was was that my, my father and Victoria
24 Gadson they were well-to-do people. They adopted this young
25 lady who parents was having hard times and she had a child.

1 Q Okay.

2 A And she, and she deceased and she left that child. So
3 they adopted him.

4 Q Okay. But the child was not related to either of them by
5 blood?

6 A No, sir.

7 Q Okay. The -- how did you come to own the property at
8 1929 Front Street?

9 A Well, what happened Ms., Ms. Victoria Gadson, my
10 stepmother, she passed and she did not have a will. So my
11 father he -- she only had one child and my father so normally
12 it would go to the two of them. My father, at the time, he
13 wasn't -- he was a very wise man because he had several
14 businesses and he was a longshoreman, but he didn't realize
15 that he needed to transfer the property after his wife, Ms.
16 Vic, died into his name and my sister name. So that's, that's
17 how -- and then once -- then years went past and, and he
18 passed, and what happened then was my brother John came down
19 and I, I handled all our businesses. So what I, what I did
20 was I spoke to John, Maurice and Julia, and I told my brother
21 that we should give my sister the money because neither one of
22 us needed the money, and we should transfer -- there were
23 several properties my father left, and we should divide all
24 the other properties to where he wanted it divided, but that
25 property I told them that I thought it should go in my sister

1 name because that was her mother's property. He agreed to
2 give the money but not to relinquish his rights in the
3 property because at the time my father had, had willed the
4 property to Julia, John and Trevis, and I told them that he --
5 that we should allow her to have it because at her age, she
6 was over 60, and the fact that if the property was in her
7 name, me being a contractor it would be easy to fix it because
8 they would give her a certain amount of money because the
9 siding on the house and the shingle was asbestos, and but he
10 decided not to. So what I did was I did all the deeds myself.
11 I probated my father because I handled all our business, all
12 the business because I -- when I grew up I was the youngest,
13 but my father relied on me to handle all the business because
14 I was a little aggressive, and then I had a lot of business
15 sense. So I handled all the business. So what I did was I
16 did the deeds on all -- three or four properties, and I took
17 it to the Probate Court. All the other deeds went through.
18 The deeds on the property for Ms. Victoria Gadson did not go
19 through because my father never transferred it in his name.
20 Okay. And if he had -- if he had done so then it would have
21 went through. I got it clocked in, but it was never probated.
22 So what happened was I -- she -- my sister had a stroke. All
23 right. She went to the hospital or nursing home in, in, in
24 Florence. She was rehabilitating, and everything was going
25 fine. So what she did was she told me at the time that she

1 wanted me, if something happened to her --

2 MR. BAXTER: Your Honor, I'm going to object to hearsay.

3 THE COURT: Sustained.

4 Q You can't say what someone said to you.

5 A Okay. She, she, she signed a power of attorney over to
6 me to transfer everything over to me. I called my brother in
7 Philadelphia. I told him what she had done with the two of
8 her friends who were the witnesses. I then took the power of
9 attorney. I took it to the courthouse. Once I took it to the
10 courthouse, I took it to the bank. I transfer the money in my
11 name. I transfer her insurance because I had to pay all that.
12 I did what she wanted me to do with the insurance. I
13 transferred that in my name. The other properties that she
14 had, I transferred those properties in my name. I told her at
15 the time that I didn't really want to do the last property
16 because I wanted her to come out of that, out of there. So
17 that's why I didn't transfer that property at that time.

18 Q Now, the last, the last property, is that the 1929 Front
19 Street property?

20 A The last property was the 1929 Front because there were
21 others that I did, also.

22 Q Okay. Now, you said that the -- when your father passed
23 --

24 A Yes, sir.

25 Q -- you probated his estate?

1 A Yes, sir.

2 Q In his will he left the Front Street property to several
3 people?

4 A Yes, sir.

5 Q The problem with the Front Street property passing under
6 his will was that he didn't own it?

7 A Right. He never transferred it in his name after Ms.
8 Victoria Gadson had, had passed. See, Ms. Victoria Gadson
9 owned the property through her family.

10 Q Okay.

11 A She lost it on a, a tax sale in approximately 1981 and
12 the club down the street was, was at the same time. So what
13 happened was I was handling all the business so I paid \$5000
14 to get the house back and the club back, and the reason why I
15 did that is because I was running the business anyway. So
16 some, some of the money that I made not only from my business,
17 from the family businesses, that's why I paid it myself.

18 Q Now, let me just ask you this.

19 A Yes, sir.

20 Q Did Julia Gadson have any children?

21 A Julia Thomas, no, no, sir.

22 Q Julia Thomas. I'm sorry.

23 A No, sir.

24 Q Did she leave a husband?

25 A No, sir.

1 Q Did she have any other brothers and sisters other than
2 you and your brother?

3 A No, sir.

4 Q Your brother, John, is he still alive?

5 A No, sir. He deceased.

6 Q Did he have any children?

7 A No, sir.

8 Q Was he married?

9 A No, sir.

10 Q So the only person who was related to Julia Thomas that
11 is still living would be you or is there someone else that
12 would be a brother or a sister that would have, have a right
13 to this property?

14 A Just me.

15 Q So you're the only living --

16 MR. BAXTER: Your Honor, I, I don't -- he can testify as
17 to relations and who's alive and who's dead, but he's not
18 qualified to give an opinion as to who owns the property. I
19 mean, that's a -- an issue for the jury and also a legal
20 issue.

21 THE COURT: Okay. Well, I'll allow you to address that
22 on cross examination. Overruled. Go ahead.

23 MR. HENRY: Thank you, Your Honor.

24 BY MR. HENRY:

25 Q You are the only known brother or surviving heir of Julia

1 Thomas at this time?

2 A Yes, sir.

3 Q You're not aware of any other children that Julia or your
4 father might have had outside of wedlock?

5 A Well, no, sir, not, not -- I know that he didn't have in
6 Georgetown -- no. I don't know of any that he would have had,
7 but the only reason why I answered you, I like to answer the
8 truth. I, I said that because my father was, was the type of
9 man that -- how can I say this -- I know that he didn't have
10 any children that I know of.

11 Q Okay.

12 A And I leave, and I leave it there.

13 Q Okay. Fair enough. Has anyone else come forward
14 claiming an interest in the 1929 Front Street property as of
15 today?

16 A No, sir.

17 Q Did anyone come forward during the time that you were
18 probating your father's estate?

19 A No, sir.

20 Q So you're not aware of anyone else who is claiming an
21 interest in that property?

22 A Oh, no, sir. Not at all.

23 Q Okay. Mr. Singleton, I'm going to show you a batch of
24 documents, and I'm doing that for convenience purpose. I want
25 you to tell me, go through each of these and tell me if you

1 recognize them. This is simply for you to tell me if you

2 recognize them. Don't say what they are.

3 A I recognize them.

4 Q You recognize these documents?

5 A Yes, sir.

6 Q Mr. Singleton, is it fair to say that at some point the

7 City of Georgetown started having some issues with the

8 property at 1929 Front Street?

9 A Yes, sir.

10 Q And in that regard, did they have any communications

11 concerning their problems with that property?

12 A They sent out a, a notice, unsafe notices in the mail.

13 Q Okay. So they sent a notice of unsafe property?

14 A Yes, sir.

15 Q Okay. These documents which you've already identified as

16 being documents you recognize, will you tell me what they are?

17 A Yes, sir. The, the first, this first document is a, a

18 document of a notice of unsafe structure of the house at 1929

19 Front Street, and it says that, it says that he did a general

20 inspection.

21 Q He who?

22 A His name is Jason Goude.

23 Q Goude?

24 A Goude.

25 Q And who was Mr. Jason Goude?

1 A At the time he was the building official from my
2 understanding, from, from this document here.

3 Q Building official for Georgetown?

4 A For Georgetown. Yes, sir.

5 Q Okay. So Mr. Goude send you a notice of unsafe
6 structure?

7 A Yes, sir.

8 Q Okay. Did it instruct you to do anything?

9 A No, sir. No, sir.

10 Q Did it give you any indication of what the conditions
11 were that Mr. Goude was concerned about?

12 A No, sir.

13 Q Okay. What's the next document?

14 A The next, next document is the second notice of unsafe
15 structure from the building official of the City of
16 Georgetown, Jason Goude.

17 Q Okay. And does that one give you any instructions on
18 what Mr. Goude wants you to do?

19 A No, sir. What -- I'd like to say on the first one, also,
20 he, he said that he would like to have a meeting for a formal
21 -- to do an inspection.

22 Q Did that meeting ever take place?

23 A No, sir.

24 Q Did you ever receive any documentation from Mr. Goude or
25 anyone else from the City of Georgetown giving you specific

1 items that they have concerns over that needed to be
2 corrected?

3 A No, sir.

4 Q Were you given any timeframes by the City of Georgetown
5 from any person associated with the City to correct any
6 alleged deficiencies with the property?

7 A No, sir.

8 Q As you sit here today, do you have any idea what the
9 concerns were that the City of Georgetown had with this
10 property?

11 A No, sir. They never gave it, gave it to me.

12 Q Now, Mr. Singleton, is it true -- okay. What -- do you
13 have any knowledge of the codes that Georgetown would be
14 relying on?

15 A Well, yes. Well, yes, sir. I -- the, the notice here
16 says a notice of unsafe structure.

17 Q Okay.

18 A The only thing, according to the law, when they give you
19 a notice --

20 MR. BAXTER: Your Honor, I'm going to object --

21 THE COURT: Sustained.

22 MR. BAXTER: -- to his testifying as to the law.

23 Q Okay. Give me some background on your knowledge of the
24 codes that are applicable in this case.

25 A Yes, sir. According to 1.15 it says unsafe --

1 Q Now, how -- let's, let's go back a little bit further.

2 A Yes, sir.

3 Q Have you had any training or any education involving the
4 codes and how the codes apply?

5 A Oh, yes, sir. I went to meetings and I had planned to
6 become a building official. I went to meetings in Charleston,
7 Alabama and Washington, D.C. This is why I was able to go to
8 -- after I received this letter here, I went and met with
9 Stephen Stack --

10 Q Okay.

11 A -- and quoted the laws to him. I told him that according
12 to the laws in order to demolish a building according to the
13 1986 Abatement Code --

14 MR. BAXTER: Your Honor, he, he -- he's not been
15 qualified as an expert.

16 MR. HENRY: Not trying to qualify him.

17 MR. BAXTER: He's testifying as to the law.

18 THE COURT: Okay. Sustained.

19 MR. HENRY: He's, he's testifying as to the training he
20 received on specific codes that apply to this case.

21 THE COURT: Well, what is the relevancy?

22 MR. HENRY: The relevancy is that he would know what was
23 required of a person who received a notice from the City of
24 that, of that nature as a property --

25 THE COURT: Okay. No. I sustain the objection. I

1 sustain the objection. I'll charge the jury on the law to be
2 applied. Rather than him testifying as to what the law is
3 I'll charge them on the law to be applied.

4 BY MR. HENRY:

5 Q Did you have any training, Mr. Singleton, in regard to
6 building codes that would apply to properties that are deemed
7 unsafe?

8 A Yes, sir. I did.

9 Q And in that training you were told how the law applies;
10 were you --

11 A Yes, sir.

12 Q -- were you?

13 A Yes, sir.

14 Q Did that training give you any insight as to how these
15 building officials were operating?

16 A Yes, sir. I knew that, that in order to demolish a
17 building that they had to go to a process, condemnation
18 process.

19 MR. BAXTER: Your Honor, again, he's testifying as to
20 what the law is.

21 MR. HENRY: No. He's testifying --

22 THE COURT: Well, no, he just said they had to go through
23 a process. So I'll, I'll overrule that objection. Go ahead.

24 BY MR. HENRY:

25 Q And did that knowledge also lead to you bringing a claim

1 against the building official?

2 A Yes, sir.

3 Q So you were the claimant who filed the complaint against
4 Mr. Stack?

5 A Yes, sir.

6 Q And as a result of that -- now, in your complaint what,
7 what kind of concerns did you raise with LLR?

8 A The concerns was that I applied -- they did not give me a
9 list. So what I did was I applied for a building permit to,
10 to, to repair the roof, to replace all windows and doors, and
11 he said that -- he denied the permit. So what I did then I
12 went back to him again. I wrote the, the, the mayor, City
13 administrator, let them know what was going on. I, I went
14 back and I applied for a building permit, too, but me being a
15 contractor I applied for a building permit to spend \$8,000 in
16 the material, let them know that I would do the roof, I would
17 do the windows, I would do the doors and any sills under the
18 house that needed to be replaced I would replace those.

19 Q Prior, prior to you contacting them and making them aware
20 of that, had they given you any lists telling you specifically
21 what needed to be fixed on the house in order for them to have
22 no problems with it?

23 A No, sir. They never gave me a list. I, I even wrote
24 them and told them that I was willing if they would -- that --
25 I said, "Give it to me in writing, and I'm willing to hire an

1 engineer to give me a list," and they still would not, would
2 not give me -- allow me to hire the engineer, and then what
3 they did they went and they had a retreat, a meeting, well,
4 with the City officials, and they put in the newspaper that
5 that they were going to tear this house down because the owner
6 got a notice and would not contact them about fixing the
7 house, and in that, in that newspaper article it said that,
8 "After we tear this house down every -- once everybody else
9 see this they'll understand that they mean -- we mean, we mean
10 business."

11 Q The house that they were referencing in that newspaper
12 article was it the 1929 Front Street property?

13 A Yes. It was.

14 Q And was this before or after you had applied for the
15 building permit to make the repairs?

16 A It was after.

17 Q So they knew that you had made contact to try to remedy
18 any concerns they had?

19 A Oh, yes, sir.

20 Q Now, you said that the building permit was denied?

21 A Yes, sir.

22 Q Did they give you a reason for denying the building
23 permit?

24 A They just said it was denied.

25 Q Had you seen any inspection reports on the house -- not

1 -- I'm sorry. Let me back up a moment. The document, next
2 document, what is that document, this document?

3 A This document, this document is the, the first building
4 permit requesting me to fix the roof, the front and the back
5 doors and windows.

6 Q Was this your application for a building permit?

7 A Yes, sir.

8 Q Okay. And that's what you were proposing to do?

9 A The first time, which was denied.

10 Q Did it say why it was denied?

11 A No, sir.

12 Q Okay. What's the next document?

13 A The next document is the final notice of unsafe
14 structure. Let me -- do you mind if I look over it briefly?

15 Q Sure.

16 A This document is saying that, that they will -- it was
17 the final notice and that they were about to take the house
18 through the condemnation process.

19 Q Okay. Were you ever served with any documents indicating
20 that the house was being condemned?

21 A No, sir. They never took it through the process.

22 Q Was your sister, to your knowledge, served with any
23 documents indicating that the house was being condemned?

24 A No, sir.

25 Q Have you seen any court orders indicating that the house

1 was condemned in any way?

2 A No, sir.

3 Q Did you see any inspection reports indicating that the
4 house was beyond repair and indicating why?

5 A No, sir.

6 Q What is the next document you have?

7 A The document that, that I have is a letter from Stephen
8 Stack, the building official. He said, "I'm writing in
9 response," to a letter that I had hand-delivered to him, and
10 he said my question was why the City choose not to use the
11 1986 Abatement Code. He said, "Response the SBCCI you
12 referred to in the first paragraph was used prior to 2000. At
13 this time we're under the International Building Code."

14 Q Have you had the opportunity to review the International
15 Building Code?

16 A Yes, sir.

17 Q As a contractor would you have reason to know the
18 contents of that code?

19 A Yes, sir.

20 Q And does that code apply to work that you would perform

21 --

22 A Yes, sir.

23 Q -- as a contractor?

24 A Yes, sir.

25 Q And having read the code, did you see any provision in

1 the code that you would be familiar with that would address
2 what Mr. Stack stated in his letter?

3 A No, sir. They, they, they -- it had, it had not changed,
4 the 1986 Abatement Code, the only difference was it became the
5 International Building Code, and it is six steps that you have
6 to go through. You have to give a report to --

7 MR. BAXTER: Your Honor, just, again, object to his
8 testifying as to the law.

9 THE COURT: Okay. I'm -- overruled. I'll allow it. Go
10 ahead.

11 A You have, you have to give a list. After you give the
12 list to the, the homeowner, the homeowner, which they got 30
13 days they have a right to question whether or not this should
14 be done. After that, you go before the board.

15 Q The list that you're talking about, is that a list of
16 deficiencies?

17 A Yes, sir. It's a list of deficiency that you have to
18 give the homeowner first.

19 Q Okay.

20 A After that you can go before the board and, and, and
21 question the list itself. See, and it's a six-step process
22 that you go through. It takes at least six months to go
23 through the whole, whole process in order to condemn the
24 building in the State of South Carolina. Actually, it's
25 internationally now.

1 Q With the, with the 1929 Front Street property when, if at
2 all, did that process occur with you?

3 A It never did.

4 Q When, if at all, did that process occur with your sister?

5 A It never did.

6 Q So you never received a list of deficiencies?

7 A No, sir.

8 Q You never had an opportunity to contest what was in the
9 list?

10 A No, sir.

11 Q And you never went before the board?

12 A No, sir.

13 Q And was that the genesis of your complaint against Mr.
14 Stack?

15 A Well, that was part of genesis. The other, the other
16 part was the fact that the City of Georgetown takes three bids
17 to tear a building down.

18 Q Okay.

19 A And what they did was they gave, they gave the bid to the
20 finance director of Georgetown, Ms. Miller, they gave it to
21 her husband a day before they open the bids, and he
22 demolished, he demolished the building and, and buried it on
23 the property.

24 Q So it was the husband of the finance director of
25 Georgetown who did -- tore down the home?

1 A Yes, sir. Miller, and --

2 Q And he was awarded the bid?

3 A He was awarded the bid a day before the bids were open,
4 and that -- and their records will show that.

5 Q Okay. So after you received all of these notices without
6 having any form of list of deficiencies, what happened?

7 A I -- after they demolished the building?

8 Q Uh-huh.

9 A Well, they, they, they went there. They, they -- after
10 they, they tore it down and, and buried it, I wrote the State.
11 As a matter of a fact, correction, before that I wrote the
12 State telling them that they were going outside the scope of
13 their official duties, and they told me that, that they could
14 not stop them from breaking the law.

15 Q Uh-huh.

16 A I would have to wait until the law is broken and then
17 contact them.

18 Q Okay.

19 A So I --

20 Q Was this LLR?

21 A This was LLR.

22 Q Okay. So prior to the house being torn down LLR didn't
23 want to get involved?

24 A No. They said legally they couldn't get involved.

25 Q Okay. Now, prior to the house being demolished --

1 A Yes, sir.

2 Q -- you had some items stored in the house?

3 A Yes, sir.

4 Q Tell the jury what items you had stored in the house.

5 A I had, I had several businesses. When I first got out of
6 school, I -- my father had a -- two businesses on -- it's Alex
7 Alford now, it was G Street, and he allowed me to open up a
8 tailoring shop in one section of that business, and I moved
9 from there and I stored those stuff under the garage.

10 Q At 1929?

11 A At 1929 Front Street, and I went and opened up another
12 business which was a clothing, but nothing ever happened with
13 that there, but then I had, I had a bookstore.

14 Q Okay.

15 A And a, and a restaurant. I had books and, and, and
16 videotapes and a lot of cassettes and different things. I had
17 a lot of buffers and different things that go with the
18 restaurant, ovens, deep fryers. I bought a lot of stuff at
19 the auction. The -- now, my father had a lot of restaurant
20 equipment, but as a matter of a fact the City still have that,
21 those restaurant equipment in their possession today, but
22 that's -- that has nothing to do with those restaurant
23 equipment that was there. So I had three businesses in there.
24 I also had furniture from another house that I had in there
25 because what it, what it would have cost me to store all that

1 stuff I could not get the rent for that house, you know, even
2 though because that house had, you know, oak flooring
3 throughout the house, you know, chair railing, and my --
4 because my family was sort of wealthy, and so it, it, it
5 wouldn't have been feasible for me to rent it in that, in that
6 area because you're not going to get but so much rent in that
7 area. It would cost me more to store all that stuff and, and,
8 and then at the same time, you know, my family had a lot of
9 antique furnitures and stuff like that in that house, and it
10 wouldn't have been feasible because I would have had to get a
11 storage to rent that, those things, because at that time I
12 lived out in Santee. So it wouldn't have been feasible for me
13 to, to do anything else with it.

14 Q So you used the house for storage. Presumably it was
15 unoccupied by any, any residents?

16 A Well, yeah, it was unoccupied. I, I, you know, I had
17 the, I had the light on and I paid the light bill for years,
18 but I never planned to do anything with it other than that,
19 and I was praying for my sister to come out the nursing home
20 and then we would make a decision from there.

21 Q So, Ms. Julia Thomas never came out of the nursing home?

22 A She, she, she never came out of the nursing home. When
23 I found out that she was in a condition that she wasn't going
24 to come out, and when the doctor told me that, then I decided
25 then to -- I'm not spooky or anything like that, but I figured

1 as long as I didn't put that property in my name she would
2 have the drive to come out. It's not like I think she's not
3 going to come out because then I would have been giving her no
4 hope. So when it got to that point, I start checking to
5 transfer it, her share in my name, but the property was never
6 -- because it was never transferred to my father, I had to go
7 get a lawyer because I've always done all of the property and
8 everything for my family myself, and I went to a lawyer and
9 he, and he explained to me what my father had not done and
10 that he had to transfer it to my sister because she was her
11 only child, Ms. Victoria Gadson only child, and then it would
12 transfer to me.

13 Q You being a contractor, do you have any idea how much it
14 would have cost to make the property safe or whatever the City
15 was concerned about?

16 A Well, me being a contractor, you know, what I do with
17 \$8000 it would cost somebody else 24.

18 Q Okay.

19 A I was going to do the work myself, and I thought \$8000
20 was more than enough because I wasn't going to touch, like I
21 said, I wasn't going to touch the asbestos siding. I was
22 going to fix everything else other than that asbestos because
23 I don't, I don't, I don't deal with that. The, the property
24 that we had down the street had the same kind of siding on it
25 at the club and it cost almost \$4000 just to take the asbestos

1 off the front of it and then you -- we had to have -- a
2 company came in, they did the analyst report. They, they had
3 to take it, and, and, and, and, and, and, and, and, and take
4 it away and that cost almost \$4000.

5 Q Is it fair to say that asbestos is a specialty item that
6 needs a particularized training for the persons who are going
7 to abate it or capsulize it?

8 A Oh, yes, sir. Just anybody -- I don't know of a
9 contractor that's certified to, to deal with that because they
10 want to know what you did with it, I mean, you got to, you
11 got to be certified to deal with that.

12 Q Okay.

13 MR. HENRY: Your Honor, I would offer these documents as
14 Plaintiff's Exhibits Two, Three, Four, Five and Six.

15 THE COURT: All right. Which one's Two, which one's
16 Three, which one's Four?

17 MR. HENRY: Two is notice of unsafe structure. Three --

18 REPORTER: Can he let me mark them as he's doing it?

19 THE COURT: Yeah. Let's mark them. Let's mark them.

20 MR. HENRY: And I would move to introduce these into
21 evidence.

22 THE COURT: All right. What are -- which one -- what is
23 Plaintiff's Exhibit Two?

24 MR. HENRY: Number, Number Two is notice of unsafe
25 structure dated 5-31-2006. Number Three is second notice of

1 unsafe structure dated 7-7-2006, and Number Four is a building
2 permit application signed by Mr. Willie Singleton. I don't
3 see the date down here. I think it got cut off, but it's the
4 permit application signed by Mr. Singleton. Number Five is a
5 final notice of unsafe structure dated 12-8-06, and Number Six
6 is the letter from Stephen Stack to Mr. Singleton dated
7 January 26, 2007.

8 THE COURT: All right. Any objections?

9 MR. BAXTER: No objection.

10 THE COURT: All right. Plaintiff's Exhibits Two, Three,
11 Four, Five and Six are admitted into evidence without
12 objection.

13 MR. HENRY: Thank you, Your Honor.

14 (Plaintiff's Exhibit Number Two [Notice of Unsafe
15 Structure 5-31-06], Plaintiff's Exhibit Number Three [Second
16 Notice of Unsafe Structure 7-7-06], Plaintiff's Exhibit Number
17 Four [Building Permit Application], Plaintiff's Exhibit Number
18 Five [Final Notice Unsafe Structure, 12-8-06], and Plaintiff's
19 Exhibit Number Six [1-26-07 Letter from Stack to Singleton]
20 admitted into evidence and appropriately marked.)

21 BY MR. HENRY:

22 Q Mr. Singleton, I'm going to show you a batch of documents
23 that you've already seen and ask you if you can now tell me
24 what these are?

25 A Yes, sir. This is the second building permit that I

1 requested, and it, it, it's for \$8000 to do the roof, windows,
2 the doors and any sills under the house that was necessary.

3 Q And what happened with that permit application?

4 A He denied it.

5 Q He who?

6 A I'm sorry, Stephen Stack. He just said the structure is
7 beyond repair and wouldn't give me a list or anything like
8 that.

9 Q Okay. So he didn't give a list --

10 A No, sir. He didn't give me. He didn't give me.

11 Q -- of items that made the structure beyond repair, but he
12 just said it was beyond repair?

13 A Yes, sir.

14 Q To your knowledge had he done any kind of inspection on
15 the property that would have detailed what he was referring to
16 that made the property un-repairable?

17 A No, sir. That's why I, I told -- I asked him to allow me
18 to get an engineer --

19 Q Okay.

20 A -- because he made the statement without any facts. So I
21 asked him to let me hire an engineer to give me a list.

22 Q And did that happen?

23 A No, sir.

24 Q Why not?

25 A He just said he wasn't going to allow me to fix it.

1 Q What's the next document?

2 A The next document is a newspaper article where they --
3 the mayor and stated in this article that, that they had sent
4 notices to us about the property, and we never got back with
5 them to respond to attempt to fix the house and because of
6 that they was going to tear this house down at 1929 Front
7 Street, and the mayor said he hopes that once people start
8 seeing the City is serious about having the condemned dwelling
9 remove others who get letters would do something about their
10 property.

11 Q Okay. And the next document, can you tell me?

12 A The next document is a, a letter to me from Stephen Stack
13 and the letter -- he said [as read], "This letter is in
14 response to your request for a building permit concerning 1929
15 Front Street. The permits make a request for roof and windows
16 along with door sill replacements, and as you are aware
17 previous letters along with the personal contact with this
18 office the structure located at 1929 Front Street is unsafe."
19 That's, that's in response to the building permit, but that
20 was not correct because I asked him to allow me to do the
21 roof, the doors, the windows and the sills because doors don't
22 have sills on it. So I don't know why he would even say
23 something like that.

24 Q Okay. And the next document?

25 A The next document is a letter to them in reference of

1 allowing me to hire an engineer.

2 Q Okay.

3 A You know, and it also in, in the letter, this letter I
4 said, I said [as read], "Under the International Existing
5 Building Code it has a provision to declare a building unsafe
6 to protect the life, safety and welfare of people living in or
7 working in unsafe building or any building that is otherwise
8 occupied, but if a building is vacant that level of threat
9 goes away, and most of the provisions of declaring a building
10 unsafe does not apply. Under Section 115.1 of the existing
11 building code, last sentence says that a vacant structure that
12 is not secured against entry shall not be deemed unsafe.
13 Based on the code if a vacant structure is secured against
14 entry it cannot be deemed unsafe. If you cannot deem it
15 unsafe you cannot condemn it."

16 Q So the only designation that the City ever made for this
17 property was that it was an unsafe structure?

18 A Yes, sir.

19 Q And you're saying that if it was an unsafe structure if
20 no one is accessing it then it's not considered an -- well, if
21 it's a structure that's vacant and no one is accessing it then
22 it's not considered and it can't be deemed unsafe?

23 A No, sir. It can't be. That's, that's the law.

24 Q Okay.

25 MR. BAXTER: Your Honor --

1 A That's what's in the letter.

2 MR. BAXTER: -- he can -- I don't have a problem with him
3 writing a letter saying, "This is my opinion," but for him to
4 now say that is the law --

5 THE COURT: I sustain.

6 MR. BAXTER: -- he's not qualified to give that opinion.

7 THE COURT: Sustain the objection.

8 Q Was that your understanding of the building code at the
9 time?

10 A Yes, sir.

11 Q Okay. And you had had -- you said you had studied the
12 building code --

13 A Yes, sir.

14 Q -- through training?

15 A Yes, sir.

16 Q Okay. And did you ever get a response to that letter?

17 A No, sir. The next thing -- no, sir.

18 Q Okay. What is the next document you have?

19 A The next document I have is a permit for R.K. Miller to
20 demolish the building.

21 Q R.K. Miller, is that the person who was the husband of
22 the finance director of -- of the City of Georgetown?

23 A Yes, sir.

24 Q Okay. And you said he received the award on that bid
25 before the bids were open?

1 A Yes, sir. Their records --

2 Q How, how do you know that?

3 A -- their records will show. Because I went through their
4 records.

5 Q Okay. So you reviewed the City of Georgetown's records?

6 A Yes, sir.

7 Q And you said that the award to Mr. Miller was made prior
8 to opening of the bids?

9 A Yes, sir.

10 Q Did you ever raise that issue with the City?

11 A Yes, sir.

12 Q Was there -- were there any results from that?

13 A No, sir. They never respond.

14 Q Okay. Your property was already demolished at that time?

15 A Yes, sir.

16 Q What is the next document you have?

17 A The next document is a, a document showing that in 19, I
18 think, 81, they -- the, the -- there were tax sales of two
19 properties that belonged to Victoria Gadson and James Gadson,
20 and it was James B. Brogdon bought those two properties on a
21 tax sale, and what happened was he came after -- I think it
22 might've been 1983 after he had purchased it on the tax sale
23 he came around and they were doing -- he had a survey company
24 on the corner checking the club out. So when my father found
25 that out he, he called me, and he told me to call my brother

1 in Philadelphia and see if the two of us would go ahead and
2 see what's going on. So when we, when we checked, he was
3 willing to give us both properties back, the house, that 1929
4 Front Street, and the two clubs he had on the corner because
5 they was on one lot, and so I contacted my brother. He didn't
6 respond. So I paid \$5000 to Mr. Brogdon to get both
7 properties back.

8 Q Now, that redemption was -- you said that was for 1929
9 Front Street and what other property?

10 A 1929 Front Street and the -- it was called the Elks Club.
11 It's, it's -- it's on the corner of Taylor and Winyah.

12 Q Okay.

13 A But, but he bought, he bought both of them.

14 Q Does the document say -- does it say on that document
15 that 1929 Front Street was also a part of this?

16 A No. This is not the one for the, the one on Front
17 Street.

18 Q Okay. But that's the club.

19 A This is, this is the club.

20 Q Okay.

21 A This is the club.

22 Q But you redeemed Front Street and the club?

23 A Yes, sir. Both in 1983.

24 Q Okay. Do you have a document that shows the redemption
25 of Front Street?

1 A I don't have it with me. The -- I left that. The, the
2 Defense have it because he, he showed it to me.

3 Q All right. Now, you are claiming ownership of 1929 Front
4 Street?

5 A Yes, sir.

6 Q And you're not aware of anyone else who has any claim on
7 1929 Front Street?

8 A No, sir.

9 Q And no one made a claim against your father's estate?

10 A No, sir.

11 Q Was, was Victoria Gadson's estate ever probated?

12 A No, sir.

13 Q Okay. Are you aware of anyone who has made a claim
14 against Victoria Gadson's estate?

15 A No, sir.

16 Q What about Julia, Julia Thomas's estate, has that been
17 probated?

18 A No, sir.

19 Q Okay. Has any -- are you aware of anyone who's made a
20 claim against Julia Thomas's estate?

21 A No, sir.

22 Q Okay. So as you sit here today, you consider yourself
23 the owner of that property?

24 A Yes, sir.

25 Q Because your sister's dead?

1 A My sister's dead and my brother's dead.

2 Q And neither of them left a spouse or children?

3 A No, sir.

4 Q And your father and your mother are dead?

5 A Yes, sir. My father, my father and my stepmother. Yes,
6 sir.

7 Q Your father and your stepmother are dead?

8 A Yes, sir.

9 Q Okay. As the owner of that property do you have an
10 opinion as to the value?

11 MR. BAXTER: Your Honor, the -- my understanding of his
12 testimony, the ownership of the property was conveyed after
13 the house was torn down. So he would not have been the owner
14 of the property at the time.

15 THE COURT: All right. You're going to have to establish
16 that he was the owner at the time of the diminution.

17 MR. HENRY: Okay.

18 BY MR. HENRY:

19 Q At the time that Julia -- at the time the property was --
20 before the property was torn down what if any interest did you
21 have in it?

22 A Yes. Well, my, my father automatically got -- half went
23 to Julia and half went to my father.

24 Q Okay.

25 A And the fact that he did not -- it didn't -- he wasn't

1 able to transfer the property it would go to all his children,
2 myself and my brother John.

3 Q So --

4 A And the contents of the building was mine.

5 Q Okay. Was anyone else claiming an interest in the house
6 before it was torn down?

7 A No, sir.

8 Q Okay. Was -- it was just you and Julia?

9 A Yes, sir.

10 Q You are Julia's only surviving heir to your knowledge?

11 A Yes, sir.

12 Q So her interest in the house when she passed away you
13 believe that interest came to you?

14 A Yes, sir.

15 Q Okay.

16 MR. HENRY: Your Honor, we would offer --

17 THE COURT: But I mean, you still don't -- when was the
18 house torn down --

19 MR. HENRY: The house --

20 THE COURT: -- when did Julia die, when did Victoria
21 Gadson die? You're going to have to establish that at the
22 time the house was torn down he was the owner of the property.

23 MR. HENRY: Your Honor, we would request, we would
24 request a conference with the Judge.

25 THE COURT: All right. All right. Ladies and gentlemen,

1 I'm going to excuse you back to the jury room. We have to
2 address some matters of law, and I tell you why I excuse you
3 back to the jury room. It's not that we're trying to hide
4 anything from you, but as I told you at the outset, you decide
5 the facts of the case. I decide the law to be applied. Now,
6 a lot of times when I discuss with the attorneys what law to
7 apply we have to discuss factual issues. Well, what we say
8 when we discuss these matters is not evidence and we don't
9 want you to be influenced by anything that we say when we
10 decide about the law to be applied. So that's why we excuse
11 you back to the jury room. So I'm going to excuse you back to
12 the jury room for just a few minutes. I caution you, do not
13 discuss the case even among yourselves at this time. All
14 right.

15 (Whereupon, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right. First, Mr. Baxter, let me hear
18 your objection.

19 MR. BAXTER: Your Honor, the -- my, my understanding and
20 the dates in question are that the house was torn down in
21 April of 2007. The ownership is in dispute even by his own
22 testimony, that Victoria Gadson died with a husband, with a
23 daughter and an adopted son. There was no -- there's no
24 probate of her estate. The probate of Mr. Gadson's estate in
25 1996 did, according to the records that Mr. Singleton said he

1 completed, did convey the interest to certain individuals per
2 Mr. Gadson's will. So there's -- he, he can't claim, "James
3 Gadson died, he had an interest in a house and because he died
4 intestate it went to me." I mean, he did not die intestate.
5 It's set out. So as of the date of the house being torn down,
6 he would have had no ownership interest in the property.

7 THE COURT: Wait a minute. I didn't think he testified
8 that James Gadson died intestate.

9 MR. BAXTER: No. He died, he died testate.

10 THE COURT: That's, that's my understanding.

11 MR. BAXTER: And I, I used the wrong word.

12 THE COURT: That's the testimony.

13 MR. BAXTER: I apologize. Right. Right.

14 THE COURT: Yeah.

15 MR. BAXTER: So him dying testate the, the insurance --
16 any, any ownership interest in the property would have
17 conveyed to whoever the will set out it conveyed to.

18 THE COURT: Exactly.

19 MR. BAXTER: So and the will gave the -- and we've got a
20 deed of distribution. We've got the will. That went to Julia
21 Thomas, Trevis, who I believe is Maurice, and John Gadson.

22 THE COURT: All right.

23 MR. BAXTER: So at the time the property was torn down it
24 would be our position that it was owned by, in whatever
25 combination, Julia Thomas, Trevis and John.

1 THE COURT: All right. Well, see, that's the problem I'm
2 having is he said John has died without a wife --

3 MR. BAXTER: John died after.

4 THE COURT: -- without any children, but he doesn't -- I
5 don't know the date.

6 MR. BAXTER: Okay. John died --

7 THE COURT: Trevis, I haven't heard anything other than
8 he was an adopted child. Julia, I've heard that she passed
9 away without any spouse, without any children, and that he was
10 the sole surviving heir, but I don't know a date as to when
11 she passed away.

12 MR. BAXTER: Okay. She died --

13 THE COURT: That's where -- that was my position is all
14 of that has to be established.

15 MR. BAXTER: Right.

16 MR. HENRY: We can, we can put that information in the
17 record. The -- oh, go ahead, go ahead, Mr. Baxter. I'm
18 sorry.

19 THE COURT: Okay.

20 MR. BAXTER: The, the, the deed -- all -- up, up until --
21 all the testimony in the past has been, Mr. Singleton had
22 testified that his ownership interest was based upon the deed
23 that he got from Julia Thomas, which was months after the
24 house was torn down. So his testimony has always been, "My
25 ownership interest in the house was based upon her conveying

1 that through a power of attorney." If there -- there is no
2 other way for him to have any ownership interest.

3 THE COURT: So when the house was torn down Julia Thomas
4 was still living.

5 MR. BAXTER: She was alive.

6 THE COURT: Okay.

7 MR. BAXTER: John Gadson was alive and Trevis and Maurice
8 was alive. Everyone that had an ownership interest in the
9 house at the time it was torn down were still alive.

10 THE COURT: All right. Let me --

11 MR. BAXTER: So nothing could have passed to him
12 intestate.

13 THE COURT: Prior to the house --

14 MR. BAXTER: Prior to the house being torn down.

15 THE COURT: All right. Let me hear from you on that, Mr.
16 Henry. Is that correct?

17 MR. HENRY: James Gadson, when he died, tried to convey
18 the house --

19 THE COURT: But when did he die?

20 MR. HENRY: When was your father's?

21 A 1996.

22 MR. HENRY: Okay. When James Gadson died he tried to
23 convey the house by his will. Because the house was not in
24 his name, Mr. Singleton, who probated the will, indicates that
25 the Court did not allow that conveyance to take place.

1 THE COURT: All right.

2 MR. HENRY: Because James Gadson didn't own the house.

3 THE COURT: Okay.

4 MR. HENRY: So James Gadson couldn't convey it.

5 THE COURT: All right.

6 MR. HENRY: That then left Julia Thomas, Mr. Singleton
7 and his brother to be the persons who would have any interest
8 in the house that would have existed.

9 THE COURT: What about Maurice?

10 MR. HENRY: Maurice is adopted.

11 THE COURT: But still --

12 MR. HENRY: He's not, he's not an heir. He's not --

13 THE COURT: If he was legally adopted and was legally
14 adopted at the time --

15 MR. HENRY: My understanding, and I may be off base, but
16 my understanding is that adopted children are not heirs of
17 their parents, of their adopted parents.

18 THE COURT: Is that correct?

19 MR. BAXTER: Well, Your Honor, I, I disagree with that.

20 THE COURT: I do.

21 MR. BAXTER: Irregardless --

22 MR. HENRY: I think we'll need to look at --

23 MR. BAXTER: -- under --

24 MR. HENRY: -- the law on that, but my understanding is
25 that an adopted child --

1 THE COURT: Okay.

2 MR. HENRY: -- does not inherit.

3 THE COURT: I think you're wrong on that, but let's go
4 forward. Let's say for the sake of argument let's say you're
5 right.

6 MR. HENRY: Then Maurice is out of the picture.

7 THE COURT: Okay. Then when did Julia Thomas, did she
8 die prior to or after the demolition of the house?

9 MR. HENRY: She died, I believe it was, after the
10 demolition.

11 THE COURT: All right. And John died prior to or after
12 the demolition?

13 A After. After.

14 MR. HENRY: John died it was -- that was after the
15 demolition? After the demolition, also.

16 THE COURT: Okay. So Mr. Singleton, Willie Singleton did
17 not acquire any interest, did not have an interest at the time
18 the house was demolished.

19 MR. HENRY: He had an interest in the house with them
20 prior to their death because he was an heir of, of Julia -- of
21 Julia Thomas.

22 THE COURT: But Julia didn't die. She was --

23 MR. HENRY: Julia --

24 THE COURT: She didn't die at the time the house --

25 that's the thing is -- I agree with you, if he is an heir of

1 Julia Thomas he acquires her interest, but he doesn't acquire
2 it until she died.

3 MR. HENRY: Correct.

4 THE COURT: If she died after the demolition of the house
5 he was not the owner of the house at the time it was
6 demolished.

7 MR. HENRY: He was a partial owner of the house at the
8 time it was demolished. He became full owner of the house
9 upon the death of his sister and his siblings.

10 THE COURT: All right. Whose interested did he acquire
11 prior to the demolition?

12 MR. HENRY: He didn't acquire anyone's interest prior to
13 the demolition, but because he is the survivor of those people
14 who had an interest their interest became his interest at
15 their death. So he would either --

16 THE COURT: What, what was there? The house was already
17 gone.

18 MR. HENRY: They had an interest in what was there at the
19 time it was demolished. That interest still existed
20 regardless to whether they were living or dead.

21 THE COURT: No. I disagree.

22 MR. HENRY: So there's -- so --

23 THE COURT: I disagree. I think he gets to maintain the
24 action possibly, but he can't testify as to the value of a
25 structure that he did not own.

1 MR. HENRY: He had -- he was the only person left to own
2 it.

3 THE COURT: But it was already gone.

4 MR. HENRY: He can testify about what he -- his interest
5 in what existed at the time it was demolished.

6 THE COURT: Not if he didn't own it.

7 MR. HENRY: He owned his interest in it. That gave him
8 --

9 THE COURT: Not at the time it was -- as I understand his
10 testimony, he did not own any interest in this property or in
11 the house at the time it was demolished.

12 MR. HENRY: No, sir. That's not what he testified to.
13 His testimony was that he and Julia Thomas had the interest in
14 the house. She gave him a power of attorney to deal with her
15 interest.

16 THE COURT: Okay. So how did he acquire his interest
17 prior to the demolition?

18 MR. HENRY: When his stepmother passed --

19 THE COURT: Right.

20 MR. HENRY: -- he, he was John Gadson -- he was John
21 Gadson's son. So John Gadson had already passed. He had an
22 interest --

23 THE COURT: John Gadson died before Victoria?

24 MR. HENRY: Not John. I mean, James, James Gadson. I'm
25 sorry.

1 THE COURT: Okay. James --
2 MR. HENRY: I mean, James --
3 THE COURT: -- as I understand Victoria Gadson dies.
4 MR. HENRY: Uh-huh.
5 THE COURT: Her interest passes to her surviving husband,
6 James Gadson.
7 MR. HENRY: James Gadson.
8 THE COURT: And her daughter, Julia Thomas.
9 MR. HENRY: Correct.
10 THE COURT: And my understanding would be to the adopted
11 son, Maurice.
12 MR. HENRY: My understanding would be that the adopted
13 son was not an heir.
14 THE COURT: Okay. Now --
15 MR. HENRY: And it would be that Willie Singleton, who
16 was the half-brother of Julia Thomas, was an heir because he
17 had blood both with Mr. --
18 THE COURT: James.
19 MR. HENRY: Well, he had blood with the father of Julia
20 Thomas.
21 THE COURT: But he's not an heir of Victoria Gadson.
22 MR. HENRY: No.
23 THE COURT: Okay. So she dies. He doesn't get any
24 interest from her --
25 MR. HENRY: But --

1 THE COURT: -- because he's not an heir of her.

2 MR. HENRY: But he already had -- he -- well, let's see.
3 When Julia Thomas died he didn't inherit anything from Julia.

4 THE COURT: It doesn't matter. Julia Thomas died after
5 the house was demolished.

6 MR. HENRY: Understandably, but her interest --

7 THE COURT: So he didn't have an ownership interest when
8 the house was demolished. If he's relying on the death of
9 Julia Thomas as the way -- grounds upon which he acquired an
10 ownership interest, he didn't get that until after the house
11 was demolished.

12 MR. HENRY: John, when John Gadson died he had an
13 interest in what John Gadson would have left. John Gadson
14 tried to leave the house --

15 THE COURT: But John Gadson died after the house was
16 demolished.

17 MR. HENRY: Not John. I mean James Gadson. James --

18 THE COURT: Okay. James Gadson, he may have tried to,
19 but he didn't.

20 MR. HENRY: Right.

21 THE COURT: So if he didn't, then Willie Singleton did
22 not have an ownership interest.

23 MR. HENRY: Well, he was, he was dealing with the
24 interest he had -- he was standing in the stead of Julia
25 Thomas because Julia Thomas had given him a power of attorney.

1 THE COURT: Okay. He might have had a power of attorney
2 but that doesn't grant you ownership. That just means that
3 you can do what Julia Thomas could do.

4 MR. HENRY: So he could pursue Julia Thomas's interest.

5 THE COURT: He can pursue Julia Thomas's interest, but
6 that doesn't qualify him to testify as an expert as to the
7 value of the property.

8 MR. HENRY: He's not testifying as an expert. He's
9 testifying as an owner.

10 THE COURT: And he's not an owner.

11 MR. HENRY: Well, he is an owner because Julia Thomas's
12 interest went to him.

13 THE COURT: After the house was torn down. So I
14 understand, I understand your argument, but I disagree with
15 it.

16 MR. HENRY: I understand that.

17 THE COURT: So.

18 MR. HENRY: I respectfully disagree with your position.

19 THE COURT: Yeah. Okay. And so I'm going to sustain the
20 objection. He's not going to be able to testify to the value
21 of the house.

22 MR. HENRY: Even though he, even though he had the power
23 of attorney to pursue Julia Gadson's interest, Julia Thomas's
24 interest in the house?

25 THE COURT: That's right. He can pursue -- he could --

1 MR. HENRY: So, so Julia Thomas -- so he couldn't do what
2 Julia Thomas had she been living would have been able to do?

3 THE COURT: So you're saying that had she lived then --

4 MR. HENRY: Had she --

5 THE COURT: -- because she could testify to the value of
6 the property he can now testify to the value of the property?

7 MR. HENRY: Because he now stands in her stead.

8 THE COURT: Okay.

9 MR. HENRY: He's the only left person who could testify
10 to it.

11 THE COURT: Yeah. No. I --

12 MR. HENRY: Or are we saying that because Julia Thomas
13 died no -- the house has no value?

14 THE COURT: No. I don't know. I'm just saying I don't
15 know what the value is. You've got to have qualified evidence
16 as to what the value is, and under the law, the law of
17 evidence says the value is -- an owner can testify as to what
18 it is or someone who by education, experience and their work,
19 such as a real estate appraiser or --

20 MR. HENRY: Contractor.

21 THE COURT: -- something of that nature, primarily in
22 this case it would be a real estate appraiser can testify as
23 to the value of the house.

24 MR. HENRY: So a contractor wouldn't be able to testify
25 to the value of a house although he has to value houses for

1 the purpose of building?

2 THE COURT: That's correct. I don't, I don't foresee a
3 contractor as an expert in real property values.

4 MR. HENRY: I don't believe the law requires an expert
5 because it allows owners who may have no experience and no
6 training to testify about.

7 THE COURT: You're right. That's the exception.

8 MR. HENRY: So it's not --

9 THE COURT: The exception is the owners can.

10 MR. HENRY: But it doesn't say the person -- other person
11 has to be an expert.

12 THE COURT: That's right.

13 MR. HENRY: It can be, it can be any person who has, who
14 has knowledge that would give them the training or education
15 to testify to that. It doesn't have to be an expert witness.

16 THE COURT: To render an opinion, yes.

17 MR. HENRY: Laypeople --

18 THE COURT: To render an opinion, and that's what a value
19 is. It's his opinion as to what the value is. You've got to
20 be qualified as an expert or you have to be the owner.

21 MR. HENRY: Well, then the rules of court allow lay
22 opinions to be offered in court. The court rules themselves
23 say that a layperson can given an opinion in court.

24 THE COURT: All right. Let's take -- find me the case
25 that says --

1 MR. HENRY: It's not a case. I think it -- let me -- beg
2 the Court's indulgence.

3 THE COURT: All right. Let me see what you're talking
4 about.

5 I tell you what, well, let's do. While you're doing
6 that, let's take about a 10 minute recess, give you an
7 opportunity to look at it.

8 MR. HENRY: One, one quick thing, Your Honor.

9 THE COURT: All right.

10 MR. HENRY: I, I think I got a little confused earlier.
11 Willie took James Gadson's interest when James Gadson passed
12 away because -- what -- Victoria Gadson died before James
13 Gadson, leaving her interest in the house to James and
14 Willie's sister. So when James Gadson passed away, Willie
15 acquired his interest.

16 THE COURT: Okay.

17 MR. HENRY: So that's how he had an interest in the
18 house.

19 THE COURT: And James died prior to.

20 MR. HENRY: He died prior to the house being torn down.

21 THE COURT: But he died testate, but this was property
22 that was not included in the estate; is that correct?

23 MR. BAXTER: It, it was included in the estate.

24 THE COURT: Oh, it was included in the estate.

25 MR. BAXTER: Yeah. I mean, there's, there's, there's a

1 will. There's deeds of distribution. There's a final
2 accounting showing who this property goes to.

3 THE COURT: Okay.

4 MR. HENRY: My, my understanding --

5 THE COURT: And Willie Singleton is not part of that.

6 MR. BAXTER: No. He -- they -- he got the -- he got
7 different -- they kind of divided it up between the kids.

8 THE COURT: But what I'm saying is --

9 MR. BAXTER: No.

10 THE COURT: -- James Gadson died testate.

11 MR. BAXTER: Right.

12 THE COURT: Is there a deed of distribution to this
13 property?

14 MR. BAXTER: Yes.

15 MR. HENRY: That --

16 THE COURT: And it passed to whom?

17 MR. BAXTER: It passed to Julia, John Gadson and Trevis
18 M. Gadson.

19 THE COURT: Okay.

20 MR. HENRY: My understanding is Willie probated the
21 estate. That deed never got recorded because the Court didn't
22 allow it to be recorded because James Gadson never changed the
23 property over to his name.

24 THE COURT: So the deed of distribution was never
25 recorded.

1 MR. HENRY: Has never been recorded.

2 MR. BAXTER: It, it, it was recorded and the -- well,
3 I've got that the --

4 THE COURT: All right. Let's -- that's, that's a
5 critical point.

6 MR. BAXTER: Okay.

7 THE COURT: Let's take a recess. Find out if that deed
8 of distribution was recorded because that deed of
9 distribution is public notice --

10 MR. HENRY: That's right.

11 THE COURT: -- of the heirs who acquired James Gadson's
12 interest. So that's what we're going to have to find out if
13 it was ever filed with the Register of Deeds.

14 MR. BAXTER: It was.

15 THE COURT: Okay. When --

16 MR. BAXTER: I mean, it's clocked. It says Georgetown
17 County Register of Deeds 7-17-1998, recorded 7-17, 1998.

18 THE COURT: Does it have a book and page number?

19 MR. BAXTER: Book and page is Book 885 at page 84.

20 THE COURT: Okay.

21 MR. HENRY: Didn't -- Mr. Singleton indicated that that
22 was never recorded. So I don't know how --

23 THE COURT: Well, he's saying he's got a recorded -- he's
24 got it recorded right there.

25 MR. HENRY: May I see that?

1 Beg the Court's indulgence?

2 THE COURT: All right. No. No. Just take a look at it.

3 We're not going to get into any --

4 MR. HENRY: Oh, no. We're not going to.

5 THE COURT: -- testimony.

6 MR. BAXTER: Your Honor, I, I would object to as any
7 conversations between them.

8 THE COURT: Yeah. We're in the middle of his testimony.

9 A No. It's --

10 MR. HENRY: There's no conversation.

11 A No. It's --

12 MR. HENRY: I'm showing him the document.

13 A Yeah. It's -- yeah. It was never, it was never
14 recorded. It was clocked in and, and --

15 THE COURT: Okay. Let me see it.

16 A They clocked it in and that was it. They wouldn't have
17 been able to transfer it in my name if it was recorded.

18 THE COURT: All right. The Court takes judicial notice

19 that it was recorded on July 17th, 1998, in Book 885 at page
20 84, consisting of one page. That's what the stamp says right
21 here. That's what it says right there. So based upon what's,
22 based upon that, it was recorded.

23 MR. HENRY: Okay.

24 THE COURT: It's filed of public record. It's a deed of
25 distribution giving public notice of the heirs of James Gadson

1 or not the heirs but the beneficiaries of the property through
2 James Gadson.

3 MR. HENRY: Your Honor, may we have a 10-minute break and
4 so that Mr. Singleton can check to see, check the records
5 downstairs to see what the situation was because he said --

6 THE COURT: Well, we're in the middle of his testimony,
7 and that -- the problem -- I don't mind taking a 10-minute
8 break.

9 MR. HENRY: Then I'll go check.

10 THE COURT: Okay. And that's what I'm saying.

11 MR. HENRY: Yeah. We don't -- he doesn't have to.

12 THE COURT: We'll take a 10-minute break, but I needed to
13 -- and let Mr. Singleton know under the Rules of Evidence
14 since we're in the middle of your testimony you cannot discuss
15 your testimony with anyone. You can't discuss it with your
16 attorneys. You can't discuss it with anyone else. You can't
17 discuss your testimony at all, whether that be what you've
18 testified to thus far or what you anticipate testifying to.

19 Okay?

20 A Yes, sir.

21 THE COURT: All right. So let's take about a 10-minute
22 break. Okay? And then we'll come back.

23 MR. HENRY: All right. Thank you, Your Honor.

24 THE COURT: You can either stay where you are or you can
25 step down, but if you step down don't talk about your

1 testimony to anyone.

2 A I understand.

3 THE COURT: All right.

4 MR. HENRY: I understand the Register of Deeds Office is
5 six blocks from here.

6 THE COURT: Okay.

7 MR. HENRY: On Screven Street, so that's going to make it
8 a little bit difficult to do that and get back in 10 minutes.

9 THE COURT: Well, I mean, it's got a stamp on there.
10 That's, that's what I saw.

11 MR. HENRY: Right. I was told by the person who was
12 trying to probate the estate that that deed was rejected and
13 it didn't go through. So I'm relying on what was told to me
14 by the person who probated the estate. I don't have any --

15 THE COURT: Well, I think that is a critical issue.
16 Let's go ahead, go over there and let's, let's check. Go
17 check. I mean, that's all I know to do. I, I mean, I'm open
18 to suggestions, but I think we've definitely got a genuine

19 conflict here because in my opinion if that deed of
20 distribution was not recorded and there's nothing in the
21 probate file that shows the passing of that property then I
22 think Mr. Singleton as an heir of James Gadson did acquire an
23 interest. On the other hand, with Mr. Gadson dying testate,
24 if it is a valid transfer pursuant to his last will and
25 testament, that it went to Julia Thomas, Maurice and John,

1 then he was not an owner at the time of James Gadson's death.

2 MR. HENRY: And I would --

3 THE COURT: And that's a critical issue.

4 MR. HENRY: I would agree with the Court's assessment.

5 That is something that really needs to be determined.

6 THE COURT: Okay.

7 MR. HENRY: Thank you, Your Honor.

8 THE COURT: Let's -- hold for a second. Let me --

9 MR. BAXTER: I just got -- I think I've got pretty much
10 all the -- well, go look because I've got a -- I've got most
11 of the probate records. I think I've got the -- I've got the
12 final -- I've got the --

13 THE COURT: Well, he's saying that -- as -- I think as I
14 understand from you you acknowledge that it was filed in the
15 Probate Court.

16 MR. HENRY: Right.

17 THE COURT: But you're saying that it was never recorded
18 of public record with the Register of Deeds.

19 MR. HENRY: With the public record, that's my
20 understanding.

21 THE COURT: Okay.

22 MR. HENRY: So yes. It was --

23 THE COURT: And I think that's --

24 MR. HENRY: -- it was filed with the Probate Court, for
25 purposes of clarification, Mr. Singleton filed it with the

1 Probate Court, but when it became time for a recording it was
2 rejected because the property was still in Victoria Gadson's
3 name, and so the Court rejected the deed of distribution on
4 that basis.

5 THE COURT: And I'm going to be honest with you, I don't,
6 I don't know that that -- I mean, I don't know why they would
7 have --

8 MR. HENRY: I, I don't know.

9 THE COURT: -- rejected it, but let's, let's take
10 whatever time we need to. I want to get this right. So let's
11 go ahead check and we'll come back.

12 MR. HENRY: We appreciate the Court's indulgence.

13 THE COURT: Is that agreeable?

14 MR. BAXTER: Yes, Your Honor.

15 THE COURT: All right. Let's check right quick and come
16 on back.

17 MR. HENRY: All right. Thank you, Your Honor.

18 ~~THE COURT: Also so you ponder this, and I'll give them~~
19 some instructions, we've just gotten word that some jurors
20 want to take notes. So I'm going to provide them with pads
21 and writing utensils and I've got some instructions on that
22 that I'll let them do. Okay.

23 MR. HENRY: Thank you.

24 THE COURT: All right. Let's take a break. Thank you.

25 MR. BAXTER: Your Honor.

1 THE COURT: Yes.

2 MR. BAXTER: Can I --

3 THE COURT: Hold for a second. Wait a minute. Wait a
4 minute. Come on back.

5 MR. BAXTER: Can I look at the court file for one second?

6 THE COURT: The Clerk of Court file?

7 MR. BAXTER: Yes, sir.

8 THE COURT: All right. There you go. All right. Now
9 let's take a break.

10 MR. HENRY: All right.

11 OFF THE RECORD

12 (On the record. The following takes place outside the
13 presence of the jury.)

14 THE COURT: All right. Met with the attorneys in
15 chambers, and I think we have got the timeline right, that it
16 is my understanding that Victoria Gadson passed. According to
17 the testimony and evidence thus far, she died intestate,
18 survived by James Gadson, her husband, Julia Thomas, her

19 daughter, and Maurice -- what's his last name?

20 A Gadson.

21 MR. BAXTER: Gadson.

22 MR. HENRY: Gadson.

23 THE COURT: Gadson, which was an adopted son. Then James
24 Gadson died testate leaving as his named beneficiaries Julia
25 Thomas, Maurice Gadson, John and --

1 MR. BAXTER: That's it.

2 THE COURT: That's it.

3 MR. BAXTER: Maurice, a/k -- is also Trevis.

4 THE COURT: Yeah. That's right. Trevis. All right.

5 And John. Then the house was demolished. Subsequent to the
6 demolition, Julia Thomas transferred her interest in the
7 property to Willie Singleton; is that correct?

8 MR. HENRY: That's correct.

9 THE COURT: All right. So based upon that, I mean,
10 certainly is the power of attorney. He could maintain the
11 lawsuit on behalf of Julia Thomas. I'm going to allow that to
12 go forward. Since Willie Singleton is not -- was not the
13 owner at the time the house was demolished I don't think he's
14 qualified to give an opinion as to the value of the house, but
15 per agreement of counsel I'm going to allow the Plaintiff to
16 proffer that testimony outside the presence of the jury. Is
17 that correct?

18 MR. HENRY: That's correct. Thank you, Your Honor.

19 THE COURT: Is that correct, Mr. Baxter?

20 MR. BAXTER: Yeah. Well, the testimony thus far, that is
21 correct.

22 THE COURT: Okay. All right. Anything from the
23 Plaintiff before we begin the proffered testimony?

24 MR. HENRY: Yes, Your Honor. I believe the rule that I
25 was referring to earlier is Rule 701, the Rules of Evidence.

1 THE COURT: Okay.

2 MR. HENRY: And it says that a person, if they're not
3 testifying as an expert, can, can give an opinion as to
4 matters that are common knowledge and don't require
5 specialized training or if they have training they can give
6 the testimony.

7 THE COURT: Okay. And I understand that, and I
8 understand your argument, but I think given property values
9 and structure values require special training, and based upon
10 what has been presented thus far, I don't think Mr. Singleton
11 has the acquired knowledge such as a real estate appraiser or
12 whatever the case may be.

13 MR. HENRY: And I just wanted to enter on that a caveat
14 that Mr. Singleton is a licensed contractor who was a builder
15 who builds residential structures and has the authority
16 granted by the state to build structures up to \$1 million.

17 THE COURT: Okay. And I understand that, but I don't
18 ~~think having a contractor's license qualifies you to render,~~
19 give opinions as to property values.

20 MR. HENRY: Thank you, Your Honor.

21 THE COURT: All right.

22 MR. HENRY: With that, the Plaintiff would propose to do
23 a proffer and I -- in the proffer we would also like to offer
24 these deeds that we've come across, the one that we have and
25 the one that Mr. Baxter has just for the record to preserve

1 what was located in regard to the ownership of the property.

2 THE COURT: Okay. I'll allow you to go ahead and proffer
3 whatever testimony you want to.

4 MR. HENRY: Thank you, Your Honor.

5 EXAMINATION (PROFFER)

6 BY MR. HENRY:

7 Q Mr. Singleton, I'm going to --

8 THE COURT: All right. Now, now, let's -- I want to make
9 sure we've got the ground rules straight.

10 MR. HENRY: Right.

11 THE COURT: I'm going to let you proffer the testimony.
12 Then I'll give Mr. Baxley [sic] an opportunity to cross
13 examine Mr. Singleton, if he chooses, as to the proffered
14 testimony and then we'll do redirect as to the proffered
15 testimony. Then when we bring the jury back in, we'll just
16 resume the direct testimony. Is that agreeable?

17 MR. HENRY: That's agreeable.

18 ~~THE COURT: Is that agreeable, Mr. Baxter?~~

19 MR. BAXTER: Yes, Your Honor.

20 THE COURT: Okay. All right.

21 MR. HENRY: All right.

22 BY MR. HENRY:

23 Q Mr. Singleton, I want to show you two documents
24 purporting to be deeds or actually, let me -- I want to show
25 you two documents and ask if you can recognize -- if you

1 recognize them.

2 A Yes, sir.

3 Q Okay.

4 A Yes, sir.

5 MR. HENRY: Mr. Baxter, do you want to see them?

6 MR. BAXTER: No. No. I'm fine. I'm just -- that, that
7 one document I'm going to use as an exhibit. So --

8 MR. HENRY: Okay.

9 MR. BAXTER: -- I just need to make sure it's available.

10 BY MR. HENRY:

11 Q Can you tell me what these documents are?

12 A Yes. This is a, a deed that I did from James Gadson to
13 Julia Thomas, John L. Gadson and Trevis M. Gadson, a deed that
14 I drew up and took it to the Probate Court to have clocked in.

15 Q Which property -- what property does that deed concern?

16 A The deed concerns 1929 Front Street, Georgetown, South
17 Carolina.

~~18 Q Okay. And you prepared this deed personally? -----~~

19 A Yes, sir.

20 Q And it was presented you said to the Probate Court?

21 A Yes, sir.

22 Q What happened with that deed?

23 A They clocked it in and everything but it was never
24 processed because of my father never -- James Gadson never
25 transferred the property after Victoria Gadson deceased to his

1 name. So it just stopped right there.

2 Q Now, when you say they processed it, who processed it?

3 A The --

4 Q Who clocked it?

5 A I took it at the court, at the courthouse and took it to
6 the Register of Deed, that office. I think it was -- yeah,
7 Probate Court, Register of Deed.

8 Q You took it to -- did you take it to the Probate Court or
9 the Register of Deeds?

10 A I took, I took it to -- I'm sorry. I took it to the
11 Register of Deed and had them to clock it in.

12 Q So they clocked it?

13 A They clocked it.

14 Q And they gave it an assignment of a book?

15 A Yes, sir. Right here it says that it was in Book 885 and
16 page 84 when they clocked it in.

17 Q Okay. And that was the deed you prepared for your
18 father's estate?

19 A Yes, sir.

20 Q Okay. There is another document there. Can you tell
21 what that is?

22 A Yes, sir. This is a deed that was -- that transferred
23 the property of 1929 Front Street from Julia Thomas to myself,
24 Willie Singleton.

25 Q Okay. What's the date of that deed?

1 A The date is 11-30-207 [sic].

2 Q Now, the previous deed that you just talked about, what's
3 the date of that deed, and this is the deed of James Gadson?

4 A Right. This is the deed of James Gadson to John L.
5 Gadson, Julia Thomas and Trevis M. Gadson. This deed was done
6 on 7-17-98.

7 Q Okay. So that deed predated the deed that you just
8 referred to from Julia Thomas?

9 A Yes, sir.

10 Q Okay. And is it the same property?

11 A Yes, sir.

12 Q Okay. So you're claiming -- are you claiming to be the
13 owner of the property based on the deed from Julia?

14 A Yes, sir.

15 Q Okay. Based on your claim to ownership of that property,
16 do you have an opinion as to the value of the home and the
17 land?

18 A Yes, sir. Not the contents, just the home and the land.

19 Q Yes.

20 A Yes, sir. I would, I would think because of the area
21 about \$230,000.

22 Q And that's based upon what?

23 A That's based upon size of the house and the square
24 footage of the house and it's based upon -- see, the house was
25 in limbo for about eight, nine months.

1 Q Okay.

2 A If I was able to fix it when I applied for the building
3 permit, then a lot of the leakage would not have happened, and
4 I believe without that damage it would have been in that area
5 because it's, it's a Victoria home, and if it was on the east
6 side of town it would have been worth a lot more because it's
7 historical, but being on the west end in that neighborhood I
8 think that's what it would be worth.

9 Q As a contractor, do you ever have the occasion to value
10 homes?

11 A Not, not, not to more or less value homes literally.
12 Mentally in my mind, you know, I look at a house and think
13 about what it would value, you know, dealing with the type
14 construction that I do, dealing with the interior, the type
15 floor, the, the type finishing work that's on the house then
16 it comes to mind, you know, what this house would be worth,
17 you know.

18 Q But valuing homes is not a part of what a contractor
19 does?

20 A Oh, no, sir.

21 Q But you have -- do you have to determine how much a house
22 would cost to build before you build it?

23 A Oh, yes, sir. You have to deal with square footage. I
24 don't have the book here today, but a lot of it's in the, in,
25 in a book. You go and you look and you see about what it

1 would cost depending on what they, what they want in it.

2 Q Okay. What book are you referring to?

3 A I can't -- it's, it's, it's a, it's a homebuilders'

4 estimation book. I don't know what the name is now because I

5 hadn't built in about four or five years.

6 Q Okay. In that book does it -- what does it require for

7 you to determine the value? What, what kind of things? When

8 you said square footage, what do you do with the square

9 footage that helps you determine how much that house is going

10 to cost?

11 A Well, you multiply it. You, you get the square footage

12 of a house and you multiply. If, if, if, if it says a hundred

13 and two -- \$122, \$125 per square foot, you multiply that time

14 the square footage of that house per se like heating area and,

15 and so forth.

16 Q Would that be information that a homeowner would make

17 available to a bank if they were trying to get a loan for the

18 home?

19 A Oh, yes, sir. Yes, sir.

20 Q So a bank would get that information and look based on

21 that information determine whether or not that's a loan that

22 they think that they can give?

23 A Yes, sir.

24 Q Okay. Thank you, Mr. Singleton. No further questions.

25 Answer any questions Mr. Baxter might have.

1 THE COURT: All right. Mr. Baxter, any cross examination
2 as to the proffered testimony?

3 EXAMINATION (PROFFER)

4 BY MR. BAXTER:

5 Q Mr. Singleton, the deed of distribution was pursuant to
6 the will; is that correct, the terms of the will?

7 A Yes, sir.

8 Q Your father's will?

9 A Yes, sir.

10 Q And --

11 A You, you -- are you -- you talking about the first deed
12 that I drew up?

13 Q Yes.

14 A Yes.

15 Q And the, the actual executors or personal representatives
16 of the estate were Julia Thomas and John Gadson; correct, they
17 were acting jointly?

18 A Come again. I, I --

19 Q Okay. You, you were not the personal representative of
20 the estate; correct?

21 A Oh, no, sir.

22 Q Okay. It was, it was actually Julia and John?

23 A Yes.

24 Q Okay. And Julia, it's your position that at the time of
25 your father's death she had -- she, she owned that property or

1 she certainly had some interest ownership in that property;
2 correct?

3 A At the time of, of Ms., Ms. Victoria's death?

4 Q No. At the time of James's death?

5 A Oh, yes, sir.

6 Q Okay. Now, the, the amounts you were talking about, was
7 that replacement costs?

8 A No. I wouldn't think replacement cost because when you
9 -- if, if, if you look at replacement costs, when you start
10 talking about -- that house had, for instance, original
11 fireplaces in the front, the living room, the dining room, a
12 fireplace upstairs, you know, no, sir, just to replace, to
13 replace a house like that and you check anywhere over here on
14 the east side as far as money is concerned you're probably
15 talking over \$400,000.

16 Q Okay. But you understand that's a different number than
17 what -- we're, we're dealing with the value of the house at
18 the time; correct, not to replace it?

19 A No. No. No. You asked -- the question --

20 Q I, I --

21 A -- that you asked me was what would it cost to build a
22 house like that, and my answer was it would cost more than
23 what I stated what the house was worth. I said it would be a
24 little over \$400,000 based on the fact that it had oak floors,
25 chair railings, crown molding. I -- you -- that's, that's,

1 that's, that's a lot of money.

2 Q And the deed of distribution you were actually a witness
3 on that; is that correct?

4 A Oh, yes, sir.

5 Q Okay.

6 MR. BAXTER: That's all I have.

7 THE COURT: Anything on redirect as to the proffered
8 testimony?

9 MR. HENRY: Nothing further, Your Honor.

10 THE COURT: All right. Anything from the Plaintiff
11 before we bring the jury back in?

12 REPORTER: He said he wanted to proffer those deeds.
13 Does he want me to mark them?

14 THE COURT: Did you want to proffer those deed -- the
15 deed of distribution and the deeds?

16 MR. HENRY: Yes. But I only have those copies. Can I
17 get copies of them?

18 THE COURT: Let's go ahead and any --

19 MR. BAXTER: What -- I, I don't -- the one, the one deed
20 is the one I was planning on putting in as an exhibit. So I
21 -- I'm fine with that, but if there's going to be a proffered
22 one and an actual exhibit one then we do need to make copies
23 because the only other copy I've got right now I've
24 highlighted. Okay. Okay.

25 MR. HENRY: We'll put it in as both proffered and --

1 THE COURT: Do what?

2 MR. BAXTER: And I, I can track down another copy.

3 MR. HENRY: He'll -- he's wanting to put his deed in as
4 an exhibit.

5 THE COURT: All right.

6 MR. HENRY: We want to offer --

7 THE COURT: If you want to put those in you need to get
8 them marked as proffered exhibits and then let's get it on the
9 record where you introduce them into evidence and then I'll
10 check with Mr. Baxter to see if he has any objection and then
11 we'll have it on the record as to whether or not it was
12 admitted. All right?

13 MR. HENRY: That's what we will do.

14 THE COURT: Okay.

15 MR. HENRY: Thank you, Your Honor.

16 THE COURT: That's, that's all I know to do.

17 MR. BAXTER: Okay.

18 THE COURT: So then that way we'll, we'll have -- is this
19 your copy, Mr. Baxter?

20 MR. HENRY: That --

21 MR. BAXTER: Yeah. Well, no. I and -- I'm looking at it
22 more, I think those are two documents that should be exhibits
23 period.

24 THE COURT: Well, and they may be exhibits.

25 MR. BAXTER: Okay.

1 THE COURT: And they're not now.

2 MR. BAXTER: Okay.

3 THE COURT: But it's going to fit in line with the

4 transcript since he referenced them during the proffered
5 testimony --

6 MR. BAXTER: Okay.

7 THE COURT: -- to let's go ahead. I mean, you can put
8 them in -- do we want to follow the --

9 (Reporter and Court confer.)

10 THE COURT: All right. Plaintiff's Seven and Eight
11 marked for identification that'll be --

12 MR. HENRY: Now, we -- I have some other exhibits that I
13 was going to put in in the trial. So I didn't want -- I don't
14 know that might -- these would start Seven and Eight. If you
15 put these in as Seven and Eight it's going to look a little
16 funny when you enter --

17 THE COURT: No. That would be Seven and Eight, and then
18 when you get back into trial after you proffered it would be
19 Nine, Ten.

20 MR. HENRY: Nine. Okay. Or we can do it that way.

21 (Reporter and Court confer.)

22 THE COURT: Okay.

23 MR. HENRY: All right.

24 THE COURT: All right. So we've got Plaintiff's Exhibit
25 Seven, Plaintiff's Exhibit Eight marked for identification and

1 offered as exhibits for the proffered testimony but not
2 introduced as evidence in the case at present.

3 MR. HENRY: That's correct.

4 THE COURT: All right.

5 (Plaintiff's Exhibit Number Seven [Deed from Thomas to
6 Singleton] and Plaintiff's Exhibit Number Eight [Deed of
7 Distribution] marked for identification.)

8 MR. HENRY: All right.

9 THE COURT: All right. Anything from the Plaintiff
10 before we bring the jury in?

11 MR. HENRY: Just to request that I get a copy of those
12 because those are my only copy. They went over to the court
13 and got those yesterday and I don't have a copy.

14 MR. BAXTER: May I approach? I mean, back before the
15 jury is seated.

16 THE COURT: Okay. Well, let's, let's go ahead and take
17 a break, let you make your copies, you do whatever. We'll
18 bring the jury back in. It's almost 4:30 and we'll just,
19 we'll just see. I don't know if we're going to get through
20 direct or not, but we'll, we'll go ahead. Let's take about
21 another 10-minute break so we can get copies made and things
22 of that nature. Okay?

23 OFF THE RECORD

24 (On the record. The following takes place outside the
25 presence of the jury.)

1 THE COURT: Anything from the Plaintiff before we bring
2 the jury in?

3 MR. HENRY: Nothing from the Plaintiff, Your Honor.

4 THE COURT: Anything from the Defense?

5 MR. BAXTER: Nothing, Your Honor.

6 THE COURT: All right. Let's go ahead and bring the
7 jury in.

8 (Whereupon, the following takes place in the presence of
9 the jury.)

10 THE COURT: All right. Ladies and gentlemen, welcome
11 back. I apologize for keeping you in the jury room for so
12 long. I appreciate your patience. We're now ready to
13 continue the trial of the case. I understand there has been a
14 request that some jurors would like to take notes. Is that
15 correct? I think somebody -- I got a -- I heard from one of
16 the bailiffs that somebody wanted to take notes, which is fine
17 if you want to do that. All right. Let's go ahead and pass
18 the pads out and the pencils out, and then once you finish
19 doing that I need to give you some instructions on note-
20 taking.

21 All right. Ladies and gentlemen, you are permitted to
22 take notes if you choose to take notes. You're not required
23 to take notes, but if certain jurors want to take notes you
24 are permitted to. However, we do have certain guidelines that
25 we must follow. First of all, on the first sheet of your pad,

1 if you're taking notes you'll need to write your name and make
2 sure you get the same pad each time because the notes you take
3 are personal to you and you cannot share them with anyone.

4 Okay. The purpose of note-taking is to refresh your memory.

5 Okay. So don't try to write down everything a person says or
6 an entire testimony because you may miss something. The
7 purpose of note-taking is if something is said or if an
8 exhibit is introduced or whatever the case may be that you
9 feel is important you can jot it down quickly to refresh your
10 memory at the time you deliberate. Okay. So the purpose of
11 note-taking is not to write down everything a person says but
12 to make notes to refresh your memory that you want to consider
13 during deliberations. Now, some people can recall testimony
14 without taking notes. Some people are better note-takers than
15 others. So you're not required to take notes. You're
16 permitted to take notes, but make sure you keep your own pad.
17 Also, when you leave the courtroom you'll need to leave your
18 notes here in the jury box. We'll collect them up and we'll
19 redistribute them whenever you come back into the courtroom.
20 So make sure if you take notes you write your name on the
21 first page, that you always keep your same pad, that you only
22 make quick references to joggle your memory and you don't try
23 to write down everything a person says. All right.

24 We'll now continue with the direct examination of Mr.
25 Singleton. All right. Mr. Henry.

1 MR. HENRY: Thank you, Your Honor. May it please the
2 Court?

3 THE COURT: Yes, sir.

4 MR. HENRY: I would ask to have these documents marked as
5 Plaintiff's Exhibits Eight through 14 -- Nine through, I'm
6 sorry. I think it's 14. I might have miscounted. Your
7 Honor, I'll identify for the record the exhibits that have
8 just been marked. Exhibit Nine is the -- an application for
9 permit by Mr. Singleton to the City of Georgetown. Number 10
10 is a copy of the article in the paper about Mr. Singleton, the
11 property that Mr. Singleton is here about, and Number 11 is a
12 letter from Mr. Stephen Stack to Mr. Willie Singleton dated
13 March 20th, 2007. Number 12 is a letter to Mr. Stephen Stack
14 from Willie Singleton, and it's dated March 23rd, 2007. Number
15 13 is a demo permit for the property, well, it was a bid
16 accepted to demo, to demolish the property. The Exhibit 14 is
17 an application for business and professional license by Mr. R.
18 K. Miller, Mr. R. K. Miller and his construction company, and
19 Number 15 is an abstract showing the redemption of a property
20 by Mr. Singleton from Mr. James -- in the name of James Gadson
21 from James Brogdon, and I would ask -- I would move these
22 documents into evidence at this time.

23 THE COURT: Any objection?

24 MR. BAXTER: Your Honor, the only objection is Number 15
25 is not relevant because Mr. Singleton testified that's for a

1 totally different piece of property than what we're dealing
2 with today.

3 THE COURT: Okay.

4 MR. HENRY: Then we'll withdraw that exhibit.

5 THE COURT: All right. All right. Plaintiff's Exhibit
6 Nine, Ten, 11, 12, 13, 14 admitted into evidence without
7 objection. Plaintiff's Exhibit 15 I sustain the objection,
8 not admitted into evidence. All right.

9 MR. HENRY: Thank you, Your Honor.

10 (Plaintiff's Exhibit Number Nine [Application for
11 Permit], Plaintiff's Exhibit Number Ten [Newspaper Article],
12 Plaintiff's Exhibit Number 11 [Letter from Stack to Singleton
13 dated 3-20-07], Plaintiff's Exhibit Number 12 [Letter from
14 Singleton to Stack dated 3-23-07], Plaintiff's Exhibit Number
15 13 [Bid accepted to demolish the property], and Plaintiff's
16 Exhibit Number 14 [Application for Business License R. K.
17 Miller] admitted into evidence and appropriately marked.)

18 DIRECT EXAMINATION (CONTINUED)

19 BY MR. HENRY:

20 Q Now, Mr. Singleton, as the person who is pursuing this
21 claim for this home, have you had an opportunity to meet with
22 any of the City officials concerning the claims that the City
23 was making about problems with the property?

24 A You said as -- are you talking about after they tore it
25 down or before?

1 Q Before or after?

2 A Before did I meet with any City officials?

3 Q Yes.

4 A Yes, sir. I met with the, the building official several
5 times. I spoke to City Council about the, about the property,
6 and I met with the City Administrator.

7 Q Okay. Before the property was torn down did they -- did,
8 did you make the City aware of the concerns you had with the
9 actions they were proposing to take?

10 A Oh, yes, sir. Yes, sir. I, I had a paper trail showing
11 from start to finish that I had made attempts to fix the
12 residence at 1929 Front Street.

13 Q The property that you stored in that residence, were you
14 given an opportunity to remove that before, before the house
15 was demolished?

16 A No, sir. They never told me.

17 Q So you never got notice that you needed to remove any
18 items that you intended to preserve as a result of them being
19 in the position where they wanted to tear it down?

20 A Oh, no, sir.

21 Q Okay. Were you present when the house was demolished?

22 A I heard that it was being demolished and so I, I went
23 around there and I saw the -- saw them bringing it down and
24 burying it, and they had policemen barricading it off.

25 Q Okay. So you weren't allowed to go on the premises?

1 A Oh, no, sir.

2 Q Okay. The items that you were storing in the house, you
3 were the owner of those items?

4 A Yes, sir.

5 Q Did anyone else have any ownership interest in the items?

6 A No, sir. My, my, my -- my sister before, but, but the --
7 but outside the contents of the house but the business items
8 and the furniture from the other house all those, I own all
9 those.

10 Q Okay. The items that were your specific personal
11 property --

12 A Yes, sir.

13 Q -- what would you -- do you have an opinion as to the
14 value of those items?

15 A Yes, sir. The -- I think -- I did an estimate at the
16 time and I think I gave it to the City and it was about
17 \$35,000.

18 Q For the items stored in the house?

19 A The business items that I had stored, uh-huh.

20 Q Okay. That, that would be the bookstore items, the
21 restaurant and the tailor shop?

22 A And the tailor shop, yes, sir.

23 Q Okay.

24 A And a few -- furniture I brought from someplace else.

25 Q Does -- that includes the furniture that you brought into

1 the house or, or is that without the furniture?

2 A Well, the, the estimation that I gave was just the items
3 but the furniture that I put in there I had it with the other
4 furniture. I gave them two, two different estimates.

5 Q Okay. How much would the furniture be that you brought
6 into the house?

7 A I would say it was, it was bedroom furniture. I'm just
8 trying to remember, bedroom and, and, and den furniture. I
9 would think probably about 14, \$1500 because it wasn't like
10 the furniture that was in the house.

11 Q Okay. The furniture that was in the house who owned
12 that?

13 A The furniture that was in the house was owned by Julia
14 Thomas.

15 Q Are there any other items of your personal items that
16 were destroyed when the house was demolished?

17 A There were other items but I didn't give a price on it.
18 I think I put it on the list. I, I had a lot of personal
19 items there because in high school I was best all around. I
20 had --

21 Q Okay. So what, what kind of items would those be?

22 A There were trophies from football, basketball and track
23 because I went to Tuskegee for -- on a football scholarship.
24 So I had a lot of films from, from, from the games that we had
25 and like a football jacket and things like that, but I, I, you

1 know, I couldn't really put a value on it.

2 Q I know that it's hard to put a value on items that might
3 have sentimental meaning, sentimental value to you, but if you
4 had to estimate a value for those items how much would you say
5 they would be worth? And I know this may not be the actual
6 value, but how much would you say you would ask for those
7 items?

8 A I don't know the value of them to be honest with you,
9 and, and, and, and, and it's, it's hard, but it probably cost
10 the school just thinking about what trophies and stuff cost,
11 and, and probably a little over \$1,000, and the reason why
12 those films that, that was there was extremely like -- because
13 what it is there were a lot of guys who played before me that
14 they used to compare me to and quite a few -- a couple of them
15 went to the pros and that's why the coach gave it to me so I
16 could see the different style because I had a scholarship at
17 Citadel, University of South Carolina, University of
18 Pittsburgh, but the former coach from Tuskegee used to coach
19 at Howard and that's why the coach sent me there. So they
20 would give me a lot of stuff to study, and it's hard to put a
21 value on those that I, that I had.

22 Q Were those original films of other football players that
23 they were comparing you to?

24 A Oh, yes, sir. They were films of, of more or less Eric
25 Allen, who went to the pros, and Nate Allen, and during the

1 sixties and '65 because they used to win a lot of state
2 championships at the time, and when I was in the ninth grade
3 they used to compare me to Eric Allen.

4 Q The films that were destroyed, to your knowledge are
5 there any copies anywhere of those films that you might be
6 able to recoup those items?

7 A Oh, oh, no, sir. You -- you could, you could never
8 recoup those.

9 Q And you believe the value to be what you said?

10 A It's hard to put, it's hard to put a value on them, you
11 know, it just, it, it, it really hard. That's why I didn't
12 put -- I don't -- I didn't put a value on the films itself,
13 but I would -- like I said, I think that the trophies and
14 stuff probably cost the school about in the hundreds, but if I
15 had to I probably would say, and don't want to be outrageous,
16 it's a hard one there, probably about \$5000, and the reason
17 why I said, Eric Allen broke just about every record they had
18 at Michigan State, and he just pass a few, a few weeks ago,
19 and the ones on him probably would be -- would value more than
20 anybody else because they had him all over the *Georgetown*
21 *Times*, in the, in the *Sun News*.

22 Q So the \$5,000 on the films does that include the film of
23 Eric Allen?

24 A Yeah. I would think it included of, of Eric Allen
25 because I don't know the value of -- I don't know the value of

1 stuff like that. I had a projector in there and things like
2 that. It probably would -- somebody else might say it worth a
3 lot more because of who he was, but I don't know, I don't know
4 the value, and I'm, I'm, I'm, I'm guessing.

5 Q Right.

6 A So, you know, I'm just going by what I see people
7 sometime say what, what, what this is value, what that is
8 value on television and stuff like that, but he broke a lot of
9 records. He went to the Canadian and then he went to -- came
10 back to NFL, and he was, he was one of the best. So it's hard
11 to say to be honest with you, and I don't want to say anything
12 that I don't believe from my heart.

13 MR. HENRY: Beg the Court's indulgence.

14 THE COURT: All right.

15 BY MR. HENRY:

16 Q Mr. Singleton, the values that you placed on the items of
17 personalty that you lost, that -- is that just your opinion or
18 do you have any basis upon which to determine that as a fair
19 market value?

20 A Well, it, it, it, it, it, it, it -- I gave them a list
21 and gave them prices of a fair market value at the time when
22 it happened because -- and, and I -- the City Administrator,
23 and it's in their records, he asked me not to file anything,
24 to give him a list.

25 Q Okay.

1 A So I'm trying to think back to the prices that was on
2 that list that I gave to him because he asked me for what
3 you're asking me for now.

4 Q ~~And you provided the list that was requested; did you~~
5 not?

6 A Yes, sir.

7 Q Okay. And all of those items that were destroyed you
8 said there's no replacement for them?

9 A No, sir.

10 Q No way for you to, no way for you to recoup those?

11 A No, sir.

12 Q No known copies of any of the films or anything?

13 A No, sir.

14 Q Okay.

15 MR. HENRY: Beg the Court's indulgence just a moment.

16 THE COURT: All right.

17 BY MR. HENRY:

18 Q Mr. Singleton, I'm going to show you a document and ask
19 if you can identify that for me. Do you recognize this
20 document?

21 A Yes, sir.

22 Q Mr. Singleton, what is this document?

23 A That's a -- it's, it's, it's a verified tort claim by, by
24 myself, Willie Singleton.

25 Q And a verified tort claim, what, what is that and what

1 purpose does that serve?

2 A This gives them a timeline.

3 Q Gives who a timeline?

4 A Gives the City a timeline, and it also gives a list of
5 the contents of 1929 Front Street, Georgetown.

6 Q Okay. Now, the list of contents, did you also put on,
7 put in values for the contents?

8 A Yes, sir.

9 Q Okay. And in particular did you put in a value for, for
10 -- there's an item number 16 on there. Could you tell me what
11 that's for?

12 MR. BAXTER: Your Honor, I'm going to enter an objection
13 here. The, the item number 16 is furniture which he testified
14 was owned by Julia Thomas.

15 THE COURT: Well, and I sustain the objection. It's not
16 in evidence at this point in time. So he's not going to be
17 able to publish anything in it to the jury unless and until
18 it's --

19 MR. HENRY: We would, we would, we would ask that this be
20 marked as Plaintiff's Exhibit 15 I believe it is.

21 THE COURT: All right. Let -- what would it be?

22 REPORTER: 16.

23 MR. HENRY: 16.

24 THE COURT: Plaintiff's Exhibit 16, let's get it marked.
25 Any objection to Plaintiff's Exhibit 16?

1 MR. BAXTER: Yes, Your Honor. The, the, the, the number
2 that he is getting ready to -- I'm assuming he's getting to
3 ready to ask him about, which is item number 16, was the
4 ~~contents of the house and Mr. Singleton testified that those~~
5 were owned by Julia Thomas. He testified -- he said there was
6 some furniture that was his. There was some bedroom and den
7 furniture 1400 and then he had some commercial equipment 35.
8 I mean, he, he has identified all of the property he owns.
9 This number right here is stuff that he, he never owned or did
10 not own.

11 THE COURT: Okay. But I mean, what is this, just a list
12 of the contents?

13 MR. HENRY: A list of, yes, sir.

14 THE COURT: Okay.

15 MR. HENRY: And we would, we would offer Plaintiff's
16 Exhibit 16 into evidence.

17 THE COURT: Let me see it.

18 MR. BAXTER: And it also includes -- Your Honor, can we
19 approach the bench, please?

20 THE COURT: Yeah. Come on up.

21 (Whereupon, a bench conference is held in the presence
22 but out of the hearing of the jury.)

23 THE COURT: All right. Defendant's objection is
24 sustained.

25 MR. HENRY: Thank you, Your Honor.

1 THE COURT: Thank you.

2 BY MR. HENRY:

3 Q Mr. Singleton, is there anything else about this
4 situation that you would like to share with the jury?

5 A The only, the only, the only thing is that about that is
6 that I feel that they should know that my sister gave me the
7 power of attorney to transfer everything over to me, and, and
8 I did my best to, to preserve everything, to, to get it fixed.
9 I think I went above and beyond to even go as far as asking
10 them to allow me to hire someone to do their job, which was an
11 engineer. I don't think that I could have done any more than
12 that and, and, and that's why I said when I said that it was
13 hers, I believe that when she gave me the power of attorney
14 to, to do what I did, it gave me all the interest that she had
15 in it, and, and that's why I said, said it exactly the way
16 that I said it, and I think that the record will show that
17 even today in the City of Georgetown --

18 MR. BAXTER: Your Honor, I have no idea what it is, but
19 he's getting ready to testify to some record that I'm unaware
20 of and his qualification to testify as to some record.

21 THE COURT: Okay. I don't know what he's going to
22 testify to but he can't testify to any hearsay or render any
23 opinion.

24 MR. HENRY: I don't believe that's what he was getting
25 at, Your Honor.

1 THE COURT: All right. Well, then go ahead.

2 A Yes. And, and what I was saying is even today I've dealt
3 with the building official here in Georgetown, the one that's
4 present today, and I've went to him and asked him to allow me
5 to fix somebody house free, and he's in here today, and he has
6 told me that if the person can afford an engineer he would
7 allow them to fix it. So that just shows that, that the only
8 time a person could not hire an engineer to fix their house
9 was me.

10 Q Thank you, Mr. Singleton. Would you please answer any
11 questions Mr. Baxter may have?

12 A Yes.

13 THE COURT: All right. Mr. Baxter.

14 MR. BAXTER: May it please the Court?

15 CROSS EXAMINATION

16 BY MR. BAXTER:

17 Q Mr. Singleton, the -- you testified as to the -- your
18 siblings, who was your father, your stepmother, who was her
19 children, and I'm just -- I want to clarify some of that.
20 Your -- okay. Victoria Gadson had one natural daughter, Julia
21 Gadson Thomas. Correct?

22 A Yes, sir.

23 Q Okay. Her and your father adopted Maurice?

24 A Yes, sir.

25 Q And Maurice is also known as some documents, is that

1 Trevis?

2 A Yes, sir.

3 Q Okay. Now, who was Maurice's mother?

4 A Maurice's mother was -----

5 Q His natural mother before the adoption?

6 A His natural mother was Carolyn, who my father adopted but
7 she passed away.

8 Q Okay. When did she die?

9 A She died -- I'm not sure because she was in New York but
10 it was before Victoria Gadson.

11 Q Okay. So she -- when Victoria Gadson died she had
12 already died?

13 A Oh, yes. She had already died.

14 Q Now, Julia Thomas died when?

15 A I think Julia Thomas died -- I don't have it in the front
16 of me but I think she died in I think it was 2008.

17 Q Okay. Well, looking at her obituary it says she died on
18 May 5th of 2009?

19 A Okay.

20 Q Okay. Would you, I mean, would you dispute that or do
21 you know or --

22 A Not if it's in her obituary I wouldn't.

23 Q Okay. Now, you read the obituary. It was in the
24 newspaper; correct?

25 A Did I?

1 Q Did you read the newspaper that was in -- did you read
2 Julia's obituary that was in the newspaper?

3 A No, sir. I didn't.

4 Q Do you know who did that?

5 A Who did the obituary?

6 Q Right.

7 A A lady from -- my brother called her. She, she was from
8 New York, a friend of his. She lived in Santee, Santee, South
9 Carolina, in Georgetown County.

10 Q Okay. So in here it says, okay, Nathaniel Rainey. Do
11 you know who that is?

12 A Nathaniel Rainey was -- he was said to be my father's
13 son, but he said that he wasn't, but he had died years, years
14 --

15 Q Okay. But he --

16 A But he died before Ms. Vic, I mean, it was years ago when
17 he died.

18 Q Okay. He may or may not have been a stepbrother, I mean,
19 excuse me, half brother of yours and a half brother of Julia
20 Thomas.

21 A Well, going by what my father said, he, he wasn't.

22 MR. HENRY: Objection. Calls for speculation, Your
23 Honor.

24 THE COURT: All right. Overruled. I'll allow it. Go
25 ahead.

1 Q And then John Leroy Gadson is John Gadson who is we've
2 talked about him earlier is your brother?

3 A Well, John Leroy Gadson is -- see, John and Julia Thomas
4 they're only a month apart --

5 Q Right.

6 A -- in birth, and, and because both of the mothers was
7 expecting the same time, and he married Victoria. So John is
8 -- has a different mother than I but we have the same father.

9 Q Okay. But he was married to Victoria at the time that
10 John was born?

11 A I can't say that and the reason why I can't because I
12 know they was a month apart.

13 Q Right. Right.

14 A I don't know if -- I don't -- I can't answer that, but I
15 do know he married Victoria instead of marrying his mother,
16 but whether or not the dates on that, I mean, I wasn't even
17 born. They, they were, they were older than I was.

18 Q Okay. But it is possible they were -- Victoria and James
19 were married at the time that John was born?

20 A Well, you're asking me a question that I, I, I can't say
21 it's possible because --

22 Q Okay. I withdraw, I withdraw the question. Fair enough.

23 A -- I, I don't, I don't know that answer.

24 Q Okay. Maurice Gadson we talked about. Alvin Walker, who
25 is that?

1 A Alvin Walker is a, another young man. He -- my
2 grandmother took up with Alvin Walker when he was, was a young
3 boy. I wasn't, I wasn't around then, and my grandmother
4 thought that he was my father's son but on the birth
5 certificate he has a different father. So what she -- and
6 she, she took up with him and she told my father that she
7 wanted him to have a piece of -- if anything ever happened to
8 her she wanted him to have a part of her property that she had
9 because she took up with him when he was a young, young boy.

10 Q Okay. So he may be your half brother?

11 A Well, no, according to his birth certificate and
12 according to what my father said no.

13 Q Okay. Now, the probate records that were filed, he is
14 shown as being a son of James Gadson on the probate records;
15 correct?

16 A I'm not sure if he's shown as being his son, but I do
17 know that he was given a part of my grandmother's, part of
18 that property, him and Julia Thomas.

19 Q Okay. Fred Ford?

20 A Fred Ford, Fred Ford is John's -- Fred Ford is John -- my
21 brother John's brother.

22 Q Okay. So in the obituary he is listed as a surviving
23 brother of Julia Thomas?

24 A Yes.

25 Q Okay. So he is also a brother?

1 A No. He's not. He's a brother -- see, he's a brother --
2 if you, if you look at Ms. Victoria Gadson's obituary it tells
3 exactly who her children and James Gadson children was. Those
4 individuals that you're asking about now are individuals where
5 John had, not with my father, he had about, he had two
6 sisters, one brother. I think it was two sisters and one
7 brother, and John had the lady from Santee to do the obituary
8 and she put them in there but we didn't have a problem with
9 her putting them in the obituary because it didn't, it didn't
10 really matter.

11 Q Okay. Helen Boone?

12 A That's John's sister, that's one of the females I was
13 talking about from Philadelphia.

14 Q Okay. So John's sister would also be your half sister?

15 A Oh, no, sir. She's not, she's not related to me at all.

16 Q Okay. But in here it says that she was a sister to Julia
17 Thomas?

18 A Right. I mean, but she's not, she's not a blood sister
19 to Julia Thomas. She's a sister through John. They're not,
20 they're not -- they live in Philadelphia. They're not even --
21 my father are -- all three of them -- all four of them have
22 the same mother. No woman ever had two children from my
23 father. That's why when you asked me -- he asked me the
24 question earlier I answered the way I did because, you know,
25 you can't ever say who is who, but those three individuals had

1 the same mother of John. They, they left -- when John mother
2 had John they left and went to Philadelphia and John stayed
3 here with this grandmother. But they --

4 Q Okay. So they were not James's children?

5 A No, sir.

6 Q Okay. And then Edna Lowe?

7 A Edna Lowe is John's sister.

8 Q Okay.

9 A All them belong to John, to John's mother.

10 Q Now, Mr. Singleton, you were involved in the probate of
11 the estate of James Gadson; correct?

12 A Yes, sir. I was.

13 Q And I'm showing you a document and asking did -- would
14 you have ever seen that document?

15 A Yes, sir.

16 Q Okay.

17 MR. BAXTER: Now, Your Honor, at this time that is
18 actually a attested copy from the Probate Court, and I would,
19 I would move to introduce it, not only through his testimony
20 but also as a public record.

21 THE COURT: All right. Let's get it marked for
22 identification. That would be Defense Exhibit One?

23 MR. BAXTER: Oh, excuse me.

24 REPORTER: 41.

25 MR. BAXTER: 41.

1 THE COURT: Defense Exhibit 41. All right any objection?

2 MR. HENRY: No objection.

3 THE COURT: All right. Defendant's Exhibit 41 admitted
4 into evidence without objection.

5 (Defendant's Exhibit Number 41 [Probate Records] admitted
6 into evidence and appropriately marked.)

7 BY MR. BAXTER:

8 Q And at least according to that document, which was filed
9 with the Probate Court, Alvin Singleton Walker is shown as a
10 son of James Gadson?

11 A Yes, sir. Not -- yes, sir. But Alvin, I, I don't, I
12 don't know why his -- because his name is not Singleton, but
13 yes, sir.

14 Q So at the time of your father's death John Gadson was
15 alive?

16 A Yes, sir.

17 Q Okay. Julia was alive?

18 A Yes, sir.

19 Q And Alvin was alive?

20 A Yes, sir.

21 Q And Maurice or Trevis was alive?

22 A Yes, sir.

23 Q And then at the time of Julia's death, which was on May
24 5th of 2009, and I'm, I'm -- there, there, there's some other
25 people that you indicated may or may not have been brothers or

1 sisters, but the ones that you agree and at least according to
2 the documents we have that were siblings of hers that were
3 alive, John was alive when Julia died?

4 A Yes.

5 Q You were alive when Julia died; is that correct?

6 A Yes, sir.

7 Q Maurice was alive when Julia died?

8 A Well, now, when, when you talking about Julia, Ms. Julia,
9 Ms. Victoria.

10 Q No. No. No.

11 A No.

12 Q When, when Julia Thomas died --

13 A Right.

14 Q -- John Gadson was alive?

15 A Yes, sir.

16 Q You were alive obviously?

17 A Yes, sir.

18 Q Alvin Singleton Walker was alive?

19 A Yes, sir.

20 Q And Maurice was alive?

21 A Yes, sir.

22 Q Okay. So at the time she was -- you agree that at least
23 John and you and Maurice, who was an adopted sibling, and
24 Alvin Singleton who may or may not have been related were
25 alive?

1 A Oh, yes, sir.

2 Q Now, in the -- when your father died, he left a will;
3 correct?

4 A Yes, sir.

5 Q And he had actually, before he died he had conveyed some
6 property to you; correct?

7 A Before, before he died.

8 Q Before he died he had conveyed some property to you?

9 A Conveyed some property to me?

10 Q Right.

11 A I, I bought some property from him. He had, he, he had
12 asked me what do I -- what did I want him to leave me in his
13 will far as property is concerned, and I asked him to, to
14 allow me to buy the property that was owned by my grandmother,
15 and I think it was my grandmother and Raleigh Dross [spelled
16 phonetically] who -- from, from my remembrance it was my
17 grandmother and my uncle.

18 Q Okay. So before your father died, and this was outside
19 the will, you bought some -- there was some property you
20 wanted you bought from him; correct?

21 A Yes, sir.

22 Q Okay. Now, and were you involved in your father's, your
23 father's will being prepared? You are aware he had a will?

24 A Well, I, I was involved. What it, what it was it was two
25 wills. The first will was done by O'Donnell, Robert

1 O'Donnell. He asked -- that's when my father asked me what
2 did I want him to, to leave me, and I asked him, I just -- I
3 said allow me to buy the two properties that, that I want
4 because we had other siblings and I know how that is and then
5 I, I -- he, he, he, he wrote the will and I was supposed to
6 get the -- I had invested about \$78,000 in his building, and I
7 was supposed to get that back if he died through running it,
8 but I told him I didn't want the property. That was the first
9 will. The second will that was done I found out about that
10 after he had died. The first will, I think when you -- if you
11 get it from O'Donnell I think the, the, the house went to
12 Julia Thomas. The club went to John Gadson with a stipulation
13 that I would be able to run it and get the money back that I
14 invested in it and also the house on Emanuel Street he, which
15 was my grandmother's house, he wanted me to and I told him I
16 didn't want to because I knew what my grandmother had wanted,
17 but he, he did it the way he did it because he said that Alvin
18 Walker wasn't his son and, and I -- but, but a second will was
19 written.

20 Q I'm, I'm going to show you a document and ask if you
21 could identify that, please. Is it -- is this the second
22 will?

23 A Yes, sir.

24 Q Okay. And this was the will that would have been in
25 effect when your father died?

1 A When you say been in effect, you --

2 Q Well, could they -- you, you, you were involved in the
3 probate of his estate; correct?

4 A Right.

5 Q This is the will that the probate was based upon?

6 A Yeah. What I -- what -- right. The probate -- the, the
7 property these that I made was based on this will right here.

8 Q And in here it talks about conveying certain pieces of
9 property that he owned including 1929 West Front Street, which
10 is the piece of property we're here today; correct?

11 A Yes, sir.

12 Q And in the will he asked that it go to John Gadson, Julia
13 Gadson Thomas and Maurice Gadson; correct?

14 A Yes, sir.

15 Q And the -- there was actually a deed of distribution done
16 which conveyed that property to those individuals or it was
17 prepared and signed and filed with the Register of Deeds?

18 A Yes. It was prepared and signed and clocked in with the
19 Register of Deeds.

20 Q Okay. And I'm showing you what has been marked as
21 Defendant's Exhibit Number 42 and ask you if you can identify
22 that document?

23 A Yes, sir.

24 Q Okay. And this deed of distribution deals with 1929
25 Front Street; correct?

1 A That's correct.

2 Q And it shows that it's being conveyed to Julia Thomas,
3 John L. Gadson and Trevis M. Gadson; correct?

4 A Yes, sir.

5 Q Okay. I'm showing you what has been marked as
6 Defendant's Exhibit Number 43 and ask you if you can identify
7 that document, please, sir?

8 A Yes, sir.

9 Q Okay. And is that a -- that is the -- what is that
10 document?

11 A This is a document that shows the, the land that he owns,
12 the stocks and bond that he had, the cash on hand and the
13 Allied Insurance that he, that he had.

14 Q And is that commonly referred to as a, a final
15 accounting?

16 A Yes, sir. Yes, sir. This is.

17 Q And, and this document basically it's kind of the last
18 thing filed with the Probate Court saying this is what came in
19 and this is what came out and we end up with zero when it's
20 all said and done?

21 A I don't know about ending up with zero, but --

22 Q Okay. Look, look on there on the first page it's got an
23 ending balance of zero?

24 A Okay.

25 Q And it shows that total property coming in of 70,288.34

1 and then all that was property, cash and everything. That was
2 distributed to the individuals per the will; correct?

3 A Yes. Yes.

4 Q And I'm showing you what --

5 MR. BAXTER: Your Honor, at this time we'd move to
6 introduce Defendant's Exhibit Number Three, which is -- he's
7 identified it, plus it's a true and correct copy attested by
8 the Probate Court.

9 THE COURT: What exhibit is it?

10 MR. BAXTER: 40 -- excuse me, 43.

11 THE COURT: 43.

12 MR. BAXTER: Well, collectively I would -- I'd move to
13 introduce, just in case they're in or not, 41, 42 and 43.

14 THE COURT: Okay. I've got 41 is in.

15 MR. BAXTER: Okay. 42 is the deed of distribution. 43
16 is the final accounting.

17 THE COURT: All right. Any objections to Defense
18 Exhibits 42 or 43?

19 MR. HENRY: No objection.

20 THE COURT: All right. Defendant's Exhibit 42 and
21 Defendant's Exhibit 43 admitted into evidence without
22 objection.

23 (Defendant's Exhibit 42 [Deed of Distribution] and
24 Defendant's Exhibit 43 [Final Accounting] admitted into
25 evidence and appropriately marked.)

1 BY MR. BAXTER:

2 Q Now, Mr. Singleton, I'm showing you what has been marked
3 as Defendant's Exhibit Number 44 and ask if you can identify
4 that?

5 A Yes, sir.

6 Q Now, and this is an inventory and appraisal; correct?

7 A Inventory what?

8 Q Inventory and appraisal; correct?

9 A This is an inventory and, and, and what they have on the,
10 on the cards when you, when you, when you, when you deal with
11 property you go and you look, for instance, you go on the card
12 and then you'll see what the value of it is based on what they
13 have and then you put it on here. For instance, the -- and
14 you have to use what's on the card. Like the building down
15 the street that I said I, and we have the copy of it there, I
16 said I spent the \$78,000 on, the, the card before I spent it
17 it had 30,000 on it. After I spent the money and remodeled it
18 it still had 30,000 on it. So you'll see that they didn't
19 even -- they don't upgrade even when you spend money on it.
20 So in order -- when you deal with the court you got to put
21 what's on the card whether you agree or disagree.

22 Q Okay. And that's not my question. Your, your -- on
23 here, one thing it, it, it shows the value, tax assessor's
24 fair market value for the building at 1929 Front Street;
25 correct?

1 A Yes, sir.

2 Q Okay. And it shows it as being \$21,887; correct?

3 A Let me see. Yes, sir. That's what they had on it.

4 Q But, and now, my questions to you are the -- all of the
5 property that was owned by your father at the time of his
6 death, including whatever interest he had in 1929 Front
7 Street, went through the Probate Court; correct?

8 A No, sir. The -- three of them went through the Probate
9 Court. One of them they wouldn't allow. The one on 1929
10 Front Street they stopped -- they wouldn't even allow that to
11 be probated.

12 Q Okay. Who?

13 A But the, but the other three went through the Probate
14 Court and deeds were issued, but the one at 1929 Front Street
15 never went through -- they didn't allow it to go through
16 probate.

17 Q And why is that?

18 A They didn't allow it because when Victoria Gadson, my
19 stepmother, died, my father never -- never transferred the
20 property after she passed from her to him. So their, their
21 view of it was he never had -- he never transferred to him to
22 own to -- for it to be disbursed to those in his will. So
23 they didn't probate -- they did not allow that property to be
24 probated because it was still in Victoria Gadson's name up
25 until right before my sister passed.

1 Q Okay. So your position is is that your father, James,
2 did not have any ownership in 1929 Front Street?

3 A Well, at -- that's the position -- that's the position of
4 the Court. You know, it's, it's hard for me to say what, what
5 I -- if you want to know what I think is one thing, but the
6 Court said that he could not will that property to anyone.
7 They was not going to probate it because they said legally he
8 could not -- that property could not be transferred to anyone
9 because far as they were concerned he never owned it because
10 he didn't transfer it and I, I can't say whether or not that.

11 Q Let me -- you, you would agree that whatever ownership
12 interest he had was conveyed to Julia Thomas, John Gadson and
13 Trevis M. Gadson, whether he had a little bit or a lot,
14 whatever he had was conveyed through the Probate Court?

15 A Well, you know, it's hard for me to agree with something.
16 The, the Judge said earlier that he has to -- that they have
17 to deal with the law, that he -- the jury has to deal with the
18 law. So what you're asking me to do right now is go outside
19 the law and tell you what I, what I would agree on. The Court
20 said that the property could not be transferred and, and even
21 though I, even though I might have thought, I, I thought, if
22 you want to ask me what I thought, I thought that, and I told
23 them when I got them together before I probated my father
24 will, I thought that because Victoria Gadson was my sister's
25 mother and she came home from New York for 20 years, stop her

1 job to take care of her and take care of my father when he had
2 a stroke, I thought that she should have had the house, but my
3 brother, because he married her mother, not his mother, didn't
4 agree with it, but then the Court did not allow it to go
5 through. So what I think is, I think that, that God allow it
6 to stop there because he was wealthy. He lived in Wyncote
7 right next to Staple Singers. He didn't need the house. It
8 was an envy and jealousy thing. So what I think and what the
9 Court think might be two different things.

10 Q Let me ask you this. Irregardless, if I go down to the
11 Probate Court, the file is closed out; correct?

12 A The file is closed out?

13 Q The probate file, your father's probate file is closed
14 and ended; correct?

15 A Well, I could say this, the, the three properties that I
16 filed was transferred. The other one was never transferred,
17 and because it was still in Victoria Gadson name. So actually
18 if you ask me the question he only owned three of them. So,
19 yes, it was completed.

20 Q Okay. But the, the final accounting was filed showing
21 that all -- any assets of the estate that came in were
22 distributed per the final accounting; correct?

23 A Any assets?

24 Q Any, any assets your father had when he died came into
25 the estate and were paid out per his will; correct?

1 A Far as financially?

2 Q Everything.

3 A Yes. No. Not the property. Not, not the property in --
4 the property here on -- see, the property that you asked me
5 about that you said the card shows for 21,887, no, sir. That
6 was not -- that was, that was never issued. I thought -- see,
7 when this was completed I did not know that the Court was
8 going to deny this property at 1929 Front Street. So as far
9 as this paper right here is concerned it would appear as
10 though it was, but the Court denied this one at 1929 Front
11 Street. They said. So in actuality I thought it was but the
12 Court said it wasn't.

13 Q Well, let me -- all the paperwork shows that the -- it
14 was. You would agree with all the paperwork from the Probate
15 Court shows that that property came in and went out of the
16 estate and there's a deed in distribution. It's on file with
17 the Probate Court and also on file with the Register of Deeds;
18 correct? You would agree with that?

19 A I would, I would agree with, so, so you understand, I
20 would agree that the three properties that he had was issued
21 out. One -- the other property was clocked in, but it was
22 never distributed to the individuals. So, yes, three of them
23 was, but, but the contents and the things at 1929 Front Street
24 I can't agree that that was because the Court would not allow
25 it to be distributed. This is something here that I filled

1 out for the Court to have, so they -- so it could be
2 distributed, but I couldn't force them to do what's on here.
3 The only thing I could do is fill it out, give it to the
4 Probate Court and the Probate Court clocked it in, but they
5 denied the property at 1929 Front Street.

6 Q Okay. Who is they?

7 A The Probate Court. They would not allow it to go
8 through. That's who probates any will.

9 Q Okay. Well, let me -- it -- but it went through per the
10 paperwork; correct? You've got --

11 A It clear -- it was clocked in, but I can't say it went
12 through but it was clocked in.

13 Q Okay. It was clocked in. It was signed by whoever at
14 the Probate Court?

15 A It was clocked in and signed by where you go and do
16 deeds.

17 Q Okay. But let me ask you this.

18 A The Register of Deeds.

19 Q The, the final accounting you took the deed of
20 distribution and recorded it with the Register of Deeds Office
21 on July 17th, 1998 at 2:50 p.m.; would you agree with that?

22 A Yes, sir.

23 Q Okay.

24 A I had it clocked in. Yes, sir.

25 Q That's what's on the document?

1 A Yes, sir.

2 Q You then went to the Probate Court and filed on the same
3 date at 3:11 p.m. the final accounting showing that all the
4 money was out of the estate, it was, it was signed by John and
5 Julia but you actually --

6 A Right.

7 Q -- physically took that and filed it; correct?

8 A I -- it -- right. It was taken because we thought that
9 it was because we assumed that it was going to be because once
10 you do the deeds and everything you have to, you have to do
11 this in case it go through, but you never know whether it's
12 going to go through or not. You can't -- you have to do both
13 of them but it just happened that it didn't go through.

14 Q Let me ask you this. And this, actually, this was at the
15 old courthouse back in, you know, you couldn't do it that
16 quickly today but back then you got the Register of Deeds
17 right around the corner from where the Probate Court or
18 actually the Probate Court was on the second floor and
19 Register of Deeds was on the first floor; correct, the old
20 courthouse?

21 A I think it, I think it was, if I remember correctly.

22 Q And so you took and filed this at 2:50 and then 20
23 minutes, 21 minutes later you went and filed the final
24 paperwork with the Probate Court?

25 A Yeah. That's how you do it.

1 Q Now, irregardless, under the will you were not to receive
2 any interest that your father had in 1929 Front Street;
3 correct? That was to go to Julia, John and Trevis?

4 A Right. If he, if he owned it I wasn't to receive
5 anything from that.

6 Q Now, the -- and, and I'm going to actually just so it
7 kind of flows, I'm going to have some duplicate exhibits.

8 MR. HENRY: Your Honor, may we approach?

9 THE COURT: All right. Come on up.

10 (Whereupon, a bench conference is held in the presence,
11 but out of the hearing of the jury.).

12 THE COURT: All right. Let's go on with direct, with the
13 cross examination. Go ahead and continue. Let me see the
14 attorneys back up here for a second.

15 (Whereupon, a bench conference is held in the presence,
16 but out of the hearing of the jury.)

17 THE COURT: All right. Ladies and gentlemen, we've,
18 we've been going at it a while. We're going to go ahead and
19 break for the day. I'm going to allow you to go home. We'll
20 resume with this witness tomorrow when we come back. Leave
21 your notepads in your seat. We'll collect them and we'll give
22 them back out to you tomorrow. Do not discuss the case even
23 among yourselves. Don't conduct any independent investigation
24 into the case. I'm going to ask that you please be back in
25 the jury room at about 9:15 tomorrow morning. I'll try to

1 take the bench at 9:30 or as soon thereafter as we can, give
2 you an opportunity to get some coffee, whatever the case may
3 be. Hope everybody has a good evening and we'll see you back
4 at 9:15 tomorrow morning. Thank you very much.

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right. Mr. Singleton, we are still in
8 the middle of your testimony.

9 A Yes, sir.

10 THE COURT: So the law requires that you cannot discuss
11 your testimony with anyone, whether it be what you've
12 testified to thus far or what you anticipate testifying to in
13 the future. Okay?

14 A Yes, sir.

15 THE COURT: All right. Also, for the attorneys, let's
16 get here -- I want you all to get here -- what time do you
17 want them here? Things are being slowed down because multiple
18 pages are being handed to Grace, and she's having to staple
19 them together, mark them for identification and all of that
20 and it's holding it up. So I want you all to get here and get
21 your exhibit. If you've got one exhibit, staple it together
22 so that she doesn't have to do it and get those prepared or
23 let -- I don't know if you want to get here early or you if
24 you want to do it overnight or however you want to do it, but
25 from now on when you hand up an exhibit let's don't make the

1 court reporter staple it all together before we proceed.

2 Okay. All right. Anything further from the Plaintiff before
3 we break for the evening?

4 MR. HENRY: How does the Court want to deal with the
5 issue that I raised about this exhibit?

6 THE COURT: All right. Go ahead and state your --
7 whatever -- I don't -- I couldn't tell whether this was a
8 motion or what it was that you were, you were stating up here
9 at the sidebar. I understand you said there is some
10 irregularities with the deed of distribution.

11 MR. HENRY: Yes, sir.

12 THE COURT: But you didn't state how you knew it was an
13 irregularity and what it meant and what you wanted the Court
14 to do. So let me hear from you.

15 MR. HENRY: Well, I think it calls into question the
16 authenticity of the document.

17 THE COURT: All right. What calls into question?

18 MR. HENRY: If I can see the original exhibit I might be
19 able to see it better. On this exhibit or on this copy it
20 appears that the property that's being -- that the recording
21 is on page 84 for the page numbering for the recorded deed,
22 and that's on page one of the document up at the top. Looks
23 like it says page 84, Book 8 --

24 THE COURT: All right. What are you referring to?

25 MR. HENRY: Okay.

1 THE COURT: Defendant's Exhibit what?

2 MR. HENRY: What's that exhibit number?

3 MR. BAXTER: 42.

4 MR. HENRY: 42.

5 THE COURT: All right. Defendant's Exhibit 42 and that
6 was authenticated.

7 MR. HENRY: If you look at the very top of the document
8 the numbers are cut off a little bit but it appears that it's
9 saying that it's recorded in book deed, deed looks like page
10 -- at Book 885 and at, at the top of the page it appears to
11 say it's page 84. When you go to the second page it says it's
12 in Book 885 page 85A and then you drop down to the bottom of
13 that same page, page two, and it looks like it's saying it's
14 registered in Book 885 at page 85, page one.

15 THE COURT: All right. Let me see the -- no. Let me see
16 the exhibit.

17 MR. HENRY: Then there's no name in the probate but yet
18 it's notarized.

19 THE COURT: All right. Probate -- Defendant's Exhibit
20 42, which I have was admitted into evidence without objection,
21 it's just the recording information at the top has been cut
22 off, but the recorded document says it was recorded at Book
23 885 at page 84.

24 MR. HENRY: But if you look at the very top of page one
25 it looks like that's an 84 for the page number.

1 THE COURT: Right. It's recorded in Book 885 at page 84.
2 That says B 885 P 84.

3 MR. HENRY: Right.

4 THE COURT: Then you turn over to the next page and it
5 says B 885 P 85A. So it was -- the next is page -- is Book
6 885 page 85A.

7 MR. HENRY: And go to the bottom of that page, second
8 page and it says Book 885 Page 85 then page one.

9 THE COURT: Right. That's the recorded. When you record
10 it, then you stick it in and it clocks it.

11 MR. HENRY: But also if you look at the probate no one
12 filled out the probate, and the deed was recorded without --
13 with, with a notarization of a signature, of a, of a signature
14 that does not appear.

15 THE COURT: So what is it you're asking me to do?

16 MR. HENRY: This document is irregular.

17 THE COURT: So what are you asking me to do?

18 MR. HENRY: I'm asking the Court to either have, to have
19 the Plaintiff -- have the Defendant withdraw this document or
20 I'm going to move for a mistrial.

21 THE COURT: All right. I overrule your objection. It
22 was admitted into evidence without objection, and I'm not
23 going to grant a mistrial because I don't see an irregularity
24 on the document other than the fact that I'll admit the
25 probate section is just signed Julia Thomas, Willie Singleton

1 before a notary public who has dated it, I can't read the
2 Notary Public's signature. I don't know who that is, but the
3 other information I'll agree is not filled in, but, but it's
4 already in evidence.

5 MR. HENRY: And make a note of irregularity, of
6 irregularity noted by the Plaintiff.

7 THE COURT: All right. It's so noted. Anything further?

8 MR. HENRY: Nothing further from the Plaintiff at this
9 time.

10 THE COURT: Anything from the Defense?

11 MR. BAXTER: Nothing, Your Honor.

12 THE COURT: All right. We'll be in recess until 9:30
13 tomorrow morning. If you have anything that you need marked
14 or whatever let's get here so that.

15 (Adjourned for the day.)

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1 (On the record, January 13, 2016. The following takes
2 place outside the presence of the jury.)

3 THE COURT: All right. Anything from the Plaintiff
4 before we bring the jury in?

5 MR. HENRY: Yes, Your Honor.

6 THE COURT: All right.

7 MR. HENRY: On yesterday Mr. Singleton was not allowed to
8 testify regarding values for the house and the contents. The
9 -- one of the things that needs to be brought up is that in
10 the pleadings themselves there was a statement of value for
11 the -- for the items lost and the house. The pleadings were
12 drawn up during the lifetime of Julia Gadson. That is Julia
13 Gadson's statement of the value of her property, and we would
14 move to have that entered into the record.

15 THE COURT: All right. Was that allegation admitted or
16 denied in the answer?

17 MR. BAXTER: I, I was unaware it was in the complaint.

18 THE COURT: Well, let me --

19 MR. HENRY: And there was a verified -- there was a
20 verified tort claim also.

21 THE COURT: Let me see. Hold for a second. Where is it
22 in the complaint, what allegation?

23 MR. HENRY: Beg the Court's indulgence. Let me pull the
24 summons and complaint.

25 MR. BAXTER: Well, the only numbers are what he asked for

1 in the prayer.

2 THE COURT: In the prayer for relief. No. I thought he
3 said there was an allegation that set forth the value of the
4 house.

5 MR. HENRY: Let me make sure, make sure I didn't misstate
6 that, Judge, but I think there was a claim for the value of
7 the house in the -- no. I'm sorry. I misspoke. That's in --
8 that's actually in her tort claim, verified tort claim is what
9 stated the value of the house. These are allegations that were
10 made on behalf of Julia Gadson which she would have had the
11 right to make as the owner of the property. That information
12 then should have been allowed to be put into the record as her
13 claim for the values of the things that she lost.

14 THE COURT: Where is the verified tort claim?

15 MR. HENRY: We offered that into evidence on yesterday,
16 and I think the Court did not allow it to be put in. I'm
17 trying to find the copy I had on yesterday that we offered.

18 THE COURT: Have you got it? Wait. She's got it right
19 here. I mean, what is a verified tort claim?

20 MR. HENRY: A verified tort claim is a verified -- when,
21 when you have a claim against a governmental entity, the
22 statute of limitations on claims against the government is two
23 years ordinarily. There's a provision in the code that says
24 if you make a verified claim, in other words, you state what
25 the problem is that you experienced with the entity, state

1 what it is that you lost and what you think it's worth, and
2 you do that a -- and you verify that and file it with the
3 governmental entity that extends the statutory time for filing
4 a suit to three years.

5 THE COURT: All right. Well, now, here it --

6 MR. HENRY: So you have to basically put the entity on
7 notice that you are claiming damages as a result of some
8 conduct they engaged in.

9 THE COURT: And I've got this Plaintiff's Exhibit 16.
10 Show me where you're talking about because this is a verified
11 tort claim of Willie Singleton.

12 MR. HENRY: And that verified --

13 THE COURT: It says the undersigned affiant and it's
14 signed by him and it doesn't mention Julia.

15 MR. HENRY: He was pursuing this on Julia's behalf.

16 THE COURT: Where it says that? Tell me where it says
17 he's pursuing that on her behalf.

18 MR. HENRY: The only way he was able to file this is he
19 had that -- had the power of attorney for her. He was
20 pursuing her interest.

21 THE COURT: Okay. I deny it. Unless you can show me in
22 there where he's pursuing it on her behalf because that says
23 the undersigned affiant.

24 MR. HENRY: That's right.

25 THE COURT: Willie Singleton.

1 MR. HENRY: Who was power of attorney at the time for
2 Julia.

3 THE COURT: Okay. I understand your argument. I think
4 -- I don't think you're correct on that. I'm going to deny
5 your motion.

6 MR. HENRY: Okay. I want, I want to make a proffer on
7 this and then you can -- I just want to make -- preserve this
8 for the record.

9 THE COURT: Any objection? I denied Plaintiff's Exhibit
10 16. Any objection to him proffering it?

11 MR. BAXTER: No, Your Honor, and just one, one thing for
12 clarification. The, the statute says that it extends the
13 statute of limitations if the claim is filed within one year.
14 This was filed -- this is dated May 15th of 2008. The house
15 was torn down in April of 2007. So I just want to make sure -
16 - we don't, we don't even agree that this would extend the,
17 the statute of limitations because it wasn't filed, it wasn't
18 properly submitted, but --

19 THE COURT: All right.

20 MR. BAXTER: -- but we, we agree with your ruling that
21 it's not.

22 THE COURT: Okay. All right. Well, it's marked for
23 identification. It'll be held with the court reporter. So
24 it'll, it'll be proffered, but it won't go to the jury.

25 MR. HENRY: Well, I'm not saying give it to the jury.

1 THE COURT: Yeah.

2 MR. HENRY: I'm saying I want to make a proffer to
3 preserve the fact that we're offering this as one of the
4 indicia of value for the items that Mr. Singleton has sued
5 over.

6 THE COURT: Okay. And so that value and I didn't even
7 take a look at it. That values the --

8 MR. HENRY: There was a list of items.

9 THE COURT: -- the residence at 230,000. That's what he
10 testified to.

11 MR. HENRY: Right.

12 THE COURT: So it's 230,000.

13 MR. BAXTER: It's actually 250.

14 MR. HENRY: I think it's 250.

15 THE COURT: Okay. Well, his testimony was 230 so.

16 MR. HENRY: We'll go with 230.

17 THE COURT: All right. So that'll be proffered, marked
18 for identification. All right. Anything else?

19 MR. HENRY: Thank you.

20 MR. BAXTER: And Your Honor, just one other thing for the
21 record, the -- we didn't address this, but the -- all these
22 items in here say replacement costs and the law is that's not
23 the measure of damages for a situation like this. It's, it's
24 diminution in value. So it wouldn't -- it would not be
25 replacement cost, but that's just an additional grounds to

1 keep it out.

2 THE COURT: All right. So the 250 is replacement because
3 I thought his testimony was it was over 400,000 for
4 replacement.

5 MR. BAXTER: Well --

6 MR. HENRY: He said to replace it in today's market would
7 be over 400,000.

8 THE COURT: Okay. And you're saying that their verified
9 claim he's saying it would be 250.

10 MR. BAXTER: He, he -- in there it says the affiant is
11 requesting the replacement cost of the house. Its value is
12 approximately \$250,000 in today's value. So I don't think
13 either one of them is proper, but --

14 THE COURT: And I agree with you, but I'm going to let
15 him proffer it, but I think it does contradict what his
16 testimony was --

17 MR. HENRY: That was what he was saying --

18 THE COURT: -- when he proffered it.

19 MR. HENRY: -- it would be worth back then.

20 THE COURT: Okay.

21 MR. HENRY: Today it's been several years since that.

22 THE COURT: All right.

23 MR. HENRY: So the market changes because the cost for
24 construction changes over the years. The square footage, the
25 square footage of the house at whatever the going rate was for

1 construction at that time was what he was basing that on. The
2 construction rate goes up, and sometimes you -- I think you
3 like a hundred and fifty -- \$100 a square foot, at I think
4 today's market might be \$100 or 125 a square foot. Back then
5 it wasn't the same as it is now. That's what he was basing
6 his pricing on.

7 THE COURT: Well, then by that rationale he's saying it's
8 almost doubled from that day, from the date of that affidavit
9 until --

10 MR. HENRY: And, and, and that's, that's a possibility
11 because the time -- it depends on what the going rate for
12 construction is that determines how much it would cost you to
13 replace it because of the square footage and the cost per
14 square foot for construction.

15 THE COURT: Okay.

16 MR. HENRY: That's what it goes by.

17 THE COURT: All right. All right. Anything further from
18 the Plaintiff before we bring the jury in?

19 MR. HENRY: And I believe since Mr. Baxter was
20 questioning Mr. Singleton about the value of the -- a value of
21 the property based on probate documents, he was asking him
22 whether those price -- whether the value placed in those
23 probate documents by Julia was actually the value of the house
24 or that's what you were claiming the value to be, I think he's
25 opened the door for Mr. Singleton to talk about the value

1 because he's asked him about it.

2 THE COURT: Okay. Let me hear from you on that, Mr.
3 Baxter.

4 MR. BAXTER: Your Honor, the -- actually the question,
5 what I was trying to establish that the -- at the time that
6 the estate had been closed out everything came through. He
7 started talking about the value. The -- my position on that
8 is at the time that document was prepared, Julia Thomas was an
9 owner of the property, and under oath she submitted that as
10 the value of the property. That does not open the door for
11 him as a non-owner to now testify as to the value of the
12 property. I mean, clearly, clearly, if Julia Thomas as the
13 owner if she met all the other criteria, I think there's got
14 to be some reasonable, rational basis that even an owner comes
15 up with. You know, the law is it says that she as the owner
16 can testify as to the value of the property. So those, those
17 are two totally separate issues. We've got a document where
18 she is an owner, clearly, of some portion of the house and she
19 gave a value --

20 THE COURT: All right.

21 MR. BAXTER: -- based upon that.

22 THE COURT: Anything in reply?

23 MR. HENRY: I think raising the issue of value at all
24 opens the door because you are asking him --

25 THE COURT: All right. I --

1 MR. HENRY: -- you -- this was a ruling the Court had
2 made that he couldn't testify about value. In cross
3 examination, the cross -- the, the attorney gets into the
4 value issue, I think he's opened that door.

5 THE COURT: Okay.

6 MR. HENRY: Because --

7 THE COURT: I understand your argument. I don't -- I
8 disagree with it though. So I'm, I'm going to overrule your
9 objection. I'm not going to let him testify to value. All
10 right. Anything else?

11 MR. HENRY: I think that'll do it.

12 THE COURT: Anything from Defense before we bring the
13 jury in?

14 MR. BAXTER: No, Your Honor.

15 THE COURT: All right. Let's go ahead, Mr. Singleton, if
16 you'll come back and take the stand. Now, what I'm -- what
17 I'm going to do, and you, you can just stand at your seat when
18 the jury comes back in, but since it's a new day I'm going to
19 put you under oath again. We'll just re-swear the juror [sic]
20 and then resume with cross examination, but since it's a new
21 day. Yeah. We'll need to hand out their notepads when they
22 come in. Thank you for reminding me of that. All right.
23 Let's go ahead and bring the jury in.

24 (Whereupon, the following takes place in the presence of
25 the jury.)

1 THE COURT: All right. Ladies and gentlemen, welcome
2 back. I hope everyone had a good evening. We're ready to
3 resume the trial of the case. Before we move forward though
4 I'm going to ask the bailiff to hand out your notepads.
5 Please make sure that you get your own notepad and no one
6 else's.

7 All right. Yeah. Anybody that -- as a matter of a fact,
8 you can just give everyone a pad.

9 BAILIFF: Okay.

10 THE COURT: And then if they want to take notes they can
11 do it. If they don't want to take notes, they don't need to,
12 but they'll have it in their possession if they choose to.
13 Just make sure that if you take notes that you write your name
14 on the front of it so that you get yours back.

15 All right. Does everybody have their own notepad? All
16 right. Good. All right. Since this is a new day, let's go
17 ahead and put Mr. Singleton under oath again, please. Please
18 raise your right hand.

19 Whereupon, Willie Singleton is called to the stand, duly
20 sworn by the clerk and testified as follows:

21 THE COURT: All right. All right. Ladies and gentlemen,
22 we were in the middle of cross examination. Mr. Baxter, you
23 can continue with your cross examination.

24 CROSS EXAMINATION (CONTINUED)

25 BY MR. BAXTER:

1 Q Mr. Singleton, I am going to hand you a, a series of
2 documents which have been marked as Defendant's Exhibit Number
3 45, 46, 47, 48, 49, 50, 51 and 52.

4 A Yes.

5 Q And, and you're familiar with all those documents?

6 A Yes.

7 Q Okay. In fact, I think all or most of them are already
8 been introduced; correct?

9 A I'm not sure if they've been introduced but I'm familiar
10 with all of them.

11 Q Okay. Now, the first one, which is Number 42, is the --

12 THE COURT: Excuse me. 42?

13 MR. BAXTER: Yes. I believe.

14 THE COURT: Is that right?

15 MR. BAXTER: Oh. Wait.

16 A I got 45.

17 Q Excuse me. Okay. 45. That is the letter that was sent
18 by Jason Goude on May 31st of 2006; correct?

19 A That's correct.

20 Q Okay. And that letter and also the July 7th letter as --
21 and I believe the -- well, those two letters were actually
22 mailed to Victoria Gadson at 7764 Clements Road in Wyncote,
23 Pennsylvania; correct?

24 A That's correct.

25 Q And at the time the tax records would reflect that

1 Victoria Gadson was the owner of the property?

2 A That's correct.

3 Q And the address given with the tax records was the
4 Pennsylvania address; correct?

5 A That's correct.

6 Q And that's where, I believe, your brother John lived at
7 the time?

8 A That is correct.

9 Q And even though Victoria was dead, the, the, the family's
10 agreement was that the tax bills would go to John in
11 Pennsylvania?

12 A That's correct.

13 Q And these letters, to your knowledge, went to John and
14 then he then notified you that he had received these letters;
15 correct?

16 A Yes. He did.

17 Q Okay. And then Exhibit 46 is the July 7th of 2006, letter
18 that was sent to your brother in Pennsylvania; correct?

19 A That's correct.

20 Q So the first one said, [as read], "Subject property cited
21 above has been declared unsafe due to inadequate maintenance.
22 Please contact us within 30 days"?

23 A That's correct.

24 Q And then the next letter said kind of a little bit
25 stronger letter, you know, "Please, we've identified this as

1 an unsafe house, something needs to be done about it";

2 correct?

3 A Let me, let me make sure of this. I notice that it says
4 that the structure must be made safe, taken down immediately.

5 Q Right. Okay. But I'm saying it -- continuation, a
6 little bit stronger letter than the last one.

7 A Right. But I just read the language because of --

8 Q Okay.

9 A -- of --

10 Q And --

11 A -- because it's against the law for what he said.

12 Q But, but nothing he said in here was incorrect factually?

13 A It is, it is -- it isn't correct. It isn't correct.

14 When a building is unsafe you cannot take a building down.

15 Q Okay. But I'm talking about factually, the building, the
16 condition -- let's, let's --

17 A But what, what are you asking me? I don't understand.

18 You --

19 Q Okay. I, I withdraw that question. Okay. You then went
20 at some point in time after the -- one or both of those
21 letters came in and submitted a building permit application;
22 correct?

23 A Yes, sir.

24 Q 2006?

25 A Yes, sir.

1 Q And for that one you said roof, two doors and one window?

2 A That is, that is correct.

3 Q And the estimated value -- you can -- it's very faint,
4 but the estimated value was \$3000?

5 A Yes, sir.

6 Q Okay. And that one was either denied or you never got a
7 response or nothing was ever done with that particular
8 building permit; correct?

9 A Right. They never, they never responded.

10 Q Okay. And then exhibit, the December 8th, 2006, which is
11 Exhibit --

12 MR. BAXTER: May I, Your Honor?

13 THE COURT: Yeah. That's fine.

14 BY MR. BAXTER:

15 Q Which is Number 48, this was the December 8th, 2006,
16 letter from Stephen Stack, again notifying that the subject
17 had been declared unsafe due to inadequate maintenance.
18 That's what it stated?

19 A Right. But what, what, what this is the final notice and
20 it says that 60 days and nobody hadn't respond. So therefore,
21 that contradicts this building permit that you just had me to
22 read off. So, so even this letter was improper because what
23 this, what this letter you just gave me said is this, it says
24 that, [as read], "The City of Georgetown Building Department
25 is hereby serving notice that the subject property cited above

1 has been declared unsafe due to inadequate maintenance. A
2 notice was sent out May the 31st, 2006, stating that the
3 affirmative action regarding this issue must take place within
4 30 days. A second notice was sent out July 15th, 2006. This
5 property has also been posted on a -- on site as unsafe
6 structure. At least 60 days has expired without anyone
7 notifying the City of Georgetown, and this is the final
8 notice," and that's not correct because in between that --
9 this time I had even -- before the final notice I did two
10 building permits. This was the first one before the final
11 notice, and when he didn't respond to this, I filled out
12 another building permit that's on file, and I, and I went up
13 even though I was doing the work myself I put \$8000. It says
14 I was going to do the roof because the first one, the porch,
15 on the porch was leaking. All right. I said I was going to
16 do the roof. I was going to do the windows. I was going to
17 do the floor and I was going to do the sills. All that was
18 given before this final notice. So when this letter right
19 here is, is, is contradicting the fact that I had already
20 filled out two building permits for him to say that nobody
21 hadn't respond. See, so, this, this is incorrect. Even
22 though he sent it out he, he was lying. I mean, this letter
23 is not, this letter is not true. Even on my statement
24 yesterday it shows that I filled out two building permit
25 saying I would do the roof, the floors, the roof, the floors,

1 the windows, doors and I offered to hire an architect to get a
2 list before he, before he even did this final notice unsafe.
3 So the chronological order is, is incorrect.

4 Q Well, the -- and, and actually the building permit for
5 the sill came after that letter. That was in March 2007?

6 A No, no, sir. No, sir. This is the final -- no, sir.
7 The -- you can get it out the record and deal with the dates
8 but I filled out -- I did not -- a building permit and offered
9 to, to get the architect on, on this house before it was torn
10 down, and the second building permit definitely was before the
11 final notice because he shouldn't have sent this final notice
12 saying I hadn't respond at all because even if I had just done
13 one building permit this letter would be incorrect. Just the
14 building permit that you had me to read off just now says this
15 letter's incorrect.

16 Q Well, but I guess my question is notices were sent and
17 received that the City's position was that the structure was
18 unsafe and was going to be demolished. Would you agree with
19 that regardless of your opinion as to --

20 A No, sir. No, sir. The -- it, it was -- this is what it
21 says. It says that -- what it said, it's on file. It said
22 that the, the building was unsafe. It was already -- it
23 already had the doors and the windows nailed up. If you
24 notice the first one, the second building permit said for --
25 the second letter from Goss [spelled phonetically] or

1 whatever, the, the building official, he said if it was not
2 made unsafe. You said the, you said the language was stronger.
3 If it's not made safe he would demolish it. So we read, we
4 read it out the paperwork yesterday unsafe -- when you got it
5 -- to make it safe, all you have to do is put something over
6 the doors and the windows to stop entrance. So once you've
7 done that then you negate the part about tearing it down. So
8 I had already done that all the time. So if you go back and
9 read those letters that in the file Stephen Stack said he was
10 going to start. See? See, if you read, if you, if you go
11 on and you read, read it this is what it says. He said, [as
12 read], "Therefore, the City of Georgetown Building Department
13 is taking the necessary actions to condemn this structure."
14 So see, right there it says that he's getting ready to go
15 through the condemnation process. So even though he sent this
16 final notice, what this is saying right here is that he was
17 getting ready to get a list, give me the list and take me
18 through the condemnation process, and he never did because if
19 you check the record right after this they demolished the
20 house. So this letter is incorrect in that way also. Not
21 only that he's saying that I did not respond, he's also saying
22 that, "I'm going to take the building through the condemnation
23 process." So this letter is saying that he had knowledge of
24 the law, that he knew he was supposed to take that building
25 through the condemnation process and he never did.

1 Q Simple question, yes or no, you received those letters
2 giving you notification of what the City's position is,
3 whether you agree with their position or don't agree, you
4 received those notices; correct?

5 A This notice right here, I don't know why he did it like
6 this. This notice right here, I receive a notice but I didn't
7 receive this notice. This notice is to, to, to, to Ms.
8 Gadson.

9 Q Okay.

10 A All right. But I, I, I received notices and I respond to
11 each one of them.

12 Q Okay. My, my -- yes or no. Did you receive those
13 letters? Did you physically read those letters at some point
14 in time before the house was demolished?

15 A Oh, yes, sir. I read, I read it and respond.

16 Q Okay. That -- I'm not -- whether you agree with it or
17 not, you received all those letters?

18 A I didn't say I disagree. I said I received them and
19 respond. I didn't say I disagree with them.

20 Q Okay. Now, the next is Number 49; correct?

21 A Yes, sir.

22 Q Okay. And that is actually a letter you wrote in
23 response to the December 2006 final notice; correct?

24 A Let me read it, please. Let me see. No, sir. I think
25 this is after a meeting that I had with Stephen Stack and then

1 I wrote the mayor, and I wrote the building inspectors and,
2 and whatever. I don't, I don't -- this is not for -- after
3 the final notice. No. This is, this is describing -- I, I
4 told to you that I spoke to Stephen Stack.

5 Q Right.

6 A And I explained to him about the 1986 Abatement Code.
7 That was a meeting that I had with him. So I'm not sure what
8 the date, but I, I, I did write this if that's what you want
9 to know.

10 Q Okay. But my, my question is after the December 2006
11 letter you met with Steve Stack and you sent this handwritten
12 letter, after the letter of December of 2006. I'm just trying
13 to get the sequence of events here.

14 A Right. After I met with Stephen Stack. Let me, let me
15 make sure the date's correct since you asked me that. Right.
16 It was after meeting with Stephen Stack. That's correct.

17 Q Okay.

18 A The date I can't get with it.

19 Q So it was after the letter of December of 2006?

20 A After the letters sent to me by Steve -- by Goss.

21 Q No.

22 A No, sir.

23 Q Steve Stack sent a letter on December of 2006?

24 A No, sir. I, I met with Stephen Stack. My brother John
25 Gadson contacted me after the second unsafe notice. After

1 that I went and met with Stephen Stack. I met with him right
2 after this notice before Stephen Stack sent me anything.

3 Q Okay. Stephen Stack was not working at the City of
4 Georgetown in May or in July of 2006; was he?

5 A I don't, I don't know when he was working.

6 Q Okay. And again, I'm, I'm just trying to get the
7 sequence of events.

8 A Okay.

9 Q Let me, let me ask you the next document.

10 A Right.

11 Q Maybe this'll help, which is going to be Number 50?

12 A Okay.

13 Q Did you receive that letter?

14 A Yes, sir.

15 Q Okay. And it was actually sent to you certified mail;
16 correct?

17 A Yes, sir.

18 Q Okay. Now, in that letter it's from Steve Stack to
19 Willie Singleton and it states, [as read], "I'm writing in
20 response to the letter that you hand delivered to this office
21 on Thursday, January 11th, 2007"?

22 A Yes, sir.

23 Q That would be the handwritten document which is Exhibit
24 Number 49; correct?

25 A Yes, sir. Could be.

1 Q So that's what I'm saying.

2 A Okay.

3 Q The, the, the final notice went out in December. You met
4 with Stephen Stack?

5 A No, sir. No, sir. No, sir. The final notice, the final
6 notice -- no. The final, the final notice came out after,
7 after I had done the building permits and everything. He
8 wouldn't have sent a final notice before he -- the final
9 notice is right, right before he tore the building down.

10 Q Okay. Well, let me, let me ask you and, and, and there
11 may be several final notices.

12 A No, sir. One final notice that I got. That I, that I,
13 that I have. You asked me a question. That's all I got.

14 Q Let me -- Exhibit 48?

15 A Yes, sir.

16 Q It says it is the final notice of unsafe structure;
17 correct?

18 A That, that is correct.

19 Q Okay. You received a copy of this letter at some point
20 in time?

21 A I don't know if I receive a copy of this letter, and the
22 reason why I'm saying that is that there's a letter that I
23 have in my files that I think that is to Mr. Singleton, to me.
24 This letter is to then Victoria Gadson. That's, that's,
25 that's what I'm saying to you.

1 Q Okay. And Victoria Gadson was the owner of record per
2 the tax records in December of 2006; correct?

3 A Yes. Yes.

4 Q And you agree that the, the notices go to whoever the
5 owner of record is; correct?

6 A I, I, I don't, I don't, I don't --

7 Q Okay. Well --

8 A The reason why I'm saying that, they sent me notices,
9 also. So if I said yes and then you're saying I'm not the
10 owner then I'm contradicting what you're saying. I got, I got
11 notices, and I think my name is on the notices that I got.
12 That's, that's what I'm saying to you.

13 Q Okay.

14 A And what I'm saying is before the final -- see, a final
15 notice is the final notice. You don't get two and three final
16 notices. You get one final notice that they sent to me, and
17 after the final notice they tore the building down. That's
18 what I'm saying. All, all this was before the final notice.

19 Q Okay. Well, let's, let's, let's, let's move on.

20 A Okay.

21 Q The -- this letter Steve Stack sent you he answered the
22 questions you ask him in your handwritten letter; correct?

23 A Yes, sir. This letter is to Willie Singleton. Yes, sir.

24 Q Okay. And one of the responses was, [as read], "The
25 ability to rebuild may be beyond reason due to the lack of

1 preventative maintenance to the property. Request for window
2 replacement does not resolve the structural integrity of this
3 structure," and he explained which building code they were
4 using and which version and all that; correct?

5 A Yes, sir. He, he -- this is what, this is what it says.
6 He said -- he -- this is what -- he didn't explain what he was
7 using. This is what he said to, to me. He said why the City
8 chose not to use the 1986 SBCCI, [as read], "you referred to
9 in the first paragraph was used prior to 2000. At this time
10 we're under the International Building Code," but see, the
11 problem with that they wasn't under any because they didn't
12 have any laws adopted. They never adopted laws to demolish a
13 house. The, the -- he just testified to that from the LLR the
14 other day. So they was not under the --

15 Q Mr. Singleton.

16 A Yes, sir.

17 Q There's two different things here. There's a building
18 code and there's a law that talks about demolishing a house,
19 the state law that talks about demolishing a house; correct?

20 A But this letter is in reference of demolishing the house,
21 me fixing the house.

22 Q No. Your question is which building code had they
23 adopted and they answered your question.

24 A They hadn't adopted any.

25 Q Okay. They had a building code adopted throughout this

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1 time period; correct?

2 A Well, no. This is what, this is what we're dealing with
3 if, if I understand the question correctly. He was, he was
4 taking the house to, to, to tear the house down, to tear -- to
5 demolish a house is different than a building code.

6 Q Exactly. And that was my question.

7 A A building code is when you're going to fix a house, you
8 know, you going -- it's, it's not when a house -- when they
9 say a house is unsafe, you -- we getting ready to demolish a
10 house. A building code is when you go in, if the, the, the
11 joists have to be 16 inches on center, you put -- you have to
12 put certain type sheetrock in the bathroom. You have to make
13 sure that you have certain type windows when you're building a
14 house. That's the building code, but when it comes to
15 demolishing a house you're talking about something totally
16 different. When it comes to -- when you say a house is unsafe
17 you're talking about something that's totally different than
18 the building code.

19 Q Yes.

20 A And that's -- this house we're dealing with them talking
21 about the condemnation of a house. So the building codes have
22 nothing to do with this. That's what I'm, that's what I'm
23 saying.

24 Q I agree, and that was my, my -- you said there was no
25 building code. There was a building code. The issue was the

1 demolition due to an unsafe house is a separate issue from the
2 building code.

3 A Right. They hadn't adopted any, any, any building codes
4 when it deals with demolition of a house.

5 Q Okay.

6 A What they adopted was --

7 Q They had a building code in place?

8 A To fix -- for houses, build houses but not with
9 demolition.

10 Q And then you went and filed a second application for a
11 building permit; correct?

12 A I did a second one. Yes, sir.

13 Q And I believe that one is marked as Exhibit Number 51?

14 A Yes, sir.

15 Q Okay. And on there you said -- this is the one where you
16 said roof, windows, door, sill, \$8000?

17 A Yes, sir.

18 Q Okay. And on that there's a note that says, [as read],
19 "This structure is beyond repair. Request for permit denied,"
20 something, "Roof, windows, door sill," and there was -- and so
21 you were aware that this building permit was denied?

22 A Oh, yes, sir. That's why I asked them to allow me to get
23 an engineer so because he wouldn't give me a list. He
24 wouldn't tell me why, I mean, he didn't, he didn't, he didn't
25 tell me anything. He didn't say, "Well, go and fix this,

1 Willie. Go and fix that. This is what's wrong." He didn't
2 say, "Well, this is what we want done, go get an engineer,"
3 give me a list or anything. What he, what he was saying was
4 in actuality he was saying that and I'm a contractor. You've
5 got houses here on the -- in the historical districts that's
6 extremely old that they have to lift up and redo. The average
7 person in here would look at the house and say, "You can't do
8 nothing with that house." As a contractor there's nothing
9 that, that deals with lumbers and stuff like that that I can't
10 redo. You don't ever hear a building official use this term
11 that permit denied for the structure is beyond repair and
12 that's -- and permit denied. Well, tell me what I need to do.
13 If, if, if, you know, even -- see, what it is, he never said
14 what I needed to do. So what it is I saw what needed to be
15 done. He said that wasn't enough. When I said the roof, I'm
16 going to change the door, the two doors and the window, he
17 said that wasn't enough. So then I did that permit. I was
18 going to do the two doors, all the windows and then and the
19 sills. So if that wasn't enough he should at least give me a
20 list and tell me what you want me to do because each time I
21 add things on that I, that I, I didn't even see where it even
22 needed the floor system, but the problem, and the problem was
23 to me now -- by the time it got to the end after over a year
24 after they allow it to sit there and leak for over a year and
25 even cause sheetrocks and stuff like that to fall, then I

1 could understand, but when, when I went to fix that house it
2 had a little leak on the porch of, of the house. By the time
3 they got through holding me up over a year the, the, the, the
4 two lower levels was leaking, and even then I could have fixed
5 it. When they tore it down, even though the damages on that
6 house probably had, had, had, had, had accumulated in such a
7 way it was unbelievable, I still could have fixed it even in
8 that shape after it had been under that condition and leaking
9 for all that period of time.

10 Q Well, the, the next exhibit I gave you is 52, I believe?

11 A Yes, sir.

12 Q Okay. And that's a letter dated March 20th of 2007 and
13 that's a letter that Mr. Stack wrote you explaining why or
14 discussing why the building permit was denied; correct?

15 A No, sir. This is what, this is what he says. He says
16 that, [as read], "This letter is in response to your request
17 for a building permit concerning 1929 Front Street. The
18 permits make a request for roof, windows, along with doors,
19 sills, replacements. As you are aware from previous letter
20 along with personal contact with this office, structure
21 located at 1929 Front Street is on the City's unsafe structure
22 list." If it's on the unsafe structure list I didn't have to
23 fix it. All I'd have to do is put -- make sure the doors and
24 the windows are nail up. So this is not tell me according to
25 any law or any list why this house is not being -- I can't fix

1 it other than the fact that they said the City has it on an
2 unsafe structure list. An unsafe, that's, like I said, I
3 mean, I was trying to fix it, but if I had put, if I had put
4 the windows in, if let's say I didn't fix the roof, I just put
5 the windows in and the doors where nobody can't get in, I've
6 already, even though I just had to nail it up, I've already
7 done what this letter right here says because it didn't say
8 anything about anything that had to be done, any law in which
9 it was violating other than the, other than the house being on
10 unsafe structure list.

11 Q Okay. It said you are, you are in receipt of letters
12 concerning this. [As read], "Mr. Singleton, as we have
13 discussed, the repairs requested on the permit application
14 will not sustain the integrity of this structure. This letter
15 is denying your permit application." That's what the letter
16 says?

17 A Yes, sir. It doesn't even say what the integrity of the
18 structure -- what, what it is, what needs to be done to, to
19 suffice them not tearing the building down. The integrity, I
20 mean, I, I, you know, I don't even understand -- I've never
21 had a building official say that about the integrity of
22 anything as long as I've been doing work. I just, this letter
23 it doesn't even make sense when you read it, if, if, if a
24 building official was to read it.

25 Q Now, you have testified that Mr. Stack would not allow

1 you to hire an engineer; correct?

2 A No, sir. This is what I, this -- I testified this, that
3 I, that I, I asked them to allow me to hire an engineer. I
4 told them in the letter, give me -- because, see, I didn't
5 want to go hire somebody, get a list and then they tell me I
6 can't fix the house. So I asked them to allow me, this is,
7 this is the language I used, so therefore once I go spend my
8 money to get an engineer, they can't say, "Mr. Singleton, we
9 didn't tell you to go get an engineer." So I asked them to
10 give it to me in writing because once a person have done what
11 he'd been doing I know not to take his word. So my language
12 was give me in writing and allow me to go hire an engineer and
13 they never respond.

14 Q Okay. So but that's different than your testimony that
15 they would not allow you to hire an engineer?

16 A No. They didn't allow me to because I was willing to if
17 they just give it to me in writing because I said I know that
18 I -- I, I told them in the letter, "According to the law I
19 know that I do not need an engineer, but if you would give it
20 to me in writing I'll go and hire an engineer."

21 Q Okay. Let me, let me show you a letter which you wrote
22 in response I'm assuming to the letter of March 20th of 2007,
23 and what, what exhibit is that? That's already been
24 introduced.

25 A 12.

1 Q Okay. And if you would, the last paragraph.

2 A Yes, sir. I said --

3 Q "Like I," and, and this is your -- a letter you wrote to
4 Stephen Stack; correct?

5 A Yes, sir.

6 Q Okay. [As read], "Like I said, you started several
7 things that, that were incorrect in your letter to me. Those
8 things were -- also you stated to me that an engineer was
9 required and I said I thought that was against the law but I
10 would get one if you requested that to me in writing and you
11 chose not to tell me, which tells me you are intent on
12 breaking the law"?

13 A Yes, sir. That's, that's --

14 Q He told you to get an engineer; correct?

15 A No, sir. This is what he said. He said -- if you --
16 this is what, this what he said. [As read], "Like I said,
17 several things were incorrect in your letter to me. Those
18 things were also, you stated to me that an engineer was
19 required. I said I thought that was against the law, but I
20 would get one if you requested to me in writing," and the
21 reason why is this, any time you're talking to someone and you
22 know that they've done what he've done you always get it in
23 writing because when a person just tell you something and, and
24 you know he breaking the law, I'm not going to trust a person
25 that's talked to me in private. Give it to me in writing

1 because I wanted to get an engineer. I wanted to fix my
2 house, but I knew that, that according to state laws I did not
3 need an engineer because I knew if a man is a building
4 official and he do not know that an unsafe -- that, that --
5 once you send out an unsafe notice that the only thing a
6 person got to do is nail up the windows and the doors, if he
7 do not know that law then I know he didn't know that I needed
8 an engineer and I didn't need one and this is why I told him
9 give it to me in writing because you can't trust a person,
10 anybody, that does that in that manner and take you through
11 that process. He knows he's breaking the law. You know he's
12 breaking the law. You're telling him all the time what
13 statutes to go to because the '96, 1986 Abatement Code was
14 international at that time and they just changed the language.
15 So he knew exactly what to do. In one of the letters you gave
16 me I told him about the six steps that would take six months.
17 I even told him how to do it. So all he had to do is go open
18 the book, look in the book. So once a man will not go in the
19 book and not look in the book, not follow one of those
20 instructions that's given to him according to the law, do you
21 think I'm going to trust an individual like that to, to give
22 his word? No. I want him to give it to me in writing and
23 then we can go from there because I would have gotten it in
24 writing, fix the house and then dealt with the fact that he
25 shouldn't have gotten me to get an engineer later, but I did

1 not trust him after what he was doing and just, just talking
2 to him verbally because he did everything he could until the
3 last minute, "Well, say, Mr. Singleton," because if you notice
4 in none of the letters he never said I needed an engineer,
5 none of the letters that you gave, none of the letters up
6 there, but he chose to tell me that in private. So once a man
7 do that and won't give it to me in writing, and I see all your
8 letters that you been sending me all the time, and you're
9 saying it's denied, it's denied, but you never say, "Mr.
10 Singleton, you need an engineer," but you, you wait till you
11 get to the end and all of a sudden you're going to say, "Well,
12 Mr. Singleton, you need an engineer." Okay. If you didn't
13 give it to me in writing then you're hiding something. So,
14 yes, sir. I'm going to ask you give it to me in writing.

15 Q But he did verbally tell you --

16 A Verbally.

17 Q -- you need an engineer?

18 A Verbally he said, "Mr. Singleton, I believe you need an
19 engineer." I can't remember the exact words, and I don't want
20 to be lying, but verbally he said it to me and, and, and I --
21 but I gave it to him in writing to let him know. See, what I
22 was doing was I had already talked to the state. So I knew to
23 have a paper trail. They had already told me they couldn't do
24 anything until he -- what he, what he needed to do, and once
25 he do it what they would do. So I knew he was breaking the

1 law even when he asked me to get the engineer, but what they
2 told me to do, "Make sure that you get everything in writing
3 because we cannot stop them from breaking the law. We can't
4 stop them from making you hire an engineer, but if you get it
5 in writing we'll deal with it after they do it."

6 Q Okay. And we, we, we've talked about a whole lot of
7 theys, but the -- you, you do not have anything in writing
8 from the LLR until after you filed a complaint after the house
9 was torn down; correct?

10 A Oh, yes, sir. That's correct.

11 Q Okay. Now, sills, you're, you're saying that's the --
12 like the, the base sill?

13 A Well, you know, what, what, what it is is that the sills
14 some people call it floor joists, but, but see, those
15 historical houses have these -- it looks almost like --

16 Q Is it a sill plate?

17 A Is it what?

18 Q Sill plate?

19 A No. We don't -- they don't -- I, I don't know if they
20 call it that back then, but anytime you work up under a house,
21 under a house, it depends on the age of the house. They have
22 different type, different type lumbers, you see, and, and
23 sometimes they want you to when, when you deal with historical
24 houses, houses of a certain age, they want you to more or less
25 put back what's there, and he wouldn't give me -- he didn't,

1 he didn't deal with any kind of language. So that's why I
2 said what I said.

3 Q And you would agree that under the building code,
4 regardless of which building code it is, if you start doing
5 that work you have to have an engineer to approve what you're
6 doing; correct?

7 A Oh, no, sir. No, sir. The City of Georgetown, if you go
8 back and check the records, if you go back and check the
9 records, there is not a house, and I worked on several houses
10 over there, several houses.

11 Q Okay. But --

12 A No. Let me answer your question because you asked the
13 question. They have never had an engineer. What they did was
14 this, a few years ago they didn't adopt the codes when the
15 State told them to adopt it. After that then they adopted
16 codes maybe a couple of years ago and then they, they got it
17 now where they want you to get an engineer to do A, B, C or D,
18 but if you go back and check the records your building
19 official right there, sitting there. I had done work even up
20 until the time after I filed this suit, and he have come and
21 inspected and we didn't have any engineers or anything, not
22 one.

23 Q Okay. Now, the -- strike that. The -- how often were
24 you in this house before it was demolished?

25 A How often was I in it?

1 Q Yes, sir.

2 A Well, once, once, once I, once I nailed it up very seldom
3 I ever went in it.

4 Q Okay. And when did you nail it up?

5 A I don't, I don't have a, a date on it. I know it was
6 during the process once they, once he denied the permit then I
7 put the plyboards up to, to have it safe.

8 Q Okay. Now, before you got the letters, the house had not
9 been nailed up or boarded up; had it?

10 A Before, before I got the letters from -- before my
11 brother --.

12 Q Jason Goude?

13 A No. No. Before my -- right. Jason Goude, no, sir. The
14 house was not nailed up because it was never considered unsafe
15 as car, as far as the City was concerned. They never gave us
16 a notice or anything like that.

17 Q And at least one of the doors was broken at that time?

18 A No, sir. You said one of the door was broken.

19 Q Okay. You, you, you submitted a permit to put a new door
20 up; correct?

21 A Right.

22 Q Okay.

23 A I was going, I was going to put -- what it is, I was -- I
24 had vinyl windows, all right, and new doors. When they -- I
25 needed to do the roof. It was, it was on the porch. I didn't

1 have to put the doors and the windows in, but what it -- over
2 the porch there was a leak on the left-hand side. All right.
3 So I decided to do the roof. I decided to do the windows
4 because I had bought -- I bought some vinyl windows. As, as
5 we did jobs I would buy certain things, and then when I, when
6 I go to auctions if I had -- got a good price on it, I would
7 buy them because when I go to a job it would be to my
8 advantage to have them. So I had these windows and these
9 doors. You see? And that -- I, I was going to use it on the
10 job, but once my brother called me I was just going to take
11 them and do that, but what I, what I saw at that time was the
12 roof on the left-hand side up top.

13 Q Well, let me, let me ask a better question.

14 A Yes, sir.

15 Q Before the May or July 2006 letter, the doors and windows
16 had not been boarded up. You boarded them up after those
17 letters were sent?

18 A Yes, sir. After -- I don't -- I can look at the date.
19 After Jason sent me the letters --

20 Q Right.

21 A -- is when. Yes, sir.

22 Q Okay.

23 A You are correct.

24 Q Now, before that date how often would you have gone into
25 that house?

1 A That, that, I mean, that's an extremely hard question. I
2 would be lying if I even told you -- I would more or less, I
3 would ride by sometimes a lot because I had a lot of
4 restaurant equipment, and I would go check with people and
5 stuff like that in the neighborhood, but as far as going
6 inside, periodically I would -- periodically I would go in,
7 but it was very, it was very seldom. I didn't have a reason
8 to really go in there a lot.

9 Q And my understanding is that Ms. Thomas -- okay. At the
10 time your father died Ms. Thomas, and this was in 1996, Ms.
11 Thomas and Trevis or Maurice were living in the house;
12 correct?

13 A I don't know if -- when my father died?

14 Q Right.

15 A No. My sister was living in the house.

16 Q Okay.

17 A Not Trevis.

18 Q Well, and I'm just --

19 A I think Trevis was in the -- I think Trevis was in the
20 military or either -- because he had to come home when -- I
21 think he had to come home when he -- when my father died.

22 Q Okay.

23 A Right.

24 Q But, but at the time it would have just been Ms. Thomas
25 living in the house and then she had a stroke in 2000, 2001,

1 sometime in that time period?

2 A It could, it could be around that area.

3 Q Okay. I mean, let me, let me ask you. When did she have
4 the stroke?

5 A I, I, I'm not -- I know she was in the nursing home for
6 about five years. So it could be about, it could be about
7 that time.

8 Q Okay.

9 A I would have to check documents to make sure.

10 Q And had she moved out of the house before she had a
11 stroke?

12 A Yes, sir.

13 Q Okay. When did she move out of the house?

14 A I don't have the exact date when she moved out because
15 and the reason why I don't is because it was too large for
16 her, you know, and so I don't, I don't know the exact date. I
17 probably would have to check that to be --

18 Q But, but no one had lived in the house for a pretty good
19 period of time?

20 A No one, no one lived in the house -- I think months after
21 she left she had a stroke and then so no one was in there from
22 let's say 2000 -- let me see. One, two, three, four, five,
23 she passed in 2007, probably 2001, 2000 -- could be in that
24 area what you said, 2001, 2002. I'm not sure. I'm just
25 guessing on that.

1 Q And so the house was empty for -- no one lived there for
2 a period of time; correct?

3 A Yes, sir. At least about five years.

4 Q Did that house have central air conditioning?

5 A Did it have? No, sir. It had windows units. I think it
6 had a central there but it wasn't --

7 Q Okay.

8 A Uh-huh.

9 Q And once she moved out of the house the air-conditioning
10 was not ran; correct?

11 A No. It wasn't ran. No, sir.

12 Q Okay. So the house, whatever condition, there was no
13 air-conditioning, no heat, nothing running during that time
14 period?

15 A That is correct.

16 Q Okay. And your items that you owned that were stored
17 there, and, and I'm getting out of -- you, you received a
18 letter on March 20th of 2007 telling you that the house was
19 going to be -- that they denied your permit and that it would
20 be torn down within 10 days; correct?

21 A Did you give me that?

22 Q Yes, sir.

23 A I see it. Yes, sir. Yes, sir.

24 Q Okay. And the house was actually torn down on April 12th
25 of 2007; correct?

1 A Could be in that area. Yes, sir.

2 Q Okay. And you received multiple notices and there was
3 even an article in the newspaper saying the house was going to
4 be torn down; correct?

5 A Yes, sir. There was an article in the newspaper. That's
6 correct.

7 Q And during that time period you had access to the house;
8 correct? You could go anytime you wanted to?

9 A If I could go to the house?

10 Q Yes, sir.

11 A Yes, sir.

12 Q Okay. And I'm going to show you photographs -- the March
13 photographs.

14 MR. BAXTER: May I approach?

15 THE COURT: Yes.

16 MR. BAXTER: Your Honor, at this time I would move, just
17 before I forget, to introduce Exhibits 40 -- 45 through 52.

18 THE COURT: Any objection?

19 MR. HENRY: No objection.

20 THE COURT: All right. Defendant's Exhibits 45, 46, 47,
21 48, 49, 50, 51 and 52 are admitted into evidence without
22 objection.

23 (Defendant's Exhibit Number 45 [Notice of Unsafe
24 Structure, 5-31-06], Defendant's Exhibit Number 46 [Second
25 Notice of Unsafe Structure, 7-7-06], Defendant's Exhibit

1 Number 47 [Building Permit Application], Defendant's Exhibit
2 Number 48, [Final Notice of Unsafe Structure], Defendant's
3 Exhibit Number 49 [Letter to Building Inspectors], Defendant's
4 Exhibit Number 50 [Letter to Singleton dated 1-26-07],
5 Defendant's Exhibit Number 51 [3-1-07 Application] and
6 Defendant's Exhibit Number 52 [Letter from Stack to Singleton,
7 3-20-07] admitted into evidence and appropriately marked.)

8 BY MR. BAXTER:

9 Q Mr. Singleton, I'm showing you a set of photographs which
10 are marked as Defendant's Exhibit Number One through 23, and
11 ask you if you would look at those and can you identify those
12 photographs?

13 A Yes, sir.

14 Q Okay. And those have a date of what date?

15 A 3-15-2007.

16 Q Okay. And you've previously been provided copies of
17 those photographs and they may be black, you know, kind of
18 black and white, but you've been -- you've seen those
19 photographs before; correct?

20 A They were never sent to me. I mean, they, they may have
21 been given to my --

22 Q Well, let me ask. You, you requested --

23 A But I, I, I recognize them.

24 Q Okay.

25 A Uh-huh.

1 Q You requested documents from the City at some point in
2 time? You said, "Give me everything you've got in your file?"

3 A Uh-huh. Uh-huh.

4 Q Part of what they gave you were photographs they had;
5 correct?

6 A Okay. If they was, then I give it to the attorney.

7 Q Okay.

8 A Uh-huh.

9 Q And those photographs reasonably depict the condition of
10 the house back on March 15th of 2007; correct?

11 A That's correct.

12 Q Okay. Now, one photograph shows a -- there's a garage,
13 and I want to make sure, that's where you were storing the
14 stuff from your tailor shop, bookstore and restaurant;
15 correct?

16 A Yeah. Some of it -- well, let me, let me look and see.
17 Do you remember which number it is?

18 Q I, I have no idea.

19 A Okay. Yes. But most of the stuff from that was under
20 the garage.

21 Q Okay. When, when was your --

22 A The hardware.

23 Q -- when was your tailoring shop, when did you close it
24 down?

25 A I closed that tailoring shop down in, I think it was 1980

1 -- 1990 -- I'm not sure. It's been so long ago, but it's
2 probably 1990, back then, during that time.

3 Q Okay. And when did you close down the bookstore? Was it
4 a combination bookstore restaurant or just a --

5 A No. The combination bookstore I had not to -- I, I think
6 I closed that down in 2000 -- in the 2000s. I can't remember
7 exactly.

8 Q Okay. And then the restaurant, when was that closed
9 down?

10 A The restaurant was closed I think around the same time,
11 but a lot of the stuff I got from the restaurant I bought
12 because I had planned to open up another restaurant.

13 Q And all that --

14 A I bought them.

15 Q -- that was stored in --

16 A I'm sorry. Go ahead.

17 Q -- the garage; correct?

18 A Yes. Most of those was stored. The hard, the hardwares
19 was stored under the garage. I think most of the -- like the
20 sewing machines and the ovens and stuff like that.

21 Q Okay.

22 MR. BAXTER: Your Honor, we'd move to introduce
23 Defendant's Exhibit Number One through 23.

24 THE COURT: Any objection?

25 MR. HENRY: No objection.

1 MR. BAXTER: Okay.

2 THE COURT: All right. Defendant's Exhibits One through
3 23 admitted into evidence without objection.

4 (Defendant's Exhibit Numbers One through 23 [Photographs]
5 admitted into evidence and appropriately marked.)

6 BY MR. BAXTER:

7 Q Now, Mr. Singleton, I'm just going to -- on your screen
8 --

9 A Uh-huh.

10 Q -- and I think on the jury's screen as well, hopefully,
11 there's some photographs?

12 A Yes, sir.

13 Q And these are some of the photographs that are contained
14 within these exhibits; correct?

15 A That's correct.

16 Q Okay. And I'm going to get Ms. Grant to go down one. Go
17 back up one. Okay. Oh, there, there's a good one. This
18 shows the looking at the house; correct?

19 A That's correct.

20 Q Okay. And on your right is what street?

21 A On my right is Alex Alford now.

22 Q Okay. What was it then?

23 A I think G Street.

24 Q G Street back then.

25 A Uh-huh.

1 Q Okay. And the, the bottom photograph, that is the garage
2 where you had the equipment stored; correct?

3 A Yes. If you look you'll see the equipment and there was
4 some furniture in there, too, that I had, that I had stored.

5 Q And the garage was not an enclosed -- it, it had a roof
6 but it didn't have a door; did it?

7 A No doors. No.

8 Q Okay. And the back back in the front?

9 A Excuse me?

10 Q It, it didn't -- it, it was open in the back and the
11 front?

12 A Part of it was open in the back because it had a double
13 restroom on one -- on, on the right-hand side of the garage it
14 had double restroom.

15 Q Okay. Janet, can I get you to go back up one to number
16 five. Well, other, other direction. I'm sorry. One more.
17 Okay. You had -- one thing you mentioned about the siding and
18 the siding was coming off; correct? It was --

19 A Well, yeah. What, what, what, right there see that's
20 what I was telling you about it leaking for over a year. See,
21 when it started leaking, when, when that house started leaking
22 and start dividing on the side you could see, you could
23 actually see when you -- if you had went back to the windows
24 you could see where the water was coming down and causing that
25 damage because that's not, that's not normal damage when you

1 look, and when you look right there you could see the
2 separation on the side.

3 Q Okay.

4 A And you could tell that's, you could tell that's from
5 water because it's, it's, it's coming apart like this. So if
6 you look at it you'll see. That's why I was telling you
7 earlier that they allowed from 2006 to, to 3-14-2007. See,
8 when these pictures were taken it was after they took the
9 boards, the unsafe, the boards off the doors and the window
10 when they was getting ready to demolish it and that's why you
11 see all that damage with, with what you see right there and
12 around those windows --

13 Q Okay.

14 A -- because it was leaking.

15 Q The, the top photograph is actually the corner of the
16 house; correct?

17 A Right.

18 Q One of the corners.

19 A The top photograph but that's when I told you in the
20 beginning where it was leaking on the, on the left-hand side.
21 It wasn't that bad a year earlier, but that's where the
22 damages was, was actually, actually at at that time, but if I
23 had fixed that roof none of that wouldn't occurred over that
24 year.

25 Q So your testimony is that from the time that you filed

1 for a permit --

2 A Uh-huh.

3 Q -- until March 14th of 2007 all this damage occurred?

4 A No. No. No. No. That's not what I'm saying. What I'm
5 saying is the, the roof -- if you look at the porch, even the
6 porch on number one, if you look at that porch on number one
7 if, if you go back to number one, to slide number one --

8 Q Back, actually go to number six I think.

9 A -- this, this where it was on the corner right there
10 where the, where the, where the damage was up top because if
11 you notice up there there wasn't no damage on the top roof.
12 The damage, the damage started on the back, on the back of the
13 house. If you look at the front of the house you don't see
14 that kind of damage, but on the back of the house where you,
15 where it's leaking at, because after, after they allow it to
16 leak like that you saw all the sheetrock and everything
17 falling down on the ground because, well, you know, after a
18 year I can say how much damage but I can tell you in the
19 beginning it was the left side of the porch but I was going to
20 fix the whole roof.

21 Q Okay.

22 A Where then after while been no leakage.

23 Q But the, the, the sheetrock -- not the sheetrock -- the
24 siding had actually in some locations separated from the house
25 and you could walk up to the wall and look in and see;

1 correct?

2 A I don't know if I could have walk up to the wall and see,
3 but from your picture it did separate.

4 Q Okay.

5 A Yes, sir.

6 Q And if I went inside the house there were some locations
7 where there was no roof. I mean, you could walk in there and
8 see the sky?

9 A Well, you probably could have after that, after that kind
10 of leakage over that period of time.

11 Q Okay. And the -- you talked about that the, the leaks
12 that you were going to fix based upon the first permit where
13 were they occurring?

14 A I was going to do the whole roof.

15 Q I know. Where were the leaks? You talked about the left
16 side, too.

17 A No. No. No. The leak was on the left side of the
18 porch, but I was going to do the whole roof.

19 Q Okay.

20 A Because I, I had enough stuff to do the whole roof.

21 Q Okay. The -- Janet, would you go down some? Keep going.
22 Okay. That's on the back?

23 A See, you could tell, you could tell that's water. You
24 can, you can look at that and tell that water caused that.

25 Q Okay. You said that's asbestos siding; correct?

1 A Asbestos. Yes, sir.

2 Q Okay. Water has absolutely no effect upon asbestos
3 siding; correct?

4 A No, sir. I don't agree. I don't agree.

5 Q It does?

6 A I don't agree.

7 Q It would cause it to deteriorate?

8 A You know, shingle has asbestos in it. Have you ever seen
9 a shingle deteriorate?

10 Q Okay.

11 A All those old houses, even if you look at the, the record
12 of this house, now, if you, if you go back and you see that
13 shingle deteriorating on it, the record at the courthouse has
14 that that shingle is even asbestos in it, and when you bring
15 whoever you going to bring today it'll say that it has
16 asbestos in it. Water can deteriorate anything, water and
17 sand. So, yes, sir. I mean, you know, it, it, it ain't such
18 thing as the water don't touch it.

19 Q Go, go down, Janet, go down a couple, one more, one more,
20 one more, one more, one more -- actually go up. Sorry. Got
21 lost here. Well, you're -- you agree that as of March 15th,
22 2007 that was the condition of the house; correct?

23 A Oh, yes, sir. From those pictures that's correct.

24 Q And the -- that was a week and a half after your March
25 1st, 2007 permit you submitted; correct?

1 A That was a week and a half, no, sir. No, sir. This --
2 these boards, see, it, it was nailed up.

3 Q Okay. What is the date of that permit?

4 A Oh, this is the last, let me see, this is the last
5 permit.

6 Q Right. That was my question. The March 1st --

7 A From the, from the last, right, the last, from the last,
8 the last permit, the last permit is when they tore it down,
9 but I was trying to fix it if you look what notice from what
10 ever since way before that, but we were going through the
11 letters and back and forth.

12 Q And you would agree that that permit on March 1st of 2007
13 would not address the problems, all the problems at the house
14 that needed to be addressed; correct?

15 A Under the law. No, sir. Let me tell you why. Unless
16 you take a house through a condemnation process unsafe, the
17 only thing I had to do, according to the law, is -- because
18 that's what we did. The only thing I had to do according to
19 the law is to make sure that nobody couldn't enter that house,
20 and then all the City had to do is take it through the
21 condemnation process. Even at that state right there they had
22 to come give me a list, and then if I didn't feel like it deal
23 with that then I go and, and appeal it, but the point I'm
24 trying to make to you is even at that state like it is now you
25 still have to take it through the condemnation process, but

1 according to the law all I had to do with that house right
2 there, and the fact that they sent me an unsafe notice,
3 according to the law, that's why Steve was reprimanded by, by
4 the LLR because even with the house in that condition right
5 there the LLR let him know that, number one, you couldn't tear
6 it down because you didn't have any laws on the book because
7 you had to adopt laws. Number two, even at that state right
8 there you had to take the house through the process and give
9 me a chance to fix it.

10 Q Okay.

11 A Because you don't know -- first of all, you don't know --
12 if he give me a list even with that that could be fixed.

13 Q Okay. You, you understand --

14 A But it would cost a lot at that state.

15 Q You as a contractor you are obligated to go in, it's not
16 up to the building official when you go in and say, "Here's my
17 permit. I'm going to fix this house," you have to tell them
18 what you plan on doing. Correct?

19 A No, sir. Not under a condemnation.

20 Q Okay.

21 A You can -- the only time you do the -- the only, the only
22 reason why I did that under the -- because they was getting
23 ready to tear it down, it was a courtesy from me because I, I
24 had already talked to LLR. They told me have a paper trail. I
25 gave them a list, my list. That's only a courtesy. I gave them

1 my list to give them the opportunity to allow me to work on
2 the house way before it got to that point, but the, what's --

3 Q Let me ask you my, my question, very simple.

4 A Yes, sir. Uh-huh.

5 Q The permit dated March 1 of 2007 --

6 A Yes, sir.

7 Q -- would not have fixed all of the problems at the house;
8 correct?

9 A Right there. Yes, sir. You are correct.

10 Q Okay. If you look at the photos you got electrical wires
11 that are coming out of the wall that are separated. You got
12 the wall separated. You got a bunch of problems that the
13 building permit dated March 1 of 2007 would not have fixed?

14 A But that's over a year of damage. If they had allowed me
15 to fix it, see, the thing -- this is what it is. The same way
16 you're giving me that list right now, see, the law is the same
17 way you went and took the time to come up with that list right
18 now they was supposed to go in there, allow me to let somebody
19 go in there, tell me, "Mr. Singleton, you've got wires,"
20 because I can -- I'm -- I can do electrical work. You got
21 plumbing, I could do plumbing work. It don't matter. I could
22 do sheetrocks. The only thing that I could not have done on
23 that house right there is remove that siding. I'd have to --
24 I would have had to had somebody to come and move the siding
25 off the house, but yes, sir, and, and, and, and a year before

1 that, of course, but going through that process, what I'm
2 telling you is the same way you give me this list, and you are
3 correct, when you look at it you'll see sheetrock. You'll see
4 wiring. If you allow this building right here to leak for two
5 months you'll be surprised what water will do.

6 Q Okay.

7 A Let me -- just one more thing I'd like to say.

8 Q Let me, again, my -- it's a very simple question. The
9 permit that you submitted on March 1st, 2007 --

10 MR. HENRY: Your Honor, I would ask that the witness be
11 allowed to finish his answer before the next question is
12 raised.

13 THE COURT: Well, let him ask the question. He's going
14 beyond the scope of the question. Ask the question. Let him
15 answer the question. Then if you need to explain your answer
16 you can explain your answer, but you have to answer the
17 question first.

18 A Yes, sir.

19 THE COURT: All right. Go ahead.

20 Q Yes or no, the March 1 permit, 2007 permit would not fix
21 all of the problems at the house that existed on March 1 of
22 2007?

23 A Yes, sir. May I explain?

24 Q And my understanding of your testimony --

25 THE COURT: If you need to explain, go ahead and explain.

1 Q Okay. If you want to explain.

2 THE COURT: But explain your answer.

3 A Yes, sir.

4 THE COURT: Don't digress into another topic.

5 A Yes, sir.

6 THE COURT: Explain your answer.

7 A Yes, sir. The, the, the -- what I asked him to do on
8 this permit right here according to the law, once I put the
9 doors in and the windows in, when nobody can't enter that
10 house, if those doors are locked, even if I didn't touch none
11 of the sidings, even if I didn't touch the roof, by law when
12 they, when they send me the unsafe notice I didn't have to fix
13 the shingle. It didn't matter what condition the house was
14 in. All I -- if he had allowed me to put the windows in and
15 the doors in where nobody could enter the house it would have
16 sufficed that house according to the law.

17 Q But the building permit that you submitted on March 1,
18 2007, would not have fixed the problems that existed on March
19 1 of 2007; correct?

20 A Yes, sir. It would have fixed it according to the law.

21 Q And there were structural issues at that house on March 1
22 of 2007 when you submitted the building permit; correct?

23 A Yes, sir.

24 Q Okay. And you did not get an engineer to address the
25 structural problems when you submitted the building permit on

1 March 1 of 2007; correct?

2 A I requested that they allow me to get one and for them to
3 give it to me in writing. That's why I didn't have one.

4 Q And my understanding from your testimony is you submitted
5 that building permit knowing that it was going to be denied;
6 correct?

7 A No, sir. That's not correct.

8 Q Okay. Well, you said you -- you were told to set up a
9 paper trail so that when the house was torn down you'd have --

10 A No, sir. I was, I was -- this is what I was told. They
11 said, "Mr. Singleton, what they're getting ready to do is
12 illegal. We cannot stop them. What you need to do is
13 everything you do you have it in writing." Mr. Wiggins said,
14 "I do not believe that they're going to do that." He said,
15 "You know what you have to do as far as the building being
16 unsafe," he said, "But whatever you do make sure that you
17 have it in writing." He said, "My job is to protect the
18 City." He said, "I can't stop them from breaking the law."
19 He said, "But once they break the law then I can do something,
20 but you go and try to fix your house because I do not believe
21 that they would intentionally not allow you to fix the house,
22 but make sure you have everything in writing."

23 Q Okay. But again, the, the permit you submitted would not
24 fix the house?

25 MR. HENRY: Objection, Your Honor. Asked and answered.

1 THE COURT: Sustained.

2 MR. BAXTER: I will --

3 BY MR. BAXTER:

4 Q Now the -- you were present -- did -- let me ask you, did
5 you go in the house between the March 20th, 2007, letter and
6 when the house was torn down on April 12th of 2007?

7 A I, I'd be lying if I answered that question because I
8 don't know. I don't -- I don't even remember it's been so
9 long ago.

10 Q Did you -- the, the -- strike that. Now, you have
11 testified that you are claiming an interest in the house based
12 upon a deed from Julia Thomas; correct?

13 A That's correct.

14 Q And you are basing that upon a power of attorney that was
15 given to you by Julia Thomas; correct?

16 A That's correct.

17 Q I'm going to show you what has been marked as Defendant's
18 Exhibit Number 53 and ask you to identify that document?

19 A Yes, sir.

20 Q Okay. And that is the power of attorney by which you are
21 claiming you have ownership in the house; correct?

22 A Yes, sir.

23 Q Okay. Now, the, the deed from Julia Thomas to you,
24 actually, the deed was signed by you as power of attorney,
25 wasn't signed by Julia Thomas?

1 A Yes. The deed was signed by me.

2 Q Okay. So you, in essence, conveyed the property to
3 yourself in your capacity as the power of attorney for Julia
4 Thomas?

5 A Yes, sir.

6 Q Okay. Now, you got the power of attorney when?

7 A I filed it in -- with the court at 2-28-2002.

8 Q Okay. But she had -- she had had the stroke and was ill
9 some period before that; correct?

10 A Yes. Right before that.

11 Q And once you received that power of attorney you conveyed
12 all of her assets to yourself except for 1929 Front Street?

13 A That's correct.

14 Q Okay. She had other, other pieces of property she owned;
15 correct?

16 A That's correct.

17 Q You conveyed those to yourself?

18 A Yes, sir.

19 Q Her bank accounts you conveyed to yourself?

20 A That's correct.

21 Q And my -- the, the reason you didn't do 1929 Front Street
22 is you said something about with her being old and her
23 condition she might be able to get money --

24 A Well, no, no, no, no. That's -- I said -- what I said
25 about that was I said when my father died, all right, I said

1 -- because you asked me about, I said when my father died we
2 had a meeting. I asked them to come together, and I asked my
3 brother to give the house to my sister because it was her
4 mother's house, and I said because of her age at the time she
5 could get a grant or whatever and remove the asbestos siding
6 off, off the house and have some work done on, on the house,
7 you know. So, that's, that's what it was.

8 Q Okay. And you talked earlier, removing the asbestos
9 siding is extremely expensive?

10 A It's expensive. It's expensive. You know, you -- it could
11 run -- I've known it to run three, \$4000 down at the club.

12 Q Okay. That's just a little bitty section you're talking
13 about?

14 A No. No. Go ahead.

15 Q But, but irregardless, you did not convey 1929 Front
16 Street to yourself until after the house was torn down;
17 correct?

18 A That is correct.

19 Q Now, the power of attorney on there it lists things that
20 you as the power of attorney can do; correct?

21 A Yes, sir.

22 Q Okay. And it -- that document is something you would've
23 gotten and taken to her in the nursing home; correct?

24 A This document?

25 Q Yes, sir.

1 A Yes. It was, it was, it was signed and everything at the
2 rehabilitation center in Florence.

3 Q Okay. You, you, you obtained the document or you filled
4 it out and you took it to her, had her sign it?

5 A This, right. This document was what she asked me to do
6 and that's why I called my brother and told my brother what
7 she wanted me to do.

8 Q And you did what she wanted you to do by having this
9 document prepared and she signed it --

10 A That's --

11 Q -- appointing you as the power of attorney, and I think
12 the, the actual title, I'm going to look over your shoulder
13 here, is you are the attorney-in-fact/agent?

14 A Yes, sir.

15 Q That, that's, that's what you were once you received the
16 power of attorney?

17 A Yes, sir.

18 Q Okay. And the document spells out what you can and
19 cannot do; correct?

20 A Yes, sir. It says that if she initial it, I can, I can
21 do it.

22 Q Okay. What is the last thing on there on that page, not,
23 not the list, but the last item on the first page that she
24 initialed that you could do?

25 A Are you talking about P?

1 Q No. No. No. The first page.

2 A The first page.

3 Q There's a laundry list of things that she initialed.

4 A That I can do.

5 Q She says, "My -- through this power of attorney my
6 attorneys-in-fact/agent can do the following things"; correct?

7 A Yes.

8 Q Okay. And the last item on the front page is what?

9 A Gift to charities or individuals or other than attorney-
10 in-fact or agent.

11 Q Okay. So it says that you can give gifts to people;
12 correct?

13 A Yes. Uh-huh.

14 Q Just not to yourself?

15 A Yes, sir. Attorney-in-fact or agent. Right.

16 Q And all these transfers, the property, everything were --
17 you did not pay for them; did you?

18 A The attorney did it for \$5 because she wanted it to come
19 to me.

20 Q Okay. But that is a gift. You understand that. Your --
21 you didn't pay actual value for any of the property you got?

22 A That's -- yes, if that's the law.

23 Q You didn't pay anything for the money you were given out
24 of the bank accounts?

25 A That's correct.

1 Q Okay. So none of those transfers you did were legal;
2 were they?

3 MR. HENRY: Objection.

4 A I don't -- no, sir.

5 Q Okay. Let me ask you.

6 A Because I went to --

7 THE COURT: Hold for a second. We've got an objection.
8 Hold for a second. What's your objection?

9 MR. HENRY: He's asking my client to give an opinion of
10 the legality of something and he's not an attorney. He has no
11 way of knowing that.

12 THE COURT: All right.

13 MR. BAXTER: Well --

14 MR. HENRY: He was relying upon the services of an
15 attorney when these transactions were completed.

16 THE COURT: Okay. I'm going to sustain the objection,
17 but he's been quoting the law throughout his whole testimony.

18 MR. BAXTER: I, I was getting ready to say it.

19 THE COURT: I sustain the objection.

20 A I mean, you asked the question. I quote the laws on, on
21 --

22 Q Okay. Let me ask you this.

23 A -- buildings, but, but you all didn't allow me to quote
24 it.

25 Q Not what you understand the law to be or not to be --

- 1 A Okay.
- 2 Q -- but the, the document says that you cannot give any
- 3 gifts to yourself?
- 4 A Yes, sir.
- 5 Q All right. And just for clarification, you mentioned
- 6 earlier about John dying yesterday. Your, your brother John
- 7 is dead?
- 8 A Well, he, yes, sir, he deceased.
- 9 Q And he died after Julia died; correct?
- 10 A That's correct.
- 11 Q And your brother John was married and had kids?
- 12 A No, sir.
- 13 Q He had no kids, wasn't married?
- 14 A No, sir. No, sir.
- 15 Q Did he have an estate?
- 16 A I'm not --
- 17 Q He had a will?
- 18 A I'm not sure because I, you know, I'm not part of that
- 19 family and stuff like that, that he handled that.
- 20 Q You're, you're not, you're not making any claim through
- 21 your brother John; correct?
- 22 A No, sir.
- 23 Q Okay. And how many letters did you receive telling you
- 24 that the house was going to be torn down?
- 25 A I receive right here, I received the final notice.

1 Q Okay. There, there was more than one letter telling you
2 the house was going to be torn down; correct, demolished?

3 A There were response to -- there were response to me when
4 I -- but I, I couldn't tell you how much, how many unless you
5 show it to me. Then I can tell you, yes, sir, that's my
6 letter. I got one here. You've given me one. You've given
7 me two, three, you've given three, four letters.

8 MR. HENRY: Your Honor, I have a, I have a matter of law
9 I want to take up with the Court.

10 THE COURT: All right. You all come on up.

11 (Whereupon, a bench conference is held in the presence
12 but out of the hearing of the jury.)

13 THE COURT: All right. Go ahead with your cross
14 examination.

15 BY MR. BAXTER:

16 Q And I'm going to show you some additional photos --

17 A Uh-uh.

18 Q -- which are 24 through 40 --

19 A Yes, sir.

20 Q -- and ask you if you could identify those?

21 A Yes, sir.

22 Q Okay. And those were photographs that were taken
23 actually taken the morning before the house was torn down;
24 correct?

25 A Four -- 4-12.

1 Q 2007; correct?

2 A Yes, sir. Yes, sir.

3 Q Okay. And you, and you went out there the day the house
4 was being torn down; correct?

5 A Yeah. After I heard they were tearing it down I went out
6 there.

7 Q Well, you heard they were taking boards off the
8 window; correct? The police were taking boards off the
9 window?

10 A No. They -- I heard that they was -- it was, it was
11 tearing the house down. The policemen were surrounding.

12 Q Right.

13 A Was -- had surrounded the house.

14 Q But I thought the first thing somebody told you is that
15 the police were taking the boards off the doors and windows.

16 A I don't remember, I don't remember it like that. I
17 remember the policemen was there and they had everybody there
18 destroying the house. Now, it could, it could have been, but
19 I don't remember the exact conversation, but what I do know is
20 that they were demolishing the house and the -- well, actually
21 I think with the policemen surrounding the house with the cars
22 parked all over the place is why they called and they was
23 demolishing the house, but I knew that they had taken the
24 boards and things off the doors and stuff like that. I knew
25 that because I think that from my understanding, I'm trying to

1 think back because it's been a long time, I think they, they
2 took it down and took some pictures and then put it back up or
3 either took it down and took some pictures and left it down,
4 but, but when I got a call that day they were demolishing the
5 building.

6 Q Okay. But, but -- just April 12th, 2007, was the date
7 that the building -- the house was demolished; correct?

8 A Yes, sir.

9 Q Okay.

10 A April 12th. Yes, sir.

11 Q And the police were there because the, the size of that
12 house and the location of that house it could've fallen over
13 into G Street if they hadn't have done it right?

14 A I mean, I don't, I don't, I don't, I don't know why they
15 were there. It was a large house, but I mean, I don't know --
16 I can't answer why the policemen were there.

17 Q And the house was torn down by a -- is it R. K. Miller or
18 J -- I can't remember the name of the company?

19 A Miller. Yes, sir.

20 Q Okay. Miller, whatever name of the company, they were
21 the one that demolished the house?

22 A Yes, sir.

23 Q Okay.

24 A From my understanding.

25 Q And --

- 1 A Yes, sir.
- 2 Q And they were the ones that took anything that was in the
- 3 house or was part of the house and hauled it away; correct?
- 4 A No, sir. They buried it.
- 5 Q Okay. But they, they took it and hauled it off --
- 6 A No, sir.
- 7 Q -- to the landfill?
- 8 A No, sir.
- 9 Q They just buried it there?
- 10 A They buried it. They buried the stuff there.
- 11 Q Okay.
- 12 A They didn't haul it off to the landfill.
- 13 Q And you got -- you went to the City and did a FOIA or you
- 14 made a request, you said, "I want to" -- at, at some point in
- 15 time during this process you said, "I want to see everything
- 16 you've got in your file"; correct?
- 17 A I, I wrote Freedom of Information Act.
- 18 Q Right.
- 19 A And asked them to give me what they had in their files.
- 20 Q Okay. And they gave you everything they had in the file?
- 21 A Well, yes. Far as I know now.
- 22 Q Okay.
- 23 A I'm -- whatever they gave to me I gave to the attorney.
- 24 Q Okay.
- 25 A Uh-huh.

1 Q And there's also some, some photographs -- did you take
2 any photographs ever?

3 A I think I did, and I, when I was looking for them, but I
4 think I have some, I think I have some photographs that I,
5 that I took.

6 Q Okay. Where, where are those photographs?

7 A I'm going to try to locate them and bring them back
8 before because I was looking for them and didn't have them. I
9 think I had a few, but I'm not a hundred percent sure because
10 it's been a long time, but I believe that I do have some
11 photographs, and I, as a matter of a fact, I had my sister
12 looking for them. I'm going to try to have them by the time
13 we come back from lunch.

14 Q Well, and I guess my question is, in, in the documents
15 that your attorney gave me there's some -- it's like somebody
16 just made a, a Xerox copy of a photograph. It's different
17 than the ones in there. Do you know if those are ones that
18 you took or were those some additional photographs you got
19 from the City or do you know?

20 A Oh, no, no, no. I think -- I had some -- well, I can't
21 say that I got those from the City because like I said when
22 they gave me the package I took some photographs and I may
23 have given him copies of the ones that I had, but I do know
24 that I, I had some photographs and I was looking for the
25 photographs itself, but the attorney might have them because

1 you know, it's been since 2007 since we've been working on
2 this case. So it's been a long time.

3 Q Now, and Mr. Singleton, the reason it has taken so long
4 to get from when you filed the lawsuit to today is because of
5 you; correct?

6 A No, sir. No, sir.

7 MR. HENRY: Your Honor, I'm going to object. I'm not
8 sure --

9 A The, the --

10 MR. HENRY: -- where this line of questioning --

11 THE COURT: Hold for a second. We've got an objection.
12 Go ahead.

13 MR. HENRY: I'm not sure where this line of questioning
14 --

15 MR. BAXTER: I'll, I'll withdraw the question.

16 MR. HENRY: -- is going or the relevance of it.

17 THE COURT: Okay. He withdrew the question.

18 MR. BAXTER: Your Honor, I apologize. I'm the world's
19 worst, the second I sit down I'll think of something. So I'm
20 afraid to sit down.

21 THE COURT: All right.

22 BY MR. BAXTER:

23 Q Mr. -- just one thing --

24 A Yes, sir.

25 Q -- for clarification, the first permit you filed that was

1 roof, two doors and a window which was \$3000, you were just
2 going to re-shingle the roof; correct?

3 A Yes, sir. I was going to -- from my -- it's been a
4 while. I was going to just -- not, not -- it didn't -- it
5 wasn't any wood. I would have to done a little wood
6 replacement on the left-hand corner, and then I was going to
7 re-shingle it myself and do the, the roofs, the, the doors and
8 the windows. Yes, sir.

9 MR. BAXTER: That's all I have.

10 THE COURT: All right. We're going to go ahead and take
11 a short break. Ladies and gentlemen, we've been at it a
12 while. We're going to go ahead and take our morning break.
13 I'm going to excuse you for about 10 or 15 minutes, use the
14 restroom, get something to drink, whatever the case may be.
15 Leave your pads there in the jury box. Do not discuss the
16 case even among yourselves at this point in time. We'll take
17 a short break and we'll bring you back in just a minute.
18 Thank you very much.

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right. Mr. Singleton, we're still in the
22 middle of your testimony so you cannot discuss your testimony
23 with anyone, even your attorneys, whether that be what you've
24 testified to thus far or what you anticipate testifying to in
25 the future. All right. Mr. Henry, I understand when we had a

1 sidebar you have an objection you wanted to place. I denied
2 your objection but you wanted to place it on the record.

3 MR. HENRY: I did.

4 THE COURT: All right.

5 MR. HENRY: The objection was based upon the fact that
6 the City is going through painstaking efforts to ask about
7 matters that have, in my opinion, no relevance to the defense
8 in this case because they've already admitted that they tore
9 the house down without justification. The questioning -- the
10 line of questioning that was asked of Mr. Singleton had all of
11 the hallmarks of asking stuff that they already admitted to,
12 and it was about all of the correspondences that he had
13 received from the City before the house was torn down, it was
14 about the applications he had filed. All of that information
15 has nothing to do with whatever -- what they -- whether or not
16 they owe him for this house. They've admitted that they tore
17 the house down without justification. If they're not
18 defending that issue, this information that they are seeking
19 or that they're soliciting here is superfluous and it has no
20 basis in this case except to waste time.

21 THE COURT: All right.

22 MR. HENRY: And that's the objection.

23 THE COURT: All right. And I noted your objection in the
24 sidebar. I denied it and allowed Mr. Baxter to continue with
25 his questioning, but we now have that on the record. All

1 right.

2 MR. HENRY: Thank you, Your Honor.

3 THE COURT: All right. Anything from the Plaintiff
4 before we take a recess?

5 MR. HENRY: I have -- there was a document that was
6 introduced yesterday by the Defense, and I called it to the
7 Court's attention that there was some irregularities in that
8 document. I have subsequently obtained a copy of the same
9 document from the Register of Deeds Office, and it, it is
10 pretty obvious there are some irregularities, and I would like
11 to recall -- like to bring this up for the Court to see it at
12 this time.

13 THE COURT: Okay. Now, that -- you got it from the
14 Register of Deeds?

15 MR. HENRY: Register of Deeds.

16 THE COURT: Okay. I thought it was your client's
17 testimony that it wasn't filed with the Register of Deeds.

18 MR. HENRY: Well, there is a copy of it that was on --
19 that was at the Register of Deeds, and I have a copy of that.
20 It's not in the regular, I guess, it's not in the regular
21 chain of title, but it's on file at the Register of Deeds for
22 some reason.

23 THE COURT: Well, your client said that it wasn't.

24 MR. HENRY: Well --

25 THE COURT: But it is.

1 MR. HENRY: -- he -- it is because I have a copy. He was
2 mistaken.

3 THE COURT: And it's different than what was introduced
4 into evidence?

5 MR. HENRY: What was introduced into evidence, and I want
6 to bring that to --

7 THE COURT: All right. Have you seen that, Mr. Baxter?

8 MR. BAXTER: Your Honor, I have not.

9 MR. HENRY: And I'll show it to Mr. Baxter.

10 THE COURT: Okay.

11 MR. BAXTER: And, and, I mean, I want -- what I
12 introduced, the deed I introduced is the deed of distribution
13 that's on record with the Probate Court.

14 THE COURT: Okay.

15 MR. BAXTER: And so, I, I, I mean, I'll look at it. I
16 mean --

17 THE COURT: Well, but I mean, he's -- I'm assuming that
18 whatever was filed with the Probate Court is a copy of what
19 was filed with the Register of Deeds --

20 MR. BAXTER: I would think.

21 THE COURT: -- and as I understand from Mr. Henry it's
22 two completely different documents that are dissimilar.

23 MR. BAXTER: Well, no. I --

24 THE COURT: Is that correct, Mr. Henry, that's your
25 argument?

1 MR. HENRY: That's the argument.

2 MR. BAXTER: I, I, I want to look at it because if --

3 THE COURT: All right. Take a look at it.

4 MR. BAXTER: I agree it's going to have different stamps
5 because --

6 THE COURT: Yeah, it'll have different stamps, but as I
7 understand he's saying it's a different document, that there
8 is --

9 MR. HENRY: No. The, the document --

10 THE COURT: -- one thing filed at the Register of Deeds
11 Office, even though his client said there was no recording,
12 that he obtained from the Register of Deeds a different
13 document that was filed with the Probate Court.

14 MR. HENRY: The document is the same, Your Honor. The
15 numbering on the document is what, what the problem is, and
16 that's what I was pointing out yesterday. These numbers are
17 inconsistent, and even the one that's on file has different
18 numbers than the one that was introduced in court.

19 THE COURT: Okay. Well, let --

20 MR. HENRY: And I'll bring this up for the Court to
21 review it as well.

22 THE COURT: All right. Let me -- let me take a look at
23 it. Is that -- that's the one that's in evidence. Yeah.

24 MR. HENRY: These are the ones -- this is where I marked.

25 THE COURT: All right. I've got the exhibit.

1 MR. HENRY: Okay.

2 THE COURT: Show me the one from the Register of Deeds.

3 MR. HENRY: This is what the Register of Deeds shows. If
4 you look at, compare the numbers at the top.

5 THE COURT: Uh-huh. It's the same.

6 MR. HENRY: Then turn to the next page. At the top of
7 the page look at the number there, specifically with the page
8 number it says that the document's recorded on. On the one
9 that's introduced in court it says page 85A. On the one from
10 the Register of Deeds it says page 84A, and then if you'll
11 look down at the bottom I believe there's, there's another
12 discrepancy and the one that I have obtained is a certified
13 true copy. The one that was introduced is not.

14 THE COURT: Well, it does appear to be two different
15 documents. Let me -- and you can even look at the --

16 MR. BAXTER: Oh, so that may be the corrective deed.

17 THE COURT: All right. Well, here, take a look at it.

18 MR. BAXTER: Okay.

19 THE COURT: And then we'll come back and we'll --

20 MR. BAXTER: Okay.

21 THE COURT: -- we'll address the issue on the record.

22 All right. All right. Let's take about a 10-minute break.

23 Then we'll come back.

24 All right.

25 OFF THE RECORD

1 (On the record. The following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. Do we have those two? All right.
4 All right. Mr. Henry, let me hear from you again now
5 regarding Defendant's Exhibit 42. What is it you're asking
6 the Court to do?

7 MR. HENRY: Well, Defendant's Exhibit 42 I objected after
8 I noticed some irregularities on that exhibit on yesterday. I
9 called those, excuse me, I called those objections to the
10 Court's attention, and I have subsequently obtained a copy of
11 the same document from the Register of Deeds Office, and it is
12 very apparent that there are irregularities in the document,
13 and I was asking the Court on yesterday to exclude this
14 document, have it withdrawn or grant me a mistrial.

15 THE COURT: Okay. All right. We're not going to grant a
16 mistrial. The document originally came in without objection.

17 MR. HENRY: It did.

18 THE COURT: So I don't know that I can take it out. The
19 question is is do you want to introduce that one as another
20 document?

21 MR. HENRY: Yes. I -- if that document is going to be
22 allowed to remain in the record, I would need to introduce
23 what was obtained from the Register of Deeds Office and have
24 that placed, I guess, in the same file as a, another version
25 of this, and I may have to ask some questions. Well, I don't

1 know if I need to ask any questions about it, but I need to
2 have this document introduced as well.

3 THE COURT: All right. Mr. Baxter, let me hear from you.

4 MR. BAXTER: Your Honor, the -- my -- the, the, the --
5 they're the same documents.

6 THE COURT: Right.

7 MR. BAXTER: They just have different information on
8 them. The testimony --

9 THE COURT: Different information?

10 MR. BAXTER: Well -- okay. Okay.

11 THE COURT: Oh, oh, as far as the recording information.

12 MR. BAXTER: Right. One, one -- the, the, the main
13 difference is that I can see is that on the second page of the
14 document there is -- there's several things that are -- one of
15 which is a -- there's a different stamp on here that's got
16 Julia Thomas and then below it's got Wanda Prevatte, and it's
17 got exempt. It also has the recorded date with signed by the
18 auditor. The testimony of Mr. Singleton is that he went,
19 filed the deed, would have gotten a clocked copy that day,
20 which is typical, taken it immediately to the Probate Court.
21 This particular document, as you're aware, is -- before it's
22 actually filed as an official document it has to go through
23 certain steps, one of which it has to be given to the
24 Assessor's Office, also the -- it has to be signed by Wanda
25 Prevatte saying that this is the official document of record.

1 So the document itself that was introduced, I mean, that's
2 just -- if, if I go and record a deed and a month later they
3 mail me the original deed back, they're not going to be the
4 same because the original deed's going to have additional
5 information on there showing that it went through the
6 following steps that they, they have to do once the deed is
7 received. So it's not a -- I, I don't see it as an
8 irregularity as much as it's a different document. Now,
9 having said all that, it doesn't make any difference, and the
10 reason being is this deed, there was some testimony or
11 suggestion that Mr. Singleton was going to attempt to claim
12 ownership through his father. This -- the purpose of this was
13 to show that the -- any ownership his father had, he died
14 testate and he had a will. So any ownership he had went to
15 those individuals. It didn't go to the whoever your heirs
16 are. It did not go to Mr. Singleton. If this deed is
17 improper then the property is still owned by the estate
18 because it has to go through the estate, and so, the, the -- I
19 -- we're not, we're not in here trying to say that this deed
20 shows who owns the property. We're in here -- the purpose of
21 this was to show that Mr. Singleton does not have any
22 ownership interest in the property. So irregardless of
23 whether this deed was valid or invalid or whatever, it doesn't
24 matter.

25 THE COURT: All right. All right. Any objection to

1 marking that, I guess it'd be -- well, the other one was
2 Defendant's Exhibit 42, saying Defendant's Exhibit -- do you
3 want to put it as a Plaintiff's Exhibit or do -- can we say
4 Defendant's Exhibit 42A?

5 MR. HENRY: Make it a Plaintiff's Exhibit.

6 THE COURT: Okay.

7 MR. HENRY: This -- the other thing that I would point
8 out is this deed has a certification stamp from the Register
9 of Deeds. The other deed does not.

10 THE COURT: Okay. But what is it you're attempting to
11 show by that? What is it you want to do?

12 MR. HENRY: What I'm attempting to show is that there is
13 some irregularity in that other document. I don't know what
14 the reason is, but the official document is the deed that's
15 certified from the Register of Deeds Office.

16 THE COURT: Okay. And so that transfers title of the
17 property from the decedent, and I forgot -- from James Gadson
18 to whom?

19 MR. HENRY: Well, it's an interesting question because --

20 THE COURT: Well, what does it say on there?

21 MR. HENRY: It says it transfers title, but then there's
22 another deed.

23 THE COURT: Well, no, no, no, no. I'm talking about the
24 one you're saying is irregularity that you're trying to get
25 into evidence --

1 MR. HENRY: It said --

2 THE COURT: -- it transfers just like --

3 MR. HENRY: It says --

4 THE COURT: -- Defendant's Exhibit 42, does it transfer
5 title --

6 MR. HENRY: It --

7 THE COURT: -- through the estate of James Gadson to
8 Julia Thomas and Trevis M. Gadson and John L. Gadson?

9 MR. HENRY: It, it purports to do that.

10 THE COURT: Okay.

11 MR. HENRY: That my understanding is from Mr. Singleton,
12 who actually filed the deed and who actually did the probate
13 of the estate is that some -- there was something that the
14 Court did that he said caused that deed to be rejected. There
15 is another deed that was issued on that same property from
16 Julia to Mr. Singleton and it is recorded in the Register of
17 Deeds Office.

18 THE COURT: The same day?

19 MR. HENRY: Not the same day.

20 MR. BAXTER: That's a power of attorney..

21 MR. HENRY: I have a certified true copy of that --

22 MR. BAXTER: Ten years later.

23 MR. HENRY: -- which is on file, which you go over there
24 and ask them for copies of the deed of that particular piece
25 of property, this deed comes up, the deed that shows the

1 property was redeemed at some point when it was sold at the
2 tax sale comes up and there's another deed. I can't remember
3 exactly what that one shows, but there are three deeds that
4 they actually pull up. This one is not in the normal chain of
5 title for the property. So I don't know what the situation is
6 as far as status of this deed and what that actually means.

7 THE COURT: Well, I mean, are you looking in the deed --
8 I mean, is -- it depends -- what index are you looking to?

9 MR. HENRY: We just asked for copies of the deeds on the
10 property --

11 THE COURT: Okay.

12 MR. HENRY: -- located at Front Street. The ones that
13 were readily accessible were the three that they, they pulled
14 up the other day. They didn't even pull this deed when they
15 pulled the others. So this deed is in some other file. It is
16 not in the normal chain of title, from what I'm understanding.

17 THE COURT: No. I mean, I, I think it is in the normal
18 chain. I think they may have just looked for deeds rather
19 than deeds of distribution through --

20 MR. HENRY: Well, that may be true. I don't know. I'm
21 not a, I'm not a property lawyer.

22 THE COURT: Okay.

23 MR. HENRY: But I do -- all I did is got a copy of the
24 deed to see what was out there, and this is what we found.

25 THE COURT: Okay. All right. So --

1 MR. HENRY: What that means, I don't know, but I want to
2 make a record of it.

3 THE COURT: Okay. Well, I mean, what it means -- what is
4 the relevancy? I'm trying to, trying to decide what is the
5 relevance of a deed of distribution that confirms what the
6 Defendant is alleging, that being that the property
7 transferred from James Gadson through his estate to Julia
8 Thomas, Trevis Gadson and John Gadson --

9 MR. HENRY: That's --

10 THE COURT: -- and to the exclusion of Willie Singleton.

11 MR. HENRY: That's a question I would like to know the
12 answer to as well because the deed of distribution really
13 when Willie said this deed wasn't a part, wasn't recorded or
14 wasn't a part of what the Court approved for that estate
15 distribution, I don't even realize what the relevance of it
16 was to bring it up, and I objected that this was something
17 that shouldn't have been brought up, but it was brought up
18 anyway, and it's been introduced into evidence. So I've got
19 to deal with what's there.

20 THE COURT: Okay.

21 MR. HENRY: So --

22 THE COURT: All right.

23 MR. HENRY: -- I want to put this in just for
24 clarification purposes of why I objected to that deed in the
25 first place.

1 THE COURT: All right. We're getting ready to start
2 redirect. Do you want to do it during your questioning of Mr.
3 Singleton during redirect or do you want to go ahead and mark
4 it and stick it into evidence now.

5 MR. HENRY: We can just mark this and stick it into
6 evidence --

7 THE COURT: Okay.

8 MR. HENRY: -- as long as there's a record.

9 THE COURT: All right. So what would that be Plaintiff's
10 Exhibit what?

11 REPORTER: 17.

12 MR. HENRY: 17.

13 THE COURT: All right. I'm going to put Plaintiff's
14 Exhibit 17 is a certified --

15 MR. HENRY: True copy.

16 THE COURT: -- certified true copy of the deed of
17 distribution filed with the Register of Deeds in Deed Book 885
18 at page 84 regarding the Estate of James Gadson, deed of
19 distribution showing the transfer from the Estate of James
20 Gadson to Julia Thomas, John L. Gadson and Trevis M. Gadson.
21 Is that with consent or over objection, Mr. Baxter?

22 MR. BAXTER: Your Honor, it's, it's over objection
23 because --

24 THE COURT: Okay.

25 MR. BAXTER: -- it's not relevant. It's -- his testimony

1 was, "This is the document I took and recorded with the
2 Probate Court." The probate records also show in addition to
3 the deed of distribution it shows that that piece of property
4 went to those three individuals.

5 THE COURT: All right. All right. I'm going to admit it
6 over Defendant's objection.

7 MR. HENRY: Thank you, Your Honor.

8 (Plaintiff's Exhibit Number 17 [Deed of Distribution]
9 entered into evidence and appropriately marked.)

10 THE COURT: All right. Anything further from the
11 Plaintiff before we bring the jury back in?

12 MR. HENRY: No.

13 MR. BAXTER: Your Honor, and the -- the only other
14 objection would be the -- in as far as the -- you know, I, I
15 think because of what they're suggesting there should be some
16 testimony from the Register of Deeds explaining the fact that
17 -- because, again, if you take my deed that I got for my house
18 and I go down to the courthouse and compare it to the official
19 deed on record it's going to have different writing and marks
20 and it's going to say mailed to and it's going to have a bunch
21 of different stuff that's not on there. So I, I just think
22 it's going to be potentially confusing to the jury and
23 prejudicial and it would not be any probative value.

24 THE COURT: Well, and I would, and I would agree with you
25 on that with the exception that the recording numbers do show

1 a different -- page two on Defendant's Exhibit 42 says page
2 85A. Page two of what is now Plaintiff's Exhibit 17 says page
3 84A, even though it contains the exact same information, same
4 names on the signatory line, same witnesses on the signatory
5 lines, which I just noticed -- let me see Plaintiff's Exhibit
6 17 because this one, the witnesses are the grantees. I mean,
7 I see where the auditor stamped this one, which would not
8 necessarily be on what's in the Probate Court. I mean, I just
9 noticed that John Gadson and Julia Thomas are the witnesses
10 even though they're the grantees. So, all right. Well, I'm
11 going to go ahead and allow them in.

12 MR. HENRY: Thank you.

13 THE COURT: All right. Anything further from the
14 Plaintiff before we bring the jury back in?

15 MR. HENRY: No, sir.

16 THE COURT: Anything from the Defendant before we bring
17 the jury back in?

18 MR. BAXTER: No, Your Honor.

19 THE COURT: Okay. Let me, let me see the attorneys for
20 just one second.

21 (Whereupon, a bench conference is held.)

22 THE COURT: All right. Anything further from the
23 Plaintiff before we bring the jury in?

24 MR. HENRY: No, sir.

25 THE COURT: Anything?

1 MR. HENRY: But let, let me get clarification.

2 (Whereupon, a bench conference is held.)

3 MR. HENRY: All right.

4 THE COURT: All right. Anything further from the Defense
5 before we bring the jury in?

6 MR. BAXTER: That, again, that document is going to be
7 given to the jury how?

8 THE COURT: I don't know. How you going to give that?
9 The Plaintiff introduced it.

10 MR. HENRY: I'm sorry. Say that again.

11 THE COURT: How are you going to present Plaintiff's
12 Exhibit 17? Are you just going to have it in evidence and
13 then when they go to deliberate it goes back with them or --

14 MR. HENRY: I can ask him some questions and, and
15 formally introduce it if you want.

16 THE COURT: Okay. Now, if you do that, I'm going to
17 allow some redirect, I mean, some recross.

18 MR. HENRY: I understand, but I mean, I don't care
19 personally how it goes back.

20 THE COURT: Okay. Well, the fact, put it this way, the
21 fact of the matter is we can do one of two things. It was not
22 introduced in response to the cross-examination of Willie
23 Singleton. 42 came in without objection. Therefore, I can
24 either allow Mr. Baxter to cross examine Willie Singleton now
25 on Plaintiff's Exhibit 17 or he's going to get re -- an

1 opportunity to recross.

2 MR. HENRY: Okay. I'll let Mr. Baxter choose. If he
3 wants to go ahead and cross examine him on it, that's fine.

4 THE COURT: You want to cross examine now or after
5 redirect you want to recross?

6 MR. BAXTER: I would, I mean, I want to recross because
7 I don't even know what to cross examine.

8 THE COURT: Okay. That's fine. That's fine. He said
9 whatever you want to do. So we'll do recross.

10 MR. BAXTER: Okay. That's what I want to do.

11 THE COURT: All right.

12 MR. HENRY: He can recross.

13 THE COURT: All right. Sounds good. Let's bring the
14 jury in.

15 MR. HENRY: What was that Exhibit Number?

16 THE COURT: Plaintiff's Exhibit 17.

17 MR. HENRY: And the Defense?

18 THE COURT: Defense Exhibit 42.

19 MR. HENRY: Okay. Well, I'll introduce them.

20 (Whereupon, the following takes place in the presence of
21 the jury.)

22 THE COURT: All right. Ladies and gentlemen, welcome
23 back. We're ready to resume the testimony with Mr. Singleton.
24 Make sure you have your own notepads and do not have anyone
25 else's notepads. Okay.

1 MR. HENRY: Your Honor, may counsel approach?

2 THE COURT: All right, sir.

3 (Whereupon, a bench conference is held in the presence,
4 but out of the hearing, of the jury.)

5 REDIRECT EXAMINATION

6 BY MR. HENRY:

7 Q Mr. Singleton, I'm just going to ask you a few questions
8 following up. The -- despite all the letters and everything
9 you received from the City, the State disagreed with what the
10 City did; did they not?

11 A Yes, sir.

12 Q And the State found that Steve Stack had violated state
13 law in doing the things that he did with your property; did
14 they not?

15 A Yes, sir.

16 Q You were asked during your cross examination about
17 several deeds and what those deeds meant. I'm going to show
18 you what's been marked as Plaintiff's Exhibit 17 and ask you a
19 few questions concerning that if you don't mind. Take a look
20 at that for me, and I'm also going to hand you what's been
21 marked as Defense Exhibit 42.

22 A Yes, sir.

23 Q And tell me, would you identify those documents for the
24 jury?

25 A Yes. These, these are -- I drew this up when my father

1 passed for and to have it probated.

2 Q And that's -- is that a deed or what is that?

3 A This is -- yes, deed of distribution.

4 Q Okay. And I believe you testified that the deed of
5 distribution drawn up to give the property that your father
6 tried to will to your sister, Julia Thomas, and John Gadson
7 your brother, and was there someone else?

8 A And, and Trevis --

9 Q And Trevis?

10 A -- M., M. Gadson.

11 Q You indicated that that deed did not go through?

12 A Yes. I took it to the Probate Court and what happened
13 was -- well, how I found out that it didn't is that my
14 brother, John, from Philadelphia, we were paying the taxes
15 together. I would pay certain properties. He would pay
16 certain properties, and he called me and said that he checked
17 and this property was not in his name and he wasn't going to
18 continue to pay the taxes on that, on that property. That's
19 how it came about.

20 Q So your understanding that the deed did not get accepted
21 was based upon something you were told?

22 A Yes, sir.

23 Q And would you have in court today filed copies of the
24 deed or is it, is it filed in the, in the Register of Deeds?
25 Can you tell?

1 A I know that up here, up top it says Probate Court, and I
2 know that they, they sent it to the Register of Deeds. I
3 don't know how far it went, but because it has -- look like it
4 has a Register of Deeds stamped right there.

5 Q Stamp?

6 A Yes, sir.

7 Q Okay. So if there is a stamp on it then it's probably
8 filed at the Register of Deeds Office somehow?

9 A Yes, sir.

10 Q All right. And we have two different versions of that
11 deed. Do we not?

12 A Yes, sir.

13 Q And one of those is a certified true copy, the copy
14 that's marked as Plaintiff's Exhibit 17? Do you see a
15 certification on that?

16 A Yes, sir.

17 Q And it's certified by the Georgetown County Register of
18 Deeds?

19 A Register of Deeds, Ms. Wanda.

20 Q When you compare that to Defendant's Exhibit 42 do you
21 see the same certification?

22 A No, sir. There's no certification on Exhibit 42 and
23 there is one on Exhibit 17.

24 MR. BAXTER: Your Honor, may we approach the bench?

25 THE COURT: All right.

1 (Whereupon, a bench conference is held in the presence,
2 but out of the hearing of the jury.)

3 BY MR. HENRY:

4 Q So the deed of distribution that is marked as Defendant's
5 Exhibit 42 you said does not have a certification?

6 A That's correct.

7 Q The one that's marked Plaintiff's Exhibit 17 does have
8 the certification?

9 A Yes, sir.

10 Q Are there any other -- I call your attention to the top
11 of the page of each of those deeds, and specifically the page
12 number that's indicated for the recording of those deeds. Can
13 you see that?

14 A I can see the one on Number 17 but the one on 42 it look,
15 it look as though half of it is cut off at -- on the top of
16 this one, 42.

17 Q Can you, can you at least -- can -- is there -- can you
18 make out anything that would give you an indication of what
19 the number might be that is cut off?

20 A I can, I can see 17, but I can't really -- I don't know
21 if it's too small or what for me but I can't, I can't tell.

22 Q Okay. On -- look at the second page of the deeds. Can
23 you look through the top and see whether -- what the numbers
24 are listed as the page numbers on the top?

25 A Yes, sir. Page -- on 17 you got page 84A.

1 Q Uh-huh.

2 A And on 42 it has page 85A.

3 Q And are those both -- are those identical documents other
4 than those things? Are those the same deeds is what I'm
5 asking you?

6 A Oh, yes, sir. Same deeds, yes, sir.

7 Q But they are listed on two separate pages at the -- for
8 the recording --

9 A Yes, sir.

10 Q -- at the Register of Deeds Office?

11 A Yes, sir.

12 Q And you wouldn't have any idea why that would be the
13 case?

14 A No, sir.

15 Q Okay. There -- now, that same property that's listed in
16 those deeds that was supposed to be conveyed to the
17 individuals named in those deeds --

18 MR. HENRY: I would ask that this document be marked as
19 Plaintiff's Exhibit, for identification, as Plaintiff's
20 Exhibit 18, I believe?

21 BY MR. HENRY:

22 Q Mr. Singleton, I'm going to show you a document that's
23 been marked for identification as Plaintiff's Exhibit 18 and
24 ask if you recognize it?

25 A Yes, sir. Yes, sir.

1 MR. BAXTER: No objection.

2 MR. HENRY: I would ask that Plaintiff's Exhibit 18 be
3 entered into evidence.

4 THE COURT: Any objection?

5 MR. BAXTER: No objection.

6 THE COURT: All right. Plaintiff's Exhibit 18 admitted
7 into evidence without objection.

8 (Plaintiff's Exhibit Number 18 [Title to Real Estate, J.
9 Thomas to Singleton] admitted into evidence and appropriately
10 marked.)

11 MR. HENRY: And Plaintiff's Exhibit 18, for the record,
12 Your Honor, is a deed -- it says a title to real estate and
13 it's from Julia Thomas to Willie Lee Singleton.

14 BY MR. HENRY:

15 Q Mr. Singleton, what does that deed purport to give you?

16 A The, the same -- the property at 1929 Front Street.

17 Q And is that the same property that's listed in Defense
18 Exhibit 42 and Plaintiff's Exhibit 17?

19 A Yes, sir.

20 Q And when was that deed recorded?

21 A It was recorded 11-30-2007.

22 Q And let's see, on page four of Plaintiff's Exhibit 18 if
23 you would read what it says in item two.

24 A [As read], "The property is being transferred by Julia
25 Ruth Thomas to Willie Lee Singleton on November the 30th, 2007,

1 and is designated as TMS Number 5-17-162."

2 Q And that is the same property that is listed in those
3 other two deeds?

4 A Yes, sir.

5 Q And this deed was recorded subsequent to those previous
6 deeds?

7 A Yes, sir.

8 Q So Julia deeded that property to you?

9 A Yes, sir.

10 Q And your understanding was that the deed that was issued
11 by your father was not recorded or was not on file with the
12 Register of Deeds?

13 A Yes, sir.

14 Q And that understanding was gained from information that
15 was told to you?

16 A Yes, sir.

17 Q And we do see that those -- that deed is filed in some
18 form or fashion with the Register of Deeds or at least it's on
19 record over there some, for some reason; is that correct?

20 A Yes, sir.

21 Q Thank you, Mr. Singleton. If you would answer many
22 questions Mr. Baxter might have.

23 THE COURT: All right. Recross.

24 RECROSS EXAMINATION

25 BY MR. BAXTER:

1 Q Mr. Singleton, I just want to clarify this.

2 A Yes, sir.

3 Q The Defendant's Exhibit 42 is the deed that you took to
4 the Register of Deeds Office, recorded it, got a clocked copy
5 and took it to the Probate Court; correct?

6 A I, I think that -- I think that's the order I did, but I
7 know, I know it end up going to the Probate Court.

8 Q And then your understanding is that the deed which is
9 dated, I mean, which is marked as Plaintiff's Exhibit Number
10 17 is actually a true copy that if I went down to the Register
11 of Deeds Office today and said, "I want a copy of the deed,"
12 that's what -- that would be the document I would receive;
13 correct?

14 A A copy of this -- if you go and you ask for a copy of --

15 Q Number 17?

16 A Right. Yes.

17 Q That is, that is what you would get if I went down there
18 today?

19 A Today that's what you would get. Yes, sir.

20 Q Yes. Okay. And other than, there's some different stamps
21 and stuff on there, the, the basic documents are the same
22 signed by Julia Thomas?

23 A Yes, sir.

24 Q It's got John Gadson's signature, your signature.

25 A Yes, sir.

- 1 Q The description, everything except there's some different
2 stamps and like -- looks like computer-generated numbers?
- 3 A Right. Page numbers, different things. Other than that,
4 yes, sir.
- 5 Q And irregardless, you have no ownership interest through
6 James Gadson to this property, none?
- 7 A I don't know.
- 8 Q Okay.
- 9 A I, I, I don't know.
- 10 Q Well, you're not claiming?
- 11 A Am I claiming? Well, it depends, and this is why I said
12 that since you asked me that. When, when Victoria Gadson died
13 she had one daughter, which was Julia Thomas, her husband
14 James Gadson. The -- half of the property went to Julia
15 Thomas, half went to my father. So my father had the right to
16 give away his half to his --
- 17 Q Whoever in his will?
- 18 A Well, whoever, whoever he wanted to.
- 19 Q Right.
- 20 A But I, but I feel that if it didn't go through and it was
21 just in limbo then that's when I feel I would have an interest
22 in his, also, because then because they said he didn't, he
23 didn't file it with them and so it's, it's, it's, it's --
- 24 Q And, and in that case --
- 25 A -- I don't, I don't understand the law like that but

1 that's --

2 Q The property would still be owned by the estate. He had
3 a will. There was an estate. You were not a -- you were not
4 to receive the property under the will. Therefore, you could
5 not get the property through the estate. You, you agree with
6 that?

7 A I, I, I misunderstood your question.

8 Q Okay. Let, let me, let me withdraw that.

9 A Because it's sort of -- go ahead.

10 Q Okay. You -- the next item --

11 A Uh-huh.

12 Q -- which was just introduced as --

13 A This one?

14 Q -- Plaintiff's Exhibit Number 18 --

15 A Yes, sir.

16 Q -- okay, that, that is the deed from Julia Thomas to you
17 dated November of 2007; correct?

18 A Yes, sir. Yes, sir. This is the one that was done by
19 Morant. Yes, sir.

20 Q And, and that, and that's a document you had prepared?

21 A Morant, Morant attorneys prepared that.

22 Q Okay. But you, you went to the lawyer and said, "Here's
23 what I need, do a, do a deed for me"; correct? You gave them
24 the information?

25 A I, I -- yes. I went to the lawyer and I, and I gave him

1 the information and then he, he do whatever the research and
2 whatever and then he did what he did.

3 Q Okay. And you signed that deed as power of attorney;
4 correct?

5 A Yes, sir.

6 Q Okay. And in there there's a description that says that
7 Julia Thomas owns the property in its entirety?

8 A Is it entirety? Well, let me, let me look at it.

9 Q Well, okay. It says that she is the only heir to
10 Victoria Thomas -- I mean, Victoria Gadson; correct?

11 A Right. That's, that was the lawyer's understanding. He
12 told me -- see, I went to him and ask him about the property
13 and he -- when -- once he went and did what he -- and check
14 and did what he did he told me that Victoria Gadson owned the
15 property and that the property would have to go from Victoria
16 Gadson to Julia Thomas and then go to me. See, he did that
17 research because, you know, I, I didn't do that.

18 Q Okay. But, but you understand sitting here today that's
19 wrong, regardless of whether a lawyer did it or not that
20 information is wrong?

21 A I don't -- I --

22 Q She is not the sole heir.

23 A I don't, I don't know that because --

24 MR. HENRY: Objection, Your Honor.

25 A -- a summary judgment --

1 THE COURT: Hold for a second. There's an objection.

2 A Oh, I'm sorry.

3 THE COURT: Stop talking when he raises an objection.

4 What's the objection?

5 MR. HENRY: He's trying to ask him to state that the work
6 that the lawyer did was wrong, the -- the results of the work
7 that the lawyer did was wrong. He's not in a position to
8 testify to that. He's --

9 THE COURT: Well, he testified that Victoria died leaving
10 a daughter, a husband and --

11 MR. HENRY: Well, it calls for a legal conclusion
12 regarding reviewing the work.

13 THE COURT: No. He's just -- it's not a legal
14 conclusion. He's asking whether or not the attorney was wrong
15 or whether or not to Julia Thomas was the only heir of -- what
16 was the mother's name?

17 MR. HENRY: Victoria Gadson.

18 THE COURT: Victoria Gadson.

19 MR. HENRY: But he would have to make a legal judgment to
20 determine whether the lawyer's legal work was incorrect.

21 THE COURT: Okay. Overruled. I'll allow it. Go ahead.

22 Q Okay. You, you signed that deed saying all that
23 information contained in there is correct? You, you
24 understand that?

25 A Yes, sir.

1 Q Okay. And you understand today that all the information
2 contained in there is not correct?

3 A No, sir. And the reason why is that I was told that this
4 -- the, the ownership came up before a summary -- a Judge in a
5 summary judgment and he ruled that I do owned it.

6 Q Now, but whoa. That is --

7 A That's my understanding. You asked me what --

8 THE COURT: No. That's, that's not correct.

9 A Excuse me?

10 THE COURT: I sustain the objection. Move on.

11 MR. BAXTER: That's all I have. Thank you.

12 THE COURT: All right.

13 MR. HENRY: Nothing.

14 THE COURT: You may step down.

15 A Thank you.

16 THE COURT: All right. Let's strike the last statement
17 regarding where he said a Judge had ruled in his favor that he
18 was the owner of the property. We're striking that from the
19 record.

20 All right. Ladies and gentlemen, it's a little after 12.
21 We're going to go ahead and break for lunch. I'm going to
22 allow you to go to lunch on your own. Please be back in the
23 jury room at 2:00 o'clock. That'll give you an hour and 45
24 minutes. Leave your notepads in the jury box. Do not
25 discuss the case even among yourselves. Don't conduct any

1 independent investigations into the case. Hope you have a
2 good lunch and we'll see you back at 2:00 o'clock.

3 (Whereupon, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right. Anything from the Plaintiff
6 before we break for lunch?

7 MR. HENRY: No, Your Honor.

8 THE COURT: Anything from the Defense?

9 MR. BAXTER: Nothing, Your Honor.

10 THE COURT: All right. We'll be in recess until 2:00
11 o'clock.

12 OFF THE RECORD

13 (On the record. The following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. I apologize for keeping you so
16 long. Anything from the Plaintiff before we bring the jury
17 in?

18 MR. HENRY: No, sir.

19 THE COURT: Anything from the Defense?

20 MR. BAXTER: Nothing.

21 THE COURT: All right. Let's go ahead and bring the jury
22 in.

23 MR. BAXTER: Your Honor, one -- can we approach the bench
24 really quick?

25 THE COURT: Okay. Hold up for a second.

1 (Whereupon, a bench conference is held.)

2 THE COURT: All right. You can bring the jury in.

3 (Whereupon, the following takes place in the presence of
4 the jury.)

5 THE COURT: All right. Ladies and gentlemen, welcome
6 back. I hope everybody had a good lunch. Make sure you've
7 got your own notepads and don't have anyone else's notepads.
8 We're ready to continue the trial of the case. Mr. Henry,
9 Plaintiff. Yes, sir.

10 FOREPERSON: I have a note for you, Your Honor.

11 THE COURT: Okay. All right. I've received a note from
12 the jury. It says, "We want to see Plaintiff's Exhibit One,
13 LLR letter." You will be allowed to review all of those
14 exhibits, but not until it's time for deliberation. You
15 should not even be talking about the case at this juncture
16 even among yourselves. As I instructed you, it's too early
17 for deliberations. So you will be allowed to see those
18 exhibits when you do begin your deliberations unless during
19 the process of the trial one of the attorneys wants to produce
20 that for publication. Let's come ask the -- your foreperson
21 and let him ask.

22 JUROR: They published it down to this level. We went to
23 lunch.

24 FOREPERSON: Okay.

25 THE COURT: Oh, okay. So that's --

1 Q Good afternoon, Mr. McCray.

2 A Good afternoon.

3 Q How are you this afternoon?

4 A Sir? Sir?

5 Q How are you this afternoon?

6 A I do well. Thanks for asking.

7 Q I'm going to ask you some questions regarding procedures
8 for the City, for building inspectors and local governments to
9 follow in regard to property issues, but before that, let's
10 lay some groundwork and foundation for what we're going to try
11 to get into here. Can you tell me a little bit about your
12 background, Mr. McCray, where you were born, where you went to
13 school?

14 A Okay. I was born in, in Conway, South Carolina. Went to
15 Bucksport Elementary, Conway High School. When I was in high
16 school I took a class at, at Horry-Georgetown Tech in 1973 in
17 drafting, and then I got a job there as summer help, and one
18 of the guys -- my boss told me, said something interesting, he
19 said, "You can, you can go to college without a high school
20 diploma, but you cannot get a degree without graduating from
21 high school." So when I was in the 11th and 12th grade I went
22 to Horry -- to Coastal Carolina at night, and, and in the
23 summertime and went to high school in the daytime, and it was
24 funny. One, one of my instructors in college was also a
25 teacher of mine in high school. He passed me in college,

1 failed me in high school. After that I went to University of
2 South Carolina for a year and then went to Saddleback Junior
3 College and then went to the University of Berkeley for a
4 semester because I wanted a degree from the University of
5 California at Berkeley, but you have to have your last 16
6 semester hours at the college giving you your degree. I
7 didn't know that at the time. So I got mad and quit and
8 joined the Navy, and when I got out the Navy I went to work
9 for Celanese in Charleston for two years as a chemical lab
10 technician, and then I went to work for, for the highway
11 department as an engineer for about two years until '84 and
12 then I came to work for the City of Georgetown from '84 to
13 '89, and then around 1990 went to work for the City of Conway.

14 Q Let me ask you this. When you were working for the City
15 of Georgetown what kind of work were you doing?

16 A I was a -- they, they had newly created a position, code
17 enforcement officer, and that required me to do building
18 inspections and property maintenance and was over the zoning
19 ordinance, and so I was a chief -- I got certified. So I
20 became the chief commercial inspector, and the building
21 official would do houses and I'd do the inspection on the
22 commercial buildings, and then I would also do zoning, but you
23 know, primarily, you know, commercial, building inspections,
24 and zoning and anything else that they needed me to do in, in
25 the meantime.

1 Q What did the certification process to become a building
2 inspector entail?

3 A Okay. It, it entails, you know, your experience and then
4 taking tests, and so I, I so for as certifications long list,
5 but I became a regular building inspector, a commercial
6 building inspector, building plans examiner, a chief building
7 code analyst, residential electrical inspector, electrical
8 plans examiner, chief electrical code analyst, a plumbing
9 inspector, plumbing plans examiner, a chief plumbing code
10 analyst, mechanical inspector, mechanical plans examiner,
11 chief mechanical codes analyst, a fire inspector, level I and
12 II, a chief fire plans examiner and a chief fire codes
13 analyst, and back -- and, and they had just started the
14 certification of code enforcement and administrative
15 professional. I was the second person in South Carolina to,
16 to receive that designation, the 13th person in the country to
17 receive that designation. I also passed the homebuilders exam
18 and so the state gave me a certification for being both a
19 building inspector and a residential contractor and that was
20 number 50. I also passed the commercial license to become a
21 commercial contractor. I used to teach general contracting,
22 construction management and homebuilding at Horry-Georgetown
23 Tech in Conway, Georgetown, at Trident Tech in Charleston and
24 at Florence-Darlington Tech in Florence. I taught plan review
25 for fire safety at the fire academy and there's probably a few

1 more. Okay.

2 Q Well, it sounds like you have a pretty extensive
3 background in dealing with that kind of stuff. In your
4 training did you have to become familiar with and proficient
5 in dealing with building codes and/or local ordinances and
6 state laws regulating that kind of activity?

7 A Yes, sir. That's what the chief code enforcement
8 officer, you know, that's what a chief building code analyst
9 does analyzes the code and you learn how to interpret the
10 building code. Any, any building official it is tasked by law
11 to interpret and enforce the building code. That's a
12 requirement of, of the building code is if you're a building
13 official you, you are tasked with the responsibility of
14 interpreting and enforcing the building code.

15 Q And would you also have to be familiar with any state
16 laws that dovetail with the building codes and any other codes
17 that are in place within a local government to regulate
18 buildings and maintenance and all of that?

19 A Yes, sir. Because you are the -- as, as a building -- as
20 a building official you are the chief code enforcement officer
21 for that particular jurisdiction be it a town, a county or
22 whatever, as a building official you are the chief code
23 enforcement officer and you're responsible for doing all of
24 that.

25 Q And how many years of experience would you say you have

1 dealing with codes, state statutes and all that regulate
2 buildings and building maintenance and eradication of blighted
3 buildings? If you don't remember, an estimation would be fine
4 if you don't remember exactly?

5 A Twenty years.

6 Q And how -- have you been involved in many inspections
7 during your 20-year career?

8 A Oh, yes, sir. Yes, sir.

9 Q Roughly, and I know you probably can't remember the
10 number but just give a rough estimate of how many inspections
11 you think you might have been involved in.

12 A I would average about 3000 inspections a year.

13 Q And over a 20-year period?

14 A Over a 20-year period.

15 MR. HENRY: Your Honor, I would move to qualify Mr.
16 McCray as an expert in the area of building code enforcement
17 and state statutes that coincide with the building inspection
18 process and building eradication, as well as property
19 maintenance.

20 THE COURT: All right. All right. You got a lot in
21 there. You got to give me the identified category in which
22 you're seeking to qualify him as an expert.

23 MR. HENRY: Building code enforcement, property
24 maintenance enforcement, eradication of blighted properties.

25 THE COURT: All of that's not covered under building code

1 enforcement?

2 MR. HENRY: Well, it may very well be but I just want to
3 make sure the record is clear on what we're asking the Court
4 to consider him.

5 THE COURT: Okay. Mr. Baxter, any questions or
6 challenges?

7 MR. BAXTER: Your Honor, the -- one issue, the -- in the
8 interrogatories which we served upon Plaintiff the -- one of
9 the questions I always ask experts, all that. Mr. McCray has
10 not been identified as an expert in the discovery responses.
11 Additionally, we always ask for what documents that they have
12 that they rely on, etcetera, etcetera, and would not have been
13 provided those documents, and I, I will, I will concede that
14 even though he's not identified as an expert he does indicate
15 that he is expected to testify concerning inspection of the
16 property and the advice he gave Mr. Singleton in regard to
17 needed repairs of the same. He's also expected to testify as
18 to his knowledge and interpretation of the applicable codes
19 that were relied upon as a basis for demolition of Mr.
20 Singleton's property. So I, I, I would just point out he's
21 not identified as an expert. We've not been provided any of
22 the documents that he would use and rely upon, including code
23 sections, and etcetera, etcetera, but they did and kind of say
24 he's going to testify to some things that may come under that.
25 So I just interject my objection based upon that.

1 THE COURT: All right. Why didn't you identify him as an
2 expert in discovery?

3 MR. HENRY: We did not have a report from him or any
4 documentation that we were going to submit as part of his
5 testimony. So we didn't identify him as an expert because we
6 didn't have anything that -- we didn't get a report from him
7 or anything like that. We didn't ask for one.

8 THE COURT: Okay. Is he going to be rendering an
9 opinion?

10 MR. HENRY: He will be rendering an opinion. If you
11 don't want to qualify him as an expert then we would move to
12 have his opinion entered under Rule 70 -- 701 as someone
13 knowledgeable in the field.

14 THE COURT: All right. Well, given the context of what
15 they did identify that he'd be testifying to, I'm going to go
16 ahead and find him qualified as an expert in the field of
17 building code enforcement, and I'll let him testify in that
18 area.

19 Now, ladies and gentlemen, I'll give you some
20 instructions on expert and expert testimony, but for the time-
21 being all you need to know is that generally a witness can
22 only testify to his or her personal knowledge, what they saw,
23 what they smelled, what they tasted, what they witnessed.
24 There is an exception for witnesses who are qualified as an
25 expert in a certain field, which means that in addition to

1 testifying to their personal knowledge, what they personally
2 observed, they can also render an opinion in the field in
3 which they are qualified as an expert. So I am finding Mr.
4 McCray qualified as an expert in the field of building code
5 enforcement, which means that in addition to testifying as to
6 what his personal observations are, he will be allowed to
7 render an opinion in the field of building code enforcement.
8 All right. Go ahead.

9 MR. HENRY: Thank you, Your Honor.

10 BY MR. HENRY:

11 Q Mr. McCray, does a building code enforcement inspector
12 have authority to condemn a building?

13 A Yes, sir. He has the authority to condemn a building if
14 he, if he or she follows the correct process, and it's not a
15 one go one place and this is what you have to do to condemn a
16 building. There's really a three-step process. Well, to
17 actually condemn the building is a two-step process. The
18 first thing you -- and, and probably the easiest way to -- for
19 people to understand that is to think of a riverboat captain
20 going down the Mississippi. The Mississippi changes so much
21 until one captain is not expected to know the whole trip down
22 so that one captain can get on the boat and take it a certain
23 place and then get off, another one would get on and take it
24 another distance and then get off, and another one get on take
25 another distance.

1 In this case, the, the building code and we're, we're
2 talking about the 2003 building code, which is the document
3 that I have here, the building code allows a building official
4 to determine if a building is safe or not, but it does not
5 have a procedure to actually condemn a building. It just have
6 a procedure to declare a building safe or unsafe. Then you'd
7 have to go to the state law. The state law has a procedure to
8 actually condemn a building, but it does not have a procedure
9 to actually demolish a building. You then have, you then have
10 to have, the state law applies to cities over a thousand
11 people. Georgetown is over a thousand people. So it would
12 apply. It has a procedure that will allow you to condemn a
13 building. Then it requires the local municipality, in this
14 case the City of Georgetown, to adopt an ordinance to actually
15 tear down the building. So you have to go through one, and
16 then the other and then the other.

17 Q And all of these steps have to be followed if you're
18 going to do it properly?

19 A Yes, sir.

20 Q So there's no skipping any step?

21 A You cannot skip a step.

22 Q Okay. In -- are you familiar with the situation with Mr.
23 Singleton's property at 1929 Front Street?

24 A Yes, sir.

25 Q In your review of that situation, did the City of

1 Georgetown follow the steps necessary to do the condemnation
2 and the demolition of this property?

3 A No, sir.

4 Q And what, what is the basis upon which you make that
5 statement?

6 A The basis upon that is the code book, and, and I turn in
7 the International Building Code --

8 Q Okay.

9 A -- to page nine, which is the only section in there that
10 deals with, with unsafe structures and equipment, and that's
11 Section 115, and it's this and it's that long.

12 Q What -- just in, in -- give us a Reader's Digest version
13 of what --

14 A That's --

15 Q -- that, what that allows.

16 A Okay. That's what I was going to. Under 115.1 the -- at
17 the end of, at the end of that section it says, [as read],
18 "Unsafe structures shall be taken down and removed or made
19 safe as the building official deems necessary and as provided
20 for in this section." It says, [as read], "A vacant structure
21 that is not secured against entry shall be deemed unsafe,"
22 which means that if you have a vacant structure that is
23 unoccupied and it is secured from entry, then according to the
24 building code, that section, that building is deemed safe, and
25 if the building is not safe you -- if the building is safe you

1 cannot proceed past that point because it has to be unsafe in
2 order to move forward. The 15.2 says, [as read], "Record,"
3 says, "The building official shall cause a report to be filed
4 on an unsafe structure. The report shall state the occupancy
5 of the structure and the nature of the unsafe condition." So
6 they also have to -- the building official has to write a
7 report saying this is a house and this is what's wrong with
8 it. If they do not do that, there, once more, it's not
9 following the provisions of the building code, and then it
10 says that in 115.3 it says they have to give a written notice
11 describing the conditions and it says, "Such notice shall
12 require the person that's thus notified to declare immediately
13 to the building official acceptance or rejections of the terms
14 of the order," which means that under the building code a
15 person can reject what the building official says. If the
16 building official says your house is unsafe, even if it's
17 occupied, according to the building code, a person can reject
18 that, say, "I disagree," and that's the end of it, but what it
19 also says in 15.5 under restoration, [as read], "The structure
20 or equipment deemed to be unsafe by the building official is
21 permitted to be restored to a safe condition." So even the
22 building code allows a person to fix a building that's unsafe.
23 There, there is -- and if a building is unoccupied and secured
24 from entry, it's safe. Whether -- and that's not my opinion,
25 that's what the code says, and at the start of the process

1 and, and throughout the entire time, if you've been sitting
2 here listening as I have, throughout the entire time of Mr.
3 Singleton's building it's been unoccupied. It's been secured
4 from entry, and, and secured from entry does not mean boarded
5 up, just means, you know, if you go in there, close the door
6 and even lock it it's secured from entry because you cannot
7 build a building that is secured from somebody breaking in it.
8 Somebody can break into this building. You can put armed
9 guards and video cameras, they can still break in. So the
10 intent of the code was never to say that you, you have to have
11 the building to a point that it can't be broken into. It just
12 says it has to be secured from entry.

13 Q So as long as the owner makes an effort to make the
14 building inaccessible that's sufficient?

15 A Yes, sir.

16 Q He doesn't have to make it into a fortress but he can --
17 if he closes and locks doors and windows that's sufficient to
18 consider it secure?

19 A Yes, sir. And, and in Mr. Singleton's case, they went in
20 at some point during that process and actually boarded up the
21 windows and doors, but that still didn't stop the process even
22 though it was secured from entry.

23 Q Now, so if I understand you correctly, because Mr.
24 Singleton's building was closed and locked, it should have
25 never been declared a --

1 A Unsafe building.

2 Q -- unsafe building?

3 A That's correct.

4 Q So that's the prerequisite to them making that
5 declaration is that the building had to be accessible to the
6 public?

7 A That's correct.

8 Q Okay.

9 A And but once they made the, the -- once they made the
10 determination that the building was unsafe, in order for it to
11 move forward past that, just in order for it to move forward
12 past that, they had to then leave this section, but there's
13 nothing in here that says what you can do with it, there's
14 nothing that say you can condemn the building. You, you, you
15 have to then put this book down, you know, the code no longer
16 applies past that point.

17 Q Okay.

18 A And but once you go to renovate a building, you also have
19 to remember that when you go to renovate a building you cannot
20 renovate a building to the actual letter of the law as relate
21 to the building code in effect at the time. The, the standard
22 building code, the Southern Standard Building Code came into
23 effect in 1940. So before 1940 there were no building codes
24 in the South, and every three years the building code changes.
25 You're not going to make a -- every homeowner bring their

1 building up to code every three years. A person would never
2 stop construction on the building if every three years they
3 had to, when the code change they have to meet the new code.
4 So if a person is renovating a building, they have to bring it
5 up to the intent of, of the code for, for construction, and
6 there is an existing building code that's used, not the
7 International Building Code. There's an international
8 existing building code just as there was a standard existing
9 building code before 2000, but it's a lot -- there's a lot of
10 leeway because the type of constructions change. In '85 they
11 didn't build buildings to hurricanes standard. Today and, you
12 know, they build buildings to hurricane standards, but you
13 have, you have to build a building to withstand 107 mile an
14 hour wind, and a hurricane is 130, 140 and if the building
15 fail you say, "Well, it was built to the code and it still
16 failed." Yes. Because it's supposed to fail. It's not
17 designed to withstand that. After the eighties when
18 Charleston had a, had a earthquake they started putting in
19 earthquake designs for a building. The building code does not
20 require, in fact, the building code or state law does not
21 require a person to have an architect or an engineer for
22 regular construction. However, if a person is building a new
23 house, a new home today, state law requires that they get an
24 engineer to do the wind design, the building code and state
25 law requires you get an engineer to do the wind design, and

1 they do not allow an architect to do that but it has to be an
2 engineer to do the, the seismic, the, the seismic and, and the
3 wind for a house, anything over 400 square feet So you, you
4 are, you're, you're required to go in and comply with this
5 code to an extent on renovation and repair. There's nothing
6 that say you have to get an engineer. There's nothing say you
7 have to get an architect. Even building a house the, the
8 state law, state law specifically says it's exempt from
9 requiring it to have an architect. There are only certain
10 type buildings that are required to have architects and
11 engineers throughout the entire process in commercial
12 buildings, but not for single, one and two family dwellings
13 it's not.

14 Now, once you get away from the building code, you go to
15 state law. The state law that governs, the state law that
16 governs dwellings unfit for human habitation is Chapter 15 --
17 Chapter 30 -- 15 -- 31-15-30, and that's title, chapter and,
18 okay, so it's Title 31, Chapter 15 and then section starting
19 at, I guess, Section 10 and going on. Once a building is
20 declared unsafe, you then go to the state law, and the state
21 law once more has already decided that, excuse me, decided
22 that the house is unsafe, but, you know, it's sort of -- state
23 law kind of takes into account that you've already complied
24 with the building code before you got to them, and then it
25 says that under 31-15-33A of the state law says that, [as

1 read], "Requiring the owner, within the time specified in the
2 order, to repair, alter or improve such dwelling to render it
3 fit for human habitation or to vacate and close the dwelling
4 as, as to human habitation." So the state law allows for a
5 person, a building that's been declared unsafe under the
6 building code to simply be vacated if it's occupied, and it
7 would then comply with the state law, and the state law also
8 says that if the owner fails to comply with the order and it's
9 under 31-15-34, [as read], "If the owner fails to comply with
10 an order to repair, alter or improve or to vacate and close
11 the dwelling," also it's talking about a building that's
12 occupied, "the public officer may cause such dwelling to be
13 repaired, altered, improve or to be vacated and closed or the
14 public -- or the public official may close -- may cause it to
15 be posted at the main entrance of the dwelling as closed and
16 place the following wording, 'This building is unfit for human
17 habitation; the use or occupancy of this building for human
18 habitation is prohibited and unlawful.'" Now, nowhere in
19 there that it says that a building is vacant and has to be
20 torn down. It doesn't say that. It, it, it says that, you
21 know, because the concern about the building code is for
22 habitable buildings, buildings where people actually living
23 in. It's not -- the concern is not for vacant buildings.
24 They -- but a vacant building has to be secured from entry.
25 The whole section says that, you know, and basically the whole

1 section says that, you know, it gives a procedure by which you
2 can declare a building unsafe for human habitation, and that,
3 that condemnation process, but it doesn't give a procedure for
4 actually demolishing a building. They say that, that the
5 municipality has to write an ordinance dealing with that.

6 Q Now, let me just interject this. In your dealings with
7 Mr. Singleton's situation, have you reviewed any documentation
8 from the City of Georgetown, A, giving him the list of items
9 that needed to be corrected as required by the code before
10 they came in and claim they were -- they were going to do a
11 condemnation and demolition?

12 A No, sir. In fact, it, it was the total opposite of that.
13 What happened, as best I can tell, Mr. Jason Goude, who was
14 the building official at the time, wrote two letters. The
15 first letter said that he rode by and his visual inspection he
16 thought that the building was unsafe, and he requested an
17 opportunity to do the formal inspection because the building
18 was secured from entry. That wasn't granted, apparently
19 wasn't granted because no, no one -- he never made the
20 inspection. He, he then came back and, and wrote a second
21 letter. That second letter said, "We're going to use the 2003
22 International Building Code and state law as the process to,
23 to move forward with the condemnation process." Now, if they
24 were going to use -- if he was going to use this, then and the
25 first thing you ask is, "Well, was the building secured from

1 entry," and that answer was yes, then he could have never
2 declared that building unsafe and followed the code. Now, if,
3 if he declared that building unsafe, then he, he, he -- if he
4 -- he declared a building that was secured from entry unsafe
5 he would have had to have -- go in the building, make an
6 inspection, write a report, give it to the owners and give
7 them a specified amount of time to fix what was wrong. On the
8 whole of the record there was never a report given to Mr.
9 Singleton, Mr. Gadson or anyone that we're aware of saying,
10 "This is what's wrong with your building, you know, and this
11 is what we want you to fix," never found that.

12 Q One other point I'd like to ask you about, how likely is
13 it that a building inspector can tell the structural integrity
14 of a residence or any other building without having entry
15 unless it's falling down?

16 A It's extremely difficult to, to, you know, because most
17 people don't have x-ray vision, and, and you, you can't look
18 at the outside and see what's going on in the inside. You,
19 you can't, you know, and especially if you're trying to
20 determine how something looks based on the outside. A roof
21 can be bad and have a big hole in it. You can assume what's
22 going on inside, but you can't say with any degree of
23 certainty that it's, that it's bad inside. Even if it has a
24 hole, you can't say with any degree of certainty that the
25 water or, or, or the collapsed sheetrock has caused structural

1 damage from, from the outside of a building. You, you have to
2 get in and do the inspection.

3 Q So, is that what they mean when you hear people talking
4 about a building having good bones?

5 A Yes, sir. The outside of the building has the cosmetic
6 stuff on it, you know, it has the sheeting or, or the wall
7 covering on the outside. Some have brick, you know, like a
8 brick veneer or a covering or it's made out of brick or block,
9 whatever, and when you have that on the outside of, of a
10 building that does not determine what's wrong with a structure
11 of a building, and you can have a floor joists crack in a room
12 and the floor will sink with just one, from one floor joist
13 cracking depending on, on, on the weight of what's in, in the
14 house. Buildings are old or get old. It's surprising that
15 older buildings are a lot better than newer buildings. We, we
16 like to tear down old things and build new buildings, but
17 older buildings have better lumber because back then a tree
18 would grow for hundreds of years and then they'd cut it down
19 and they have the old heart pine flooring in the old
20 buildings. New buildings you lucky if you get a tree to grow
21 20 years, and in fact, they -- you, you, you look at a tree
22 when it's sawn down and the old buildings the rings of the
23 tree are more dense, which means it grew more. The new
24 buildings have wider rings which means it's, it's a lot softer
25 lumber. Southern pine the what they call deflection or, or,

1 or the, the bounciness or in that is the newer lumber and
2 each, each time the building code comes out it lowers the
3 capacity of southern pine because they're grown fast and the
4 rings are a lot further apart and it's not as strong as the
5 older lumber. So part, part of an old floor joists and old
6 sill can be rotten but that doesn't mean that the whole thing
7 is rotten, and you know, you'd have to go in and determine
8 that when you start working on it.

9 Q So if I'm looking at pictures like the ones that were
10 submitted this morning, would I be able, if I'm a building
11 inspector, to just have a cursory view of this kind of
12 exterior on a building and tell you whether that building is
13 structurally sound or not?

14 A No, sir. Absolutely, positively not. Just, just because
15 a wall may be separating, but in, in this case what caused a
16 lot of the damage to continue is the fact that the building
17 remained open during the whole process. Once you discover a
18 leak, if you do nothing, it's going to get worse. It's, it's
19 almost like if, if, if you look at your car and your gauge
20 come on and says the oil is low and you continue to drive it,
21 at some point that car is, is going to stop, going to stop
22 running because you didn't fix it. Once, once, once you
23 discover the oil leak and you go to a store and say, "I want
24 to put some oil in this." "Oh, no, I'm not going to let you
25 put any oil in it, keep driving," you know, that's in essence

1 what, what happened with this.

2 Q Okay.

3 A Once the problem was discovered no one allowed them to
4 fix the problem, and what made it even worse when it, when it
5 come to actually demolishing the building is that the City of
6 Georgetown did not have an ordinance in place for demolition
7 to actually -- a process for a demolition. The -- now, now I,
8 I, I can move to the State and what they did. The State in,
9 in its order one, one of the first things after, after they
10 made their findings of fact, one of the first things they said
11 is that Mr. Stack agreed that he violated state law because
12 the state law required him or, or whoever did that process to
13 make a list, give Mr. Singleton an opportunity to fix the
14 building and they agreed that that didn't happen. They also
15 said they required the City of Georgetown to pass an ordinance
16 -- well, actually, it did two things. One, it required them
17 to adopt the proper laws within six months because,
18 surprisingly enough, at that time the City of Georgetown did
19 not have this code adopted even though Mr. Goude said that he
20 was using that, even though Mr. Stack said they were using the
21 code, they did not have this code adopted by law. So they,
22 they weren't, they weren't following the code. They didn't
23 even have the code adopted. They never used this. They,
24 they, they just said that -- yes, sir -- you.

25 Q So, now, despite the fact that we had all these letters

1 and all of these notices sent out regarding the house at 1929
2 Front Street, it's your testimony that none of that mattered
3 because they didn't follow the code?

4 A Well, they didn't have the code adopted. I mean, even
5 though they said they was going to use this process, it would
6 have been nice if they did, but it wasn't adopted into law.

7 Q So the local government has to take some action to adopt
8 an international code that it plans to use as a basis for
9 actions that it plans to take in regard to property?

10 A Yes, sir. In fact, the international -- the, the code
11 comes out every three years, and so every three years you have
12 to adopt the latest edition of the code. State law in 1-23
13 says that, that you have to adopt the latest edition of the
14 code. Now, they've changed the law in recent years to say and
15 especially 15 -- 31-15 and 1-23, now they have statewide
16 building codes because for a long time they did not have
17 statewide building code, but now they do. The law says that,
18 that if they write the ordinance they can write an ordinance
19 and say they, they are following the latest edition of the
20 code and then the state law adopts the latest edition of the
21 code.

22 Q Okay.

23 A And, and so now, now, but that, that was not the case
24 when this was going on.

25 Q So, so let me ask you. So it's not sufficient then for

1 the City to just send out a letter or to call someone on the
2 phone and say, "We're following the International Building
3 Code," they've got to do a little more than that?

4 A They've got to do a lot more than that. They have to
5 actually adopt the code in order to enforce it, and, and so,
6 you know, and it's, it's nice to enforce it, you know, it's
7 nice to enforce it, but, but then first you have to take the
8 first step of adopting it.

9 Q Okay.

10 A And, and then they have to follow it.

11 Q Now, if I say that I'm following it and I'm referencing
12 that code, that's not enough for me to be able to use it, I've
13 got to do more?

14 A Well, it's not, it's not enough for, for, for, for you to
15 legally be able to use it, but you need to use it because the
16 only defense a building inspector has in court is that, "I
17 followed this code book right here, and so therefore, you
18 know, you can't blame me because the code book was wrong."

19 Q Okay.

20 A Now, now, you can blame me if I look at that and say,
21 "You know, I'm not going to follow that," and just set it
22 down, then I'm responsible, but if I follow this that's my
23 only defense and that's anybody's only defense is they
24 followed the code book.

25 Q Now, in Stephen Stack's case, were you involved with the

1 proceedings before LLR?

2 A Not, not really. My, my -- really, after the house was
3 torn down, then Mr. Singleton called me, and we talked about
4 what had happened, and then he, he talked about hiring me as
5 an expert witness at that point, and so I, you know, at that
6 point, we started looking at what happened and what went
7 wrong, and, and because two or three days after the house was
8 torn down he wrote a letter asking for all of the records and,
9 and so they gave to him everything they had up until that
10 point. He also got some records from his, his brother John
11 showing what had happened up until that point. He had all of
12 John's records and then his records, and so I came up to speed
13 on, on what had happened, and because I used to be a building
14 inspector here in Georgetown, you know, you ride down the
15 street, you, you, you see the house and so, you know, very --
16 and I very familiar with that house.

17 Q So you had, you had personally seen that house?

18 A Yeah. Oh, yes, sir. I've many times.

19 Q Had you been on the premises before they tore it down?

20 A Yes, sir.

21 Q How -- well, when was the last time you'd say you'd been
22 on those premises before the house was torn down?

23 A I'm not sure, I mean, but it was before it was torn down,
24 within a year, within a year of it being torn down.

25 Q Now, the building code talks about securing a house

1 that's deemed unsafe, you get to go in and secure it and make
2 it safe?

3 A Yes, sir.

4 Q Okay. Mr. Singleton's house was never unsecured is what
5 you're telling us?

6 A It was never unsecured.

7 Q Does it matter what condition the house is in if it's
8 declared unsecured -- if it's declared unsafe and you secure
9 it, does it matter what, what other condition of the house is?

10 A No, sir.

11 Q So it's not --

12 A Not, not -- let me clarify that.

13 Q Go ahead.

14 A According to the code, it doesn't matter, you know, and,
15 and that's not my, you know, according to the code book once a
16 house is -- a vacant house is secured from entry it's deemed
17 safe and, and you, you can't condemn a safe house. You know,
18 so, so that's, that's not my opinion. That is what the code
19 says.

20 Q Right. So there was never a provision that they could
21 rely on to declare Mr. Singleton's house unsafe because of it
22 being secured?

23 A No, sir.

24 Q What happens when a building inspector does follow all of
25 the necessary procedures and condemns a house and decides to

1 have it demolished?

2 A If they followed all the procedures then they go to the
3 local ordinance and, and have, have to then follow that
4 procedure for actually tearing the house down. Now, the State
5 told the City to -- as part of the consent agreement to adopt
6 the necessary codes in six months, which meant adopt the
7 latest edition of the building code and an ordinance dealing
8 with demolishing houses. The, the State, I mean, the City
9 took longer than six months to adopt the codes and they did
10 not adopt a local ordinance dealing with demolishing houses in
11 2012.

12 Q And when was this proceeding with Mr. Stack?

13 A 2007.

14 Q And they had six months from the date of the proceedings
15 to enact these laws and they didn't do it?

16 A Not until 2012, and, and the surprising thing about that
17 was in 2012 when, when they, when they wrote the ordinance
18 they required the building inspector to take the list or, or,
19 or, or take -- make a finding of fact to City Council. So
20 they make the final decision as to what houses should be
21 demolished in the City of Georgetown. So, so they've taken it
22 out of the professionals' hands and put it -- it's now a
23 political issue as to whether or not you demolish a house in
24 the City of Georgetown, but back in 2007 there was no
25 provision for demolishing a house. It wasn't until 2012 when,

1 when they passed the ordinance, and sadly enough, even after
2 Mr., Mr. Stack was found guilty by the State of demolishing
3 the house in violation of state law or, or, or not -- he
4 wasn't found guilty. He, he under consent agreement he, he
5 agreed that he was guilty he -- they still continued to
6 demolish houses.

7 Q Mr. Stack has --

8 A Yes, sir.

9 Q -- involvement with that?

10 A Well, Mr. Stack and Mr. Martin, the current building
11 official, Rick Martin, and it was the same house that they,
12 they started around the same time they, they, they continued
13 with that process..

14 Q Although they were put on notice that what they were
15 doing was against the law?

16 A Yes, sir.

17 Q So they tore down additional houses after Mr. Singleton?

18 A Yes, sir.

19 Q Did the State have any, have any intervention in any of
20 that?

21 A No, sir.

22 Q So when they --

23 A Well, the, the second guy filed a complaint and Mr. Stack
24 gave up his license. Rather than go before the board he
25 simply gave up his license on the second complaint, but, you

1 know, he said, "Look, I'm not practicing anymore, here's my
2 license," and he went on about his business but --

3 Q So -- oh, go ahead. I'm sorry.

4 A It, it didn't just stop with one.

5 Q So there was a continuation of the same conduct that he
6 had been disciplined for?

7 A Yes, sir.

8 Q And he was involved?

9 A Yes, sir.

10 Q And he ultimately gave up his license as a result of
11 being brought before the board again?

12 A Yes, sir.

13 Q So he's not employed at the City of Georgetown now?

14 A Oh, no, sir.

15 Q Okay. When a house is demolished is there any point at
16 which a valuation of the house, as far as what the house is
17 worth, is there any point at which that is done?

18 A No, sir.

19 Q Does the building official have any input into deciding
20 what someone is owed if their house is, is improperly
21 destroyed?

22 A No. The, the building official has input in, into what
23 the value of a house is at the time that it's built. In this
24 case of, of, of destroying houses and, and assigning a value,
25 that's something that, that is, is really a delicate situation

1 and that's because you, you can go in and what, what the City
2 did was they, they wrote a list of -- a four page list of
3 houses they wanted to tear down, and they, they went to
4 council at a retreat and said, "Give us \$1.4 million to tear
5 these houses down on this list," of which Mr. Singleton's
6 house was on the list and it was on the front page of the
7 newspaper, but they, but they said that they had a list of
8 houses and that they've identified as ones they wanted to get
9 rid of. Now, if they look at your house, and say, "You know,
10 I want to tear down Attorney Henry's house," --

11 MR. BAXTER: Your Honor, I'm not sure I understand the
12 relevance of any of this.

13 THE COURT: What's the relevance?

14 MR. HENRY: It goes to the background of how we wound up
15 here, what, it goes to the background of the City's intent and
16 the actions they took in violation of state law with
17 knowledge.

18 THE COURT: Overruled. Go ahead.

19 A All right. They, they'll look, say, "Well, I want to
20 tear down your house," and they will simply demolish it
21 without following any laws and then say, "Well, now, your
22 house was only worth X number of dollars to us based on," and,
23 and the -- a lot of times they'll use tax assessed values, but
24 a tax assessed value is not the true value of a house. The
25 tax assessment has always been lower than the actual value. A

1 lot of people even go out and appeal and argue the tax
2 assessed value to get it lower because that means the lower
3 you pay your property taxes. So, so they're -- people have an
4 incentive that they're to keep that value low, but the
5 marketplace dictates what the house is worth and also it
6 dictate how much it's going to cost you to replace whatever it
7 is. Even if you have a shack, it has a -- it, it costs to
8 build a shack back, and, and most times -- okay.

9 MR. BAXTER: Your Honor, the -- we're dealing with value
10 of the house here, not replacement value and not --

11 THE COURT: No. He hasn't actually gotten into a value.
12 He can't -- I'm not going to allow him to give, quote any
13 values.

14 MR. BAXTER: But, but he's giving testimony about -- he
15 -- he's getting into building something back has absolutely
16 nothing to do with this particular case.

17 THE COURT: Okay. Well, I don't think he's gone out of
18 line so far. I'll overrule. Go ahead.

19 Q So you said that the City would use the tax assessed
20 value of a property?

21 A Yes, sir.

22 Q But that's not going to be true value of any property?

23 A No, sir.

24 Q Okay. Does the City in the process of deciding whether
25 to demolish a house ever have it -- ever have that house

1 appraised?

2 A No, sir.

3 Q So they wouldn't know what the value of the house is?

4 A No, sir.

5 Q And when they tear it down if there's an issue over value
6 they always go with tax value is what you're saying?

7 A Pretty much, because that, that is the only tangible
8 value, a, a lot of times for older houses where there's no
9 need for a person that's owned the house for 50 years to go
10 out, go out and get, get it appraised, because they, they plan
11 to own it for the next 50 years.

12 Q Right.

13 A So there's no, no reason to get an appraisal every two or
14 three years.

15 Q I believe you testified earlier that an engineer is not
16 required when you're getting ready to fix a old, an old house
17 or if you're doing a rehab?

18 A That's correct. There's, there's, there's no requirement
19 to have an engineer. Now, excuse me, if, if, if you submit
20 plans and the building official dispute those plans, you know,
21 the building official examined the plans, you know, "I dispute
22 that," you -- sometime both of you all altogether can, can
23 come up and say, "Well, let's get an engineer to decide this
24 for us," but there's nothing in, in the building code or state
25 law that require an engineer to make an assessment on the --

1 on, on that beforehand.

2 Q So when Mr. Singleton was told that he needed an engineer
3 that was not true?

4 A It, it was not in accordance with the building code.

5 Q Okay. Now, to your knowledge, is there -- with houses
6 that have been declared unsafe, if a person is making an
7 effort to try to get in a position to make the -- make repairs
8 on the house, whether he knows what the repairs are
9 specifically from the City, is there anything that you're
10 aware of that allows a building official simply to say, "This
11 house is beyond repair"?

12 A No, sir. And in fact, as it relate to this case, when
13 -- once Mr. Singleton boarded up the house, the doors and
14 windows on the first floor, that made the house beyond the
15 requirements of the building inspector.

16 Q Okay.

17 A Because they, they, they could not come in then and
18 declare it unsafe and still be following this book here. I
19 mean, they, they, they could not go in once that house was
20 secured from entry and say it's unsafe. Doesn't, doesn't make
21 a difference what the condition of, of it was, it, according
22 to the code, it was still declared safe.

23 Q So that removed it from the auspices of the building
24 inspector's authority?

25 A That's correct.

1 Q Okay. And if the building inspector does say that the
2 house is beyond repair, what, what could he possibly be
3 relying on?

4 A What -- since, since, since, since he's not following
5 this book and which they said they was going to follow this
6 book, since they're not following this book, who, who knows. I
7 mean, you, you, you can't say what a person's -- where a
8 person's mindset was. All I can say is whether or not the
9 person followed the code, and, and I can say that there's
10 nothing in this book that would allow a building official to
11 say the house is beyond repair.

12 Q Having reviewed all of the documentation involved with
13 this case that you were able to get your hands on and having
14 20 years experience in the field with intensive experience
15 dealing with codes, dealing with statutes, regulating the type
16 of activities that a city can involve themselves in when it
17 comes to a person's property, have you reached a professional
18 opinion about what happened to Mr. Singleton's property?

19 A Yes, sir.

20 Q Can you express that opinion to the Court to a reasonable
21 degree of building inspection certainty?

22 A My opinion to a reasonable degree of building certainty
23 is that in this case the City of Georgetown did not follow the
24 provisions of the building code. They did not follow the
25 provisions of state law and that they did not have a law in

1 place to demolish the house. So therefore, the whole process
2 was not done in accordance with any kind of law. There, there
3 was not a law or an ordinance or a code that was followed from
4 start to finish in this process even though they said they was
5 going to follow that law, that ordinance, that code. There
6 was not one that was followed.

7 Q Mr. McCray --

8 A Yes, sir.

9 Q -- thank you for your assistance. Please answer any
10 questions that Mr. Baxter may have.

11 MR. BAXTER: Mr. McCray, can I borrow your --

12 THE COURT: Hold for a second. Let's go ahead and take a
13 short break. Okay? We'll take -- this might take a while.
14 Let's go ahead and take about a 10-minute break, give you an
15 opportunity to stretch your legs, get something to drink.
16 Do not discuss the case even among yourselves at this point in
17 time. Leave your pads here in the jury box. Okay.

18 (The following takes place outside the presence of the jury.)

19 THE COURT: All right. Mr. McCray, we're in the middle
20 of your testimony. So you cannot discuss your testimony with
21 anyone whether you -- what you've testified to thus far, what
22 you anticipate testifying to in the future. Okay?

23 A Yes, sir.

24 THE COURT: All right. Anything from the Plaintiff
25 before we take a break?

1 MR. HENRY: Nothing further from the Plaintiff, Your
2 Honor.

3 THE COURT: Anything from the Defense?

4 MR. BAXTER: Your Honor, can I -- I'd just like to borrow
5 the book he's referring to.

6 THE COURT: All right. Let him, let him review the book.
7 All right. Let's take a break.

8 OFF THE RECORD

9 (On the record. The following takes place outside the
10 presence of the jury.)

11 THE COURT: All right. Anything from the Plaintiff
12 before we bring the jury in?

13 MR. HENRY: No, sir.

14 THE COURT: Anything from the Defense?

15 MR. BAXTER: Nothing, Your Honor.

16 THE COURT: All right. Let's bring the jury in.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: All right. Ladies and gentlemen, welcome
20 back. Make sure you have your correct pad and don't have
21 anyone else's pad. All right. Mr. Baxter, you can cross
22 examine.

23 MR. BAXTER: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. BAXTER:

1 Q Mr. McCray, I'm going to just try to hit some of the high
2 points here, but the -- you talked about the appraisal and if
3 a building official relies upon the tax records, what's shown
4 in the tax records, the owner has a right to say, "I disagree.
5 I want to submit an appraisal"; correct?

6 A Okay. If they do that for what?

7 Q Well, for example, there, there seems like if the
8 building -- if repairs are more than 50 percent or there's
9 various things that come into play.

10 A Okay. If the repairs exceed 50 percent there, there was
11 -- there, there was an old perception called the grandfather
12 clause, but it, it was never really in the code about a
13 grandfather clause, but a lot of time zoning ordinance will
14 say that if the damage to a building exceeds 50 percent then
15 the building had, had, had to meet the new zoning ordinance.

16 Q Right.

17 A But, but it, it never said that in the building code,
18 and, and since this is a building type issue it does not say
19 that in the existing building code. Now, the -- there, there
20 are two codes. One, there's, there's the regular building
21 code which deals with new constructions and additions and
22 that's the International Building Code deal with new
23 construction and, and additions. When you, you come to
24 alterations and repairs of buildings, then you, you would, you
25 would move from that code to the -- if it's a house, the

1 existing building code.

2 Q Okay. But the -- in 2000 -- the 2003 code there was only
3 one code, all these other codes came about at a later time?

4 A No.

5 Q We started having separate ones?

6 A No. That's incorrect. There, there's always been --
7 there, there, there's a building code. There's a property
8 maintenance code. There's an existing building code,
9 electrical, plumbing, mechanical, all those codes have been
10 around for years and years and years, and whenever they switch
11 from the Southern Standard Building Code when the, when the
12 SBCCI, the cable and the ICB combined into one and became the
13 International Building Code then they still kept all those
14 codes, and so all those codes have been around for years and
15 years and years dealing with different aspects. You have a
16 property maintenance and you have an existing building code.

17 Q Okay. Now, you, you read -- you referred to Section
18 115.1 of the 2003 International Building Code; correct?

19 A That's correct.

20 Q And you read portions of that; correct?

21 A That's correct.

22 Q Okay. You didn't read all of it: correct?

23 A No.

24 Q Okay. Now, let's read all of it. You, you agree that
25 when you've got the code, if there's a paragraph, you got to

1 read the entire paragraph. Would you agree with that?

2 A Yes, sir.

3 Q Okay. Let's read the first sentence.

4 A The first sentence, [as read], "Structures or existing
5 equipment that are or hereafter become unsafe, insanitary or
6 deficient because of inadequate means of egress facilities,
7 inadequate light and ventilation, or which constitutes a fire
8 hazard, or are otherwise dangerous to human life or to the
9 public welfare, or that involve illegal or improper occupancy
10 or inadequate maintenance, shall be deemed an unsafe
11 condition."

12 Q Okay. So an existing structure, if it meets any of
13 those, it can be declared unsafe; correct?

14 A That's correct.

15 Q Okay. Now, and this was an existing structure; correct?

16 A That's correct.

17 Q Okay. And if you have an existing structure that is
18 considered to be unsafe for whatever reason, collapse is
19 something, if you're, if you're concerned a building is going
20 to collapse that's unsafe because you've got adjoining houses,
21 you've got a street, various things of that nature; correct?

22 A That's correct.

23 Q Okay. If it's unsanitary, if it's, you know, if there's
24 vermin in it, you know, whatever reason, those are reasons to
25 consider an existing structure unsafe?

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1 A That's correct to a point.

2 Q Okay. And how's it to a point?

3 A Okay. Because once that -- if a building is vacated and
4 secured from entry then it's deemed safe. So, so that whole
5 section, the last part specifies that once a building is -- if
6 a building is unoccupied and secured from entry it's deemed
7 safe.

8 Q Okay. Let's, let's read that sentence.

9 A Okay.

10 Q Okay. That sentence says?

11 A [As read], "Unsafe structures shall be taken down and
12 removed or made safe as the building official deems necessary
13 and as provided for in this section."

14 Q Unsafe structures are, you know, if the building official
15 determines that there are not just people in there but
16 adjoining properties, whatever, sanitary, etcetera, etcetera,
17 they can declare this structure unsafe?

18 A Unsafe.

19 Q Okay.

20 A And, and then the last part --

21 Q Let's read that sentence.

22 A It says, [as read], "A vacant structure that is not
23 secured against entry shall be deemed unsafe."

24 Q Okay. It doesn't say that a vacant structure once you
25 board it up is safe. A vacant structure is an existing

1 structure; correct?

2 A Existing structure.

3 Q Okay. If a vacant structure, if there's danger of
4 collapse, fire, whatever, it can be deemed unsafe. That
5 sentence only says a vacant building in addition to the other
6 reasons if it's unsecured it can be determined unsafe?

7 A Unsafe. But, but once it's secured it's deemed safe.

8 Q It's, it's deemed safe to the extent it's unsecured but
9 it's not deemed safe to the extent it's a fire hazard, a
10 collapse hazard or anything else; is it?

11 A No. No. It's, it's deemed safe. All this talking about
12 --

13 Q It -- doesn't it -- does it say that?

14 MR. HENRY: Objection, Your Honor. Argumentative.

15 Q Okay. Read the sentence.

16 THE COURT: Hold. Okay. Read the sentence.

17 A Okay. What, what sentence? The whole thing or the last
18 part?

19 Q No. Let's read the whole thing.

20 A Okay. [As read], "Conditions. Structures or existing
21 equipment that are not -- that, that are or hereafter become
22 unsafe, insanitary or defective, deficient because of its
23 inadequate means of egress facilities, inadequate light and
24 ventilation, or which constitutes a fire hazard, or are
25 otherwise dangerous to human life or the public welfare, or

1 that involve illegal or improper occupancy or inadequate
2 maintenance shall be deemed an unsafe condition." Not an
3 unsafe, but an unsafe condition.

4 Q Right.

5 A [As read], "Unsafe structures shall be taken down and,
6 and removed or made safe, as the building official deems
7 necessary and as provided for in this section. A vacant
8 structure that is not secured from entry shall be deemed
9 unsafe," and that's the entire section what it says.

10 Q Right. So the, the unsecured is just another way a
11 building can be unsafe; correct? That's all that's saying.
12 That in addition to all these other things, if you have an
13 unsecured vacant building it is deemed unsafe?

14 A No. It's unsafe condition. It says unsafe condition.

15 Q Right. But again, it's just considered unsafe if it's an
16 unsecured vacant building?

17 A Right. If, if, if you have a building that's vacant it,
18 it is deemed unsafe that, that is not secured from entry, is
19 not secured from entry.

20 Q Right. Right.

21 A It's deemed unsafe. However, once it's secured it's
22 deemed safe.

23 Q Okay. So you're saying if there's a house out here, it's
24 a fire danger, it's a danger to the general public, it's
25 unsanitary, it's all these other things, it could collapse or

1 fall on something, all you got to do is go board up the doors
2 and you can't do anything about it?

3 A Okay.

4 Q Is that what you're telling us?

5 A No. That's not what I'm saying. That's what the code
6 says, and, and, and --

7 Q Okay. The code does not say that. The code says --

8 A Yeah.

9 Q -- that an unsecured house is deemed unsafe. It doesn't
10 say once you board it back up it's safe. It doesn't say that;
11 does it?

12 A You don't have to board it up. You'd have to secure it
13 from entry and it's deemed safe.

14 Q Where does it say that?

15 A When, when, when it says that, when it says that a vacant
16 structure that is not secured against entry shall be deemed
17 unsafe.

18 Q Okay.

19 A Because the whole intent of the code is dealing with
20 things people are living in, occupied buildings, and if, if a
21 building is not occupied then the governing factor is whether
22 or not it's secured from entry.

23 Q Well, let me ask you this, it talks about the general
24 welfare of the community; correct?

25 A Okay. Public, public welfare. Okay.

1 Q Okay. It, it doesn't just say the building code is
2 intended to protect people in the house, it's intended to
3 protect adjoining property owners, it's intended to protect
4 the general welfare of the public, it's intended to -- if
5 you've got a house that looks like it's going to collapse on
6 another house the person can't say that, "The doors are
7 secured, there's nothing you can do about it"?

8 A Unfortunately, that's what the code says.

9 Q That's not what the -- okay. That's what your
10 interpretation what the code says; correct? We, we read what
11 the code says. Okay.

12 A Right. And, and that's what it said.

13 Q And the code says that the building official at his
14 discretion can decide whether a house can be repaired or
15 whether it has to be removed?

16 A No. It said -- no. He, he, he has, he has a couple of
17 options, but, but, but it doesn't say he, he has to decide
18 one. He, he -- it says, it, it says that, [as read], "Unsafe
19 structures shall be taken down and removed or made safe, as
20 the building official deems necessary and as provided for in
21 this section."

22 Q Okay. So as the building official deems necessary
23 implies that he has certain options; correct?

24 A He has certain options, but, but one, one, one of the
25 things that in this section it, it also says in -- under 115.5

1 that, [as read], "The structure or equipment deemed to be
2 unsafe by the building official is permitted to be restored to
3 a safe condition."

4 Q Okay. Now, and, and I'm -- I agree that the state law in
5 effect at the time there, there are certain steps you have to
6 do.

7 A Yes, sir.

8 Q And it says A, B, C and D?

9 A Yes, sir.

10 Q Okay. We, we that agree B or C, however you want to look
11 at it, wasn't followed.

12 A Yes, sir.

13 Q And that's what the, the consent agreement says; correct?

14 A Yes, sir.

15 Q Okay. The consent -- you said the, the consent agreement
16 does not say anything about the City did not have the proper
17 building code in effect; does it?

18 A You said did it say --

19 Q I mean, what -- the, the, the consent order says that the
20 City did not -- had not enacted the proper law for the
21 demolition of the property; correct?

22 A Okay. Now, what was the question again and I'll --

23 Q Okay. You talked about that they made findings about the
24 proper building code hadn't been adopted and all these other
25 things. The only thing that order addressed had to do with

1 the law pertaining to the demolition of unsafe houses;

2 correct, in that order?

3 A I -- yeah. It -- this, this, this one just, just says
4 that. I, I was at that meeting.

5 Q Okay.

6 A And --

7 Q We're talking about what the consent order says; correct?

8 A Okay. All right.

9 Q That's what's in evidence and the consent order says they
10 need to adopt a -- the unsafe, unsafe -- wait a minute.

11 A No. It says, it says --

12 Q "Dwellings unsafe for human habitation statute as
13 required by state law," that's, that's what the findings were
14 in that order?

15 A Wait a minute. I don't read that.

16 Q Okay. If you would look at the front page. It talks
17 about the findings.

18 A Okay. I, I don't see that either.

19 Q Okay. Okay. Number three, it says, [as read], "They
20 failed to follow provisions of the South Carolina Code of Laws
21 as required to demolish, tear down the structure"; correct?

22 A That's correct.

23 Q Okay.

24 A Uh-huh.

25 Q And then it said, [as read], "Respondent shall adopt an

1 ordinance covering the correct procedures in the demolishing
2 of a residential structure"; correct?

3 A That's correct.

4 Q Okay. So they were only addressing the state law as it
5 pertains to the demolition of an unsafe structure, in that
6 order?

7 A Okay.

8 Q Would you agree with that?

9 A I agree with that.

10 Q Okay. So all these other things about the International
11 Building Code and whether -- which code was adopted or not
12 adopted that is not addressed in that order?

13 A It's not addressed in this order.

14 Q Okay.

15 A Okay.

16 Q Now, the state law trumps everything as far as the
17 demolition of a unsafe building; correct? You have to follow
18 what the state law requires?

19 A No. If you look at Section 1-23, the first part of, and,
20 and that's not in here, 1- -- Title 1, Chapter, Chapter 23.
21 The, the one that adopt the statewide building codes it says,
22 it, it, it will say that the building codes -- you have to
23 follow the building codes.

24 Q Let me narrow it down to what's -- we're dealing with
25 today.

1 A Okay.

2 Q As far as the demolition of a house, what you have to do
3 you have to follow state law; correct?

4 A That's correct.

5 Q Okay. It trumps the International Building Code; correct?

6 A No, sir. And I just said no --

7 Q Okay.

8 A -- because the state law --

9 Q Let me ask you this. You said the International Building
10 Code does not provide for a procedure to demolish an unsafe
11 house; correct?

12 A That's correct.

13 Q Okay. So you have to follow state law?

14 A That's correct.

15 Q Okay. So the state law is what is important in this
16 particular case with regards to the fact that this house was
17 demolished; correct?

18 A That's -- well, no. Because the state law does not have
19 a procedure to actually demolish a house.

20 Q Okay. The state law -- let's -- you've got a copy;
21 correct?

22 A Yes, sir.

23 Q And you read some portions of that; correct?

24 A Yes, sir.

25 Q Okay. And Section 13-15-20 [sic], which is part of that

1 section; correct?

2 A Yes, sir.

3 Q Okay. And it talks about, [as read], "Whenever any
4 municipality of this state finds that there exist in such
5 municipality dwellings which are unfit for human habitation
6 due to, A, dilapidation, defects increasing the hazards of
7 fire, accidents or other calamities, lack of ventilation,
8 light or other sanitary facilities or other conditions
9 rendering such dwellings unsafe or insanitary, dangerous or
10 detrimental to the health, safety or morals or otherwise
11 inimical to the welfare of the residents of such municipality,
12 such municipality may exercise its police powers to repair,
13 close or demolish any such dwelling in the manner herein
14 provided"; correct?

15 A Yes, sir.

16 Q So this says that the City if it determines that there's
17 a house, and that would be the building code official, that
18 it's unsafe for any of these reasons then they can require
19 that it be either repaired, closed or demolished; correct?

20 A Yes, sir.

21 Q Okay. And nothing about an unsecured house and securing
22 the house; is there?

23 A No. And, and, and because the, the building official in
24 order to declare a building unsafe, has, has, has to follow
25 some procedure. That procedure is the building code.

1 Q Okay. This is not talking about the building. This says
2 the City has a right to go out and determine that these things
3 are unsafe, nothing about the building code official having to
4 find. It says the municipality finds that there exists these
5 things. You would agree that that's what the statute says,
6 that's what the law says?

7 A Okay.

8 Q Okay. It doesn't say the building code official follows
9 the building code and finds these things, it says if they find
10 these houses in these conditions then they can do certain
11 things, which we agree they didn't follow all the procedures.
12 Okay. But it does give them the right to do it; correct, this
13 -- a municipality such as the City of Georgetown, it's more
14 than a thousand people, so therefore, it has a right to do
15 these things; correct?

16 A That's where you, you and I differ in, in opinions. It's
17 my opinion that they have the right to follow the building
18 code. They, they don't have the right to make it up as they
19 go, and, and there's nothing, there's nothing in state law,
20 there's no procedure in state law for a building official or a
21 municipality to determine that, it's only if they find that
22 and, and that finding must first come from someplace else.

23 Q Okay. Well, let's, let's, let's just keep reading.

24 Okay.

25 A Okay. Go ahead and keep reading.

1 Q Okay. Now, you read 3A that talked about repair, alter,
2 improve dwelling or to, or to vacate and close the dwelling as
3 a human habitation. You, you read that one; correct?

4 A Yes, sir.

5 Q Which is A. You didn't read B; did you?

6 A No. I didn't, I didn't read B.

7 Q Okay. Well, let's read B.

8 A Okay. Go ahead.

9 Q [As read], "If the repair, alteration or improvement of
10 the dwelling cannot be made at a reasonable cost in relation
11 to the value of the dwelling," it says, "the ordinance may fix
12 a certain percentage of such cost as being reasonable for such
13 purpose, requiring the owner, within the time specified in the
14 order, to remove or demolish such dwelling." So if it's
15 determined that it can't be repaired for a reasonable price
16 then you don't, you don't board it up, you don't do anything,
17 you got to tear it down; correct?

18 A Okay. Now, if you are, if you are reading that section,
19 you, you, you first understand that it's talking about what
20 can be in the ordinance by the municipality to demolish a
21 building. They had no such ordinance.

22 Q Okay. I agree. They did not have the -- but you told
23 the jury that under state law if you board up a building you
24 cannot demolish it under any circumstances as long as it's
25 secured?

1 A That's under, under the building code, under the building
2 code.

3 Q But in the law it says you can. Under the state law it
4 says you can.

5 A No. Okay. Where does it say that in state law?

6 Q [As read], "If the repair, alteration or improvement of
7 the dwelling cannot be made at a reasonable cost in relation
8 to the value of the dwelling, the ordinance of the
9 municipality may fix a certain percentage of such cost as
10 being reasonable for such purpose, requiring the owner, in the
11 time specified in the order, to remove or demolish such
12 dwelling"?

13 A Okay.

14 Q Did I, did I read that like it's -- word for word?

15 A You read it word for word. Now, let's go back up to 31-
16 15-30, the start of that whole thing, the start, the start of
17 that, and it's saying that those things are permitted to be in
18 the ordinance that's adopted by a city and if, if the City
19 have an ordinance that governs that, that's what can be in
20 there and state law says that, that you are permitted to have
21 those things in the ordinance. Now, in this case, I mean,
22 you're permitted to have those things in the ordinance.
23 There's no ordinance. I mean, there's, there's no City
24 ordinance.

25 Q Okay. Okay. But I want to clarify. I agree with that.

1 Okay.

2 A Okay.

3 Q I've never disagreed with that. What I disagree with is
4 what you've told the jury that the -- under no circumstances
5 can that house be torn down. If this ordinance, if, if, if
6 two months later this ordinance was in affect they could have
7 torn the house down?

8 A No. Because you have to first declare the building
9 unsafe to move to the ordinance.

10 Q Okay. And this --

11 A In, in order to move to state law you have to first get
12 the first step right.

13 Q Okay. Which is declare the house to be unsafe due to
14 dilapidated, etcetera, etcetera, etcetera, etcetera.

15 A Right.

16 Q Okay.

17 A And, and, and then write a list and give, give the owner
18 an opportunity to fix it and then after you give them an
19 opportunity, if the owner fails to fix it, then you can move
20 forward.

21 Q Okay.

22 A And, and everything is, is based around.

23 Q Well, if, if, if they deem it repairable, if they decide
24 it cannot be repaired at a reasonable price they don't have to
25 give them a list, they just say, say, "You've got to tear it

1 down."

2 A Oh, no. They, they still have to give a list because it
3 allows an owner, even state law and everything allows an owner
4 an opportunity to fix his property or her property, whoever
5 the property owner. You, you, you're saying that, that the
6 state law and the building code does not allow for anyone to
7 fix anything.

8 Q No.

9 A Is that -- that's not what you're saying?

10 Q The, the, the, the building code official has discretion
11 to determine what -- if a house is not repairable.

12 A Based on what?

13 Q Based upon cannot be made at a reasonable cost in
14 relation to the value of the dwelling, then they can say you
15 can't repair it.

16 A How do you determine a reasonable cost? I mean, what,
17 what's reasonable?

18 Q I -- the, the ordinance may fix a certain percentage of
19 such cost as being reasonable for such purpose, so they can,
20 they can decide.

21 A They, they, they can set up a, a cost based on -- I mean,
22 saying an ordinance can.

23 Q Okay. Mr. -- you are the expert, what does this sentence
24 mean?

25 A Okay. You're pointing, you said what this sentence

1 mean?

2 Q I'm talking about B. If I'm misinterpreting it, tell me
3 what B means, the one about the cannot be made at a reasonable
4 cost in relation to the value of the dwelling.

5 A That's mean that based on the value that if it cannot be
6 made, but as, as you so eloquently has done throughout this
7 entire trial, you've, you've not wanted anyone to produce a
8 value. So, so what, what is the value? You, you want
9 somebody to decide that did not went over.

10 Q Okay. If at any time -- strike that. The -- you also
11 said this ordinance does not provide for a means or mechanism
12 by which a house can be demolished; correct?

13 A This -- well, I said this ordinance?

14 Q No. Excuse me. The state law, the dwellings unfit for
15 human habitation.

16 A Right. It, it -- there's not -- the state law does not
17 provide a means to demolish a house. You, you are correct.

18 Q Okay. Except would you read five, six and seven?

19 A And, and but, but still that, that's what goes into the
20 local ordinance. State law, the, the state law -- there's
21 nothing in state law that says you can demolish this house.
22 It says the ordinance can provide for that.

23 Q Okay. But you don't go back to the International
24 Building Code, you do whatever -- the City can decide how it
25 wants the house demolished and all those other things?

1 A Right. The, the City decides how it wants a house
2 demolished.

3 Q Okay.

4 A I said it was a three-step process. One is the building
5 code declares it unsafe, the state law condemns it and then it
6 move to the City for how they're going to actually demolish a
7 house and that's based on the guidance given in state law to
8 tell the City what can be an ordinance in demolishing the
9 house.

10 Q Now, and you talked about earlier about a -- you talked
11 about a floor joist cracking and how difficult it is to
12 determine what's going on.

13 A From the outside without doing, doing --

14 Q From the outside of the house.

15 A -- doing a, a physical inspection.

16 Q Okay. And if you've got -- from the outside of the house
17 if you see the exterior wall separating from the framing
18 members you don't necessarily know what's going on; correct?

19 A Well, you, you know it's separating but you don't know
20 why --

21 Q Okay.

22 A -- or what it'd take to fix it.

23 Q Okay. And in order to do that, if it is a structural
24 problem, the building code official is not qualified to make,
25 unless they're specially trained and licensed as an engineer,

1 to make determinations specifically as to structural problems?

2 A What the building code does, they, they are required --
3 they require the owner of the property to bring in plans and
4 specification with sufficient detail for them to determine if
5 what they plan to do complies with the code.

6 Q Okay. Including having an engineer doing structural
7 plans; correct?

8 A That, that's, I mean, it could depending on if what the
9 person brings in does not suffice then, then the building
10 official say, "Well, you know, I'm not sure. I can't
11 determine from this. I may, maybe need some more detailed
12 drawings or whatever," but there's nothing that say you have
13 to have an engineer.

14 Q Okay. It says the building code official can require an
15 engineer do the plans if they deem it necessary. You would
16 agree with that?

17 A For a new house. Yes.

18 Q Okay. For a construction of a -- repairs to an existing
19 building -- you've seen pictures of this house; correct?

20 A Yes, sir.

21 Q Okay. You've got the exterior walls separating from the
22 structural portions of the wall; correct?

23 A Yes, sir.

24 Q Okay. You've got cracks throughout the house, in the
25 walls, you've got molding separating, you've got all kind of

1 stuff going on; correct?

2 A Yes, sir.

3 Q Okay. You do not -- you can't sit here today and say
4 that is due to any particular problem. It could be the
5 footings. It could be the piers, it could be floor joists, it
6 could be any number of problems, would you agree with that?

7 A That's correct.

8 Q Okay. And in order to make a determination, you're --
9 you don't want to go in and start repairing it and get it done
10 and say, "Well, it was due to another problem." You want to
11 make sure that the repairs are going to address the problem;
12 correct?

13 A That's correct.

14 Q And in order for you as a building code official when you
15 see that situation, it is perfectly reasonable to say, "We
16 need to have an engineer look at this so we know, not just a
17 cosmetic, we need to know what's causing these problems."
18 Would you agree with that?

19 A Not, not as a sole response. It's, it's also perfectly
20 reasonable to say, "Let me come out and inspect the building
21 with you. Let's go through the building and, and, and see if
22 we can determine what's wrong with it."

23 Q But you agree that when you get a situation like this it
24 is very difficult if you're not an engineer to, to make the
25 exact determination of what's causing the problems?

1 A Well, not necessarily, and, and I, I tell you why. All
2 right. Let's say that the building is separating, falling
3 apart. It, it could be something as simple as the soil that
4 it's built on is settling, and you, you can go in, anybody can
5 go in, take a four foot level, put it on the floor, see if the
6 floor is level, and if the floor is not level that, and, you
7 know, put it on the walls and the floor and kind of determine
8 where it's sinking, if it's sinking at all. If the foundation
9 is level and the building is separating, that says one thing.
10 If, if the foundation is settling that says something else,
11 but you don't need an engineer to determine that. You, you --
12 all you need is for to go out and do an inspection of the
13 building to first determine what the building official think
14 is wrong and then you go from there. It, it, it may very well
15 be that if the building official cannot determine it, then he
16 may ask the owner to hire an engineer but, but you can't just
17 say, "Well, get an engineer." You have to first do your job
18 first.

19 Q Okay. You have -- you've seen these photographs? Can I
20 get --

21 A Yes, sir.

22 Q Okay. Janet, you -- get you to start at one and we'll
23 just scroll through them. Okay.

24 A You want me to comment on each one or --

25 Q Well, let's just look at them. Okay. One, one, one

1 thing I have noticed on the right corner is one place where
2 the wall is separating; correct, right corner of the house?

3 A Yes, sir.

4 Q Okay. And you have -- have you made a determination as
5 to what is causing the walls to separate, the, the siding to
6 come off in various locations? I mean, that looks like
7 there's a little side building that's moving; correct?

8 A You mean right here.

9 Q Right. That this --

10 A That, that, that's the corner of the -- oh, you mean
11 right here?

12 Q No. This right here. You got this.

13 A Right here?

14 Q You can see inside.

15 A Okay. Yeah. That, that's the back corner where the
16 garage is here and this corner right here and right there,
17 this is the one tear apart, that's two circles under the
18 house, and it, it looks like it's, it's separating right here.

19 Q Okay.

20 A Okay.

21 Q And then we got the right side corner, and here's this
22 photograph because you got the power meter.

23 A Yes, sir.

24 Q You, you -- it's totally separated from the side of the
25 house; correct?

1 A Yes, sir.

2 Q You can actually see an exposed beam?

3 A Yes, sir.

4 Q Okay. You got another location where all the siding's
5 gone below a window?

6 A Yes, sir.

7 Q You've got wiring falling out; correct? That looks like
8 a light switch maybe or --

9 MR. HENRY: Your Honor, I'm having trouble telling which
10 pictures they're looking at.

11 MR. BAXTER: I, I'm not -- I'm -- you can take those
12 down. I, I -- I think we --

13 BY MR. BAXTER:

14 Q Mr. Singleton -- Mr. McCray, did you make a determination
15 as to what was causing all those problems?

16 A No, sir.

17 Q Okay. And you went, you went out and visited the house;
18 correct?

19 A Yes, sir.

20 Q Okay. You are, in your opinion, more qualified than
21 Jason Goude; correct?

22 A I've had more experience.

23 Q Okay. And yet you couldn't determine what it was and yet
24 he should have been able to determine what it was?

25 A No. No, sir. I didn't say that. No. I mean, I did not

1 inspect the house for deficiencies. I, I, I look at the
2 building and it -- I, I had to try to determine if the
3 building complied with the code or did not comply with the
4 code, not whether or not it could or could not be fixed
5 because it could possibly -- it, it could be fixed. Costs you
6 don't know until you actually determine what's wrong with
7 that.

8 Q Okay.

9 A That, that, that could have been a foundation issue. It
10 could have been a rot issue. It, it could have been a sill
11 simply failing because, you know, the, the house was built in
12 the 1800s back before they had codes. It, it, it may be that,
13 that one of the, one of the floor joists or you call it a
14 sill, one of those rot and actually need to be replaced and,
15 and jacked and leveled or it, it could have been rotten or
16 could, could have cracked. There could have been a whole -- a
17 number of things wrong with it that you can't tell until you
18 actually take things off and look at it to see what, what's
19 determining that.

20 Q And but one way you can address that is require that the
21 owner have a licensed engineer come in and take a look at it
22 and make that determination? You can require that as a
23 building code official in a situation like this?

24 A If you give me a second I'm, I'm looking at the section
25 powers and duties of a building official. I do not see

1 anything in the code that address that.

2 Q Okay. How about under construction documents?

3 A Construction documents. Well, that wouldn't apply be, be
4 -- it's simply because construction documents apply to new
5 constructions or, or, or additions. This is an existing
6 house. Then it, it should, should be under the existing
7 building code.

8 Q Okay. Let me, let me ask you a question. You, you
9 testified that there was an existing building code in effect
10 at the time; correct?

11 A You mean with the state?

12 Q Well, you're -- one minute you're saying this applies and
13 then it doesn't apply. Strike that.

14 A No, no, no, I mean I'm trying to, I'm trying to figure
15 out what, what you're saying.

16 Q Okay.

17 A Yes. There, there was an existing building code that was
18 published by the Building Code Congress. It, it, it was
19 published, and it, it, it was adopted by the State of South
20 Carolina, but it was not adopted by the City of Georgetown.

21 Q Okay. But you said the City of Georgetown had not
22 adopted anything. That's not correct.

23 A No. I, no, no. I didn't say that they had not adopted
24 the codes. What I said was that they had not adopted the
25 ordinance.

1 Q Okay. Okay. So the codes -- they had adopted the codes,
2 just not the ordinance?

3 A Well, they, they had adopted an old code.

4 Q Right.

5 A I think from the eighties.

6 Q Okay. But at the time the house was torn down, well,
7 we'll, we'll deal with that, and you also said that someone
8 else's house was demolished. When was that?

9 A 2012.

10 Q Okay. And you testified that that was before the City
11 enacted the ordinance addressing the state law; correct?

12 A The process was done before they adopted an ordinance
13 requiring demolition or, or, or before the ordinance was done.
14 The house was actually demolished -- they adopted the
15 ordinance in April, between April and September and, and --

16 Q Of what year?

17 A Of 2012.

18 Q Okay.

19 A Of, of demolishing, you know, the house going before City
20 Council and then they -- and then they demolished the house in
21 December of 2012.

22 Q Okay. Now, are you absolutely certain that in 2009 the
23 City had not adopted an ordinance addressing unfit dwellings
24 within the City?

25 A 2009?

1 Q Yes, sir. I mean, if there was an ordinance in effect
2 and you just -- you -- it's possible you misspoke when you
3 said there wasn't one until 2012?

4 A Oh, okay. You're talking about the ordinance in, in, in
5 the City?

6 Q Right. I'm talking -- you've, you've, you've told this
7 jury that the City had not adopted an ordinance until sometime
8 in 2012 and that they had demolished a house before they had
9 adopted the ordinance as required by the, the agreement, the
10 consent agreement. If the City had adopted an ordinance in
11 2009, then they have not demolished any houses illegally?

12 A No. That's, that's not, that's not correct because --

13 Q Well, let me ask you this.

14 A Okay. Okay.

15 Q You, you are saying that the City had not adopted --

16 MR. HENRY: Your Honor --

17 THE COURT: Hold.

18 MR. HENRY: -- the witness needs to finish his answer
19 before he asked another question.

20 THE COURT: All right. Let him finish.

21 A Okay. You're, you're talking about simply tearing the
22 house down, but in, in order to get to that tearing down thing
23 you have to go through building code, state law and, and
24 declare all these things as unsafe and, and, and then you have
25 to condemn it. On, on the house that was torn down in 2012

1 they never done that.

2 Q Okay. What, what had they not done?

3 A As you are aware in, in that case, it, it actually
4 started sometime --

5 Q Let me -- again, what had not been done --

6 MR. HENRY: Again, Your Honor, the witness needs to
7 finish his answer before he's questioned on something else.

8 THE COURT: All right. But respond to the question
9 first.

10 Q Okay.

11 THE COURT: He asked you what had not been done. Tell
12 him what had not been done. Then if you need to explain it
13 you can explain it, but answer the question first before you
14 start your explanation. Answer the question, then explain so.

15 A That's what, that's what I was getting ready to do.

16 THE COURT: What had not been done?

17 A Okay. As you are aware, the house had not been
18 condemned. The, the procedure for condemning the house had
19 not been followed, and it did not comply with the building
20 code.

21 Q The house was, the house was not demolished until
22 everything had to be done; correct?

23 A Well --

24 Q Let's --

25 A Okay.

1 Q You're talking about a case in which the City sent
2 someone notice saying, "We think your house is unsafe." That
3 person then filed a lawsuit and said, "I disagree." The Court
4 said, "You can -- the house is unsafe and can be torn down,
5 but you have to follow these steps first." The City then
6 followed the steps and tore the house down.

7 A No. What, what the Court said in their order was that,
8 yes, the house is unsafe.

9 Q And it can be torn down.

10 A No. Just it can't be torn down.

11 Q After, after you go through A, B, C and D.

12 A It said it had not been condemned and in, in order to
13 condemn the house you have to follow the --

14 Q Right.

15 A -- these steps. Okay. They never went back and
16 condemned the house.

17 Q But they followed the steps.

18 A They never went back and condemned the house. They
19 didn't follow that step. They never went back and condemned
20 that house.

21 Q Okay. The -- in that case you got a court order saying a
22 house is unsafe.

23 A But --

24 Q It can be torn down if you follow the steps; correct?

25 A No. It said but you first have to go back and condemn

1 the house.

2 Q Right.

3 A As required by state law.

4 Q Right. And at the time of the lawsuit and the order the
5 house had not been condemned, it had not been torn down yet;
6 had it?

7 A That's correct.

8 Q Okay. So --

9 MR. HENRY: Your Honor, are we talking --

10 MR. BAXTER: I, I will, I will withdraw.

11 THE COURT: Wait a minute. What's his -- what's your
12 objection?

13 MR. HENRY: The objection is this is about Mr.
14 Singleton's house. I'm not sure why we're going down this
15 road on another.

16 THE COURT: You brought it up on direct examination.
17 That's why.

18 MR. HENRY: I did not bring.

19 THE COURT: You opened the door.

20 MR. HENRY: I did not.

21 THE COURT: Overruled. Let's go ahead, Mr. Baxter.

22 MR. BAXTER: Okay.

23 BY MR. BAXTER:

24 Q The -- how long have you known Mr. Singleton?

25 A Since '84.

1 Q Okay. And you and he are pretty good friends?

2 A Yes, sir.

3 Q Okay. You helped him draft some of the documents that he
4 sent to the City; correct?

5 A Yes, sir.

6 Q Okay. So you were involved before the house was torn
7 down?

8 A Yes, sir.

9 Q Okay. You were -- you actually -- the, the lawsuit that
10 we're here today you actually served this, you, you, Joe
11 McCray, took that down to the City and served it; correct?

12 A Yes, sir.

13 Q Okay. You were -- now, and, and you're aware that Mr.
14 Singleton had conveyed some properties that he owned through a
15 power of attorney; correct?

16 A I was not aware of that.

17 Q Okay. Let me show you something. Let me, first, the
18 second page, is that, is that your signature?

19 A Oh, okay. Yes. It is.

20 Q Okay. So and that's a -- back in 2002 Mr. Singleton
21 conveyed several pieces of property from his sister, he gave
22 it to himself pursuant to a power of attorney; correct?

23 A Okay. That's what this quitclaim deed.

24 Q Right. And you witnessed it?

25 A Yes, sir. That's my signature.

1 Q Okay.

2 MR. HENRY: Your Honor, I'm not sure what that has to do
3 with his knowledge of building codes.

4 THE COURT: Well, this is cross examination. He doesn't
5 have to just limit it to building codes.

6 MR. HENRY: He's testified giving an opinion about the
7 interpretation of the building codes and application of state
8 law to demolition of properties. Conveyance of properties is
9 not a part of what he does.

10 THE COURT: He hasn't asked for an opinion in that
11 regard. Overruled. I'll allow it. Go ahead.

12 MR. BAXTER: One second.

13 THE COURT: All right.

14 MR. BAXTER: Your Honor, that's all we have.

15 THE COURT: All right. Redirect?

16 MR. HENRY: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. HENRY:

19 Q Mr. McCray, you were asked about the power of a city to
20 demolish properties based on state law?

21 A Yes, sir.

22 Q Isn't it true that the state law essentially puts in
23 place the enabling legislation that allows a city to adopt an
24 ordinance to address that issue?

25 A Yes, sir.

1 Q The only thing that actually authorizes them to destroy,
2 to tear down a house is the enactment of an ordinance?

3 A Yes, sir.

4 Q There's no provision in the state law to say you can tear
5 this house down?

6 A No, sir.

7 Q And the, the things that Mr. Baxter was referencing is
8 simply stuff that the state law says can be contained in the
9 ordinance?

10 A Yes, sir.

11 Q And the ordinances is enacted based on the city
12 exercising its police powers as granted in Title IV of the
13 state statute --

14 A Okay. All right. I'd have to go --

15 Q -- which allows the state -- that which allows the city
16 to exercise Title IV, Title VI, I believe --

17 A Okay.

18 Q -- which allows a city and a county to have certain
19 powers to adopt codes under their police power but you have to
20 enact an ordinance to do that; isn't that true?

21 A Yes, sir.

22 Q And the opinions that you rendered in this case did not
23 relate to whether or not the -- whether or not you were going
24 out to determine whether this house was structurally sound, it
25 simply went to what could be done with a house in that

1 condition?

2 A That's correct.

3 Q So you didn't do an inspection on the house to determine
4 structural soundness?

5 A Not, not to determine if it was, if it was structurally
6 sound.

7 Q And you didn't review, didn't review any kind of report
8 done by any of these individuals talking about the structural
9 soundness of the house; did you?

10 A No, sir.

11 Q Are you aware of the existence of any inspection reports
12 by any of these individuals giving an opinion as to the
13 structural soundness of the house?

14 A No, sir.

15 MR. HENRY: Thank you. No further questions.

16 THE COURT: All right. You may step down. All right.

17 Let me see the attorneys for a second.

18 (Whereupon, a bench conference is held in the presence
19 but out of the hearing of the jury.)

20 THE COURT: All right. All right. Mr. Henry, Plaintiff
21 can call their next witness.

22 MR. HENRY: Your Honor, at this time, the Plaintiff
23 rests.

24 THE COURT: Okay. All right. Ladies and gentlemen, the
25 Plaintiff has rested their case, which by procedure means I