

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young, Sr.
Circuit Court Judge

APPELLATE CASE NO. 2017-001131

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SC Court of Appeals

Glenn Gunnells, Individually and as the Personal Representative
of the Estate of Helen B. Gunnells.....Appellant.

v.

Cathy G. Harkness Respondent

RECORD ON APPEAL – VOL. II

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Gunnells vs. Cathy G. Harkness

APPELLATE CASE NO. 2017-001131

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1 (At this time, the witness, Suzanne Klok, is
2 excused from the witness stand.)

3 MS. WIMBERLY: At this time, Your Honor,
4 respondent's call Ms. Annie Walton, her name's
5 changed. It was Voytko and now it's Walton.

6 (At this time, the witness, Annmarie Voytko, is
7 called to the witness stand.)

8 THE COURT: Good morning.

9 THE WITNESS: Good morning.

10 THE COURT: You can come on up. And
11 I'll have you place your left hand on the Bible
12 there and raise your right hand.

13 - - -

14 Whereupon, Annmarie Voytko, having been
15 first duly sworn, testifies as follows:

16 - - -

17 THE COURT: Thank you, please be seated.
18 And if you could state your full name for the
19 record.

20 A It's Annmarie Voytko. No E in the
21 middle. It's all one word. I have a court order to
22 go back to Walton, my maiden name, but I just
23 haven't gotten around to it.

24 THE COURT: Okay. Just for the record,
25 can you spell your name for the court reporter?

1 A It's V, as in Victor, O-Y-T-K-O.

2 THE COURT: Thank you. Answer questions
3 of Counsel. Ms. Wimberly?

4 DIRECT EXAMINATION

5 BY MS. WIMBERLY

6 Q Ms. Walton, thank you for being here
7 today.

8 A You're welcome.

9 Q What is your occupation?

10 A I'm a contracted paralegal for the Klok
11 Law Firm.

12 Q How long have you been working there?

13 A Through various jobs, probably 2009.

14 Q How long have you been working as a
15 paralegal?

16 A Last three years, maybe.

17 Q What are your daily duties as a
18 paralegal at the Klok Law Firm?

19 A I'll notarize things, talk to clients,
20 make appointments, you know. I don't know. You
21 know, do certain, you know, file forms, notices of
22 appearances and stuff like that.

23 Q Who do you work under at the Klok Law
24 Firm?

25 A Suzanne and her husband Rhett.

1 Q Do you know why we're here today?

2 A Yes.

3 Q And do you know Ms. Helen Gunnells came
4 to your office and executed a will; do you remember
5 that day?

6 A Yes.

7 Q And do you remember Ms. Gunnells in
8 particular?

9 A Uh-huh, yes.

10 Q Earlier you heard Ms. Klok testify about
11 y'all met with her for about three hours; is that
12 correct?

13 A Yes.

14 Q Was anybody else in the room with you
15 when you met with Ms. Gunnells?

16 A Originally maybe Glenn was there at
17 first, but we normally make them leave. And by
18 "leaving," unless it's like a torrential rain, we
19 ask them actually to get out of the building,
20 because our lobby is right next to the conference
21 room. So we don't want whoever we're talking to to
22 feel influenced that, oh, my God, they're out there
23 listening to what I'm saying. That's just normally
24 what we do.

25 Q Did you ask Mr. Gunnells to leave that

1 day?

2 A Uh-huh, yeah. I think he went outside
3 with Casey the dog, you know, and was walking around
4 outside.

5 Q With regards to your discussions with
6 Ms. Gunnells, did you feel as though she had a sound
7 mind the day that she was in your office?

8 A Uh-huh.

9 Q Did anything stand out to you with
10 regards to either her appearance or how she was
11 talking that raised any red flags?

12 A No. I mean, her body was frail, her
13 mind was fine. And if Suzanne would run out, and
14 you know, do whatever, add things to the will, take
15 things out, change, you know, whatever, I would --
16 normally I sit with them the whole time. You know,
17 hey, what did you have for breakfast? You know, you
18 guys have lunch plans? Or you know, how are the
19 grand kids? How many do you have? Just to kind of
20 make sure that, you know, like Suzanne said, that
21 they're with it.

22 Q Did Ms. Gunnells engage in your
23 conversation?

24 A Oh, yeah.

25 Q Did you believe that she was, as you

1 said, "with it"?

2 A Yes.

3 Q With regards to any discussions about
4 the will, what do you remember, if anything
5 regarding the disposition of the new will?

6 A That she wanted everything to go to
7 Glenn. Like Suzanne said, that she was disappointed
8 in her daughters.

9 Q Any other discussions that you remember
10 with regards to that?

11 A No, not really.

12 Q Okay. Do you remember about how long
13 she was at your office that you were meeting in the
14 conference room with her?

15 A A good hour and a half, two hours,
16 maybe. It's not a quick thing.

17 Q Is that fairly typical of your protocol
18 at your office to have clients in for that amount of
19 time, just meeting once?

20 A If we're meeting them once, yes.

21 Q So usually if you're meeting them
22 multiple times, do you meet for less amount of time?

23 A Yes.

24 Q So if you meet once, you meet for an
25 extended period of time?

1 A Yes. Usually if it's going to be
2 multiple, we'll, you know, get basic information,
3 you know, names, addresses, telephone numbers, stuff
4 like that. And then, you know, it's a work in
5 progress.

6 Q Do you remember if Ms. Gunnells said
7 anything to you with regards to how her feelings or
8 her relationship with Mr. Gunnells might have went?

9 A She loved him very much. He did
10 everything for them. He was there, you know, when
11 his father was passing away. You know, she was very
12 grateful to him that she had him at -- I don't want
13 to say at beck and call, but he was always there for
14 her, you know.

15 Q Were any red flags raised in your head
16 about any undue influence or any kind of control
17 that Mr. Gunnells had over Ms. Gunnells?

18 A No, not at all.

19 Q Have you ever had the occasion to meet
20 Ms. Harkness who's sitting here?

21 A She's come to the office just once.

22 Q Do you remember that interaction at all?

23 A No, not really. I think it -- I can't
24 remember. She was there to meet Suzanne, and I
25 think it was the whole beginning of the -- when she

1 wanted it contested.

2 Q So that was after the death of
3 Ms. Gunnells?

4 A Yes.

5 Q Have you had an occasion to meet
6 Ms. Belinda Davis who's sitting in the back of the
7 courtroom?

8 A No.

9 Q Do you remember if Ms. Gunnells made any
10 comment about how her children might react when they
11 learned about the disposition in her will?

12 A The girls were going to be furious.

13 Q I'm recalling from evidence what's been
14 marked as Respondent's 1. Ms. Walton, do you mind
15 looking at that? Do you recognize that?

16 A Uh-huh.

17 Q What do you recognize it as?

18 A It's the Last Will and Testament of
19 Helen B. Gunnells.

20 Q How do you recognize it?

21 A Well, it's got my initials on it. And
22 it's got Suzanne's and hers. And I notarize it.

23 Q And as you work in Ms. Klok's office, do
24 you see wills pretty often?

25 A Uh-huh.

1 Q Would you that this is a pretty standard
2 will?

3 A I would say so. Usually I don't prepare
4 them, I will read over them just to make sure, you
5 know, spelling is correct, because spell check is
6 not going to correct like a there and a their. So
7 I'll read over them, but I don't do anything with
8 them other than proofing them.

9 Q Did you read over this document?

10 A Yes.

11 Q And at the bottom of each page, is your
12 signature on the bottom of each page?

13 A My initials.

14 Q And on the last page, I believe, is your
15 signature there?

16 A Yes, that's my signature.

17 Q All right. I'll put that back in
18 evidence. Thank you.

19 MS. WIMBERLY: No further questions at
20 this time.

21 CROSS-EXAMINATION

22 BY MR. HOWE

23 Q Casey the dog, who is Casey the dog?

24 A It was Mr. and Mrs. Gunnells' dog.

25 Wasn't it?

1 Q That wasn't the office dog, that was
2 Glenn's dog?

3 A Oh, that was Glenn's dog. I thought it
4 was your mom's dog. Okay.

5 Q Just looking -- I'm sorry.

6 A I'm sorry.

7 Q And Glenn brought her there?

8 A Uh-huh.

9 Q Glenn drove her away?

10 A Uh-huh.

11 Q And there's no way for you to know
12 whether Glenn said, let me see that will, I want to
13 see it before we leave the parking lot, you don't
14 know that, do you?

15 A No.

16 Q And is that your notarization on the
17 inventory and appraisal was filed?

18 A Yes, that is.

19 Q Okay. What did Glenn tell you about
20 what was in the estate?

21 A He didn't tell me anything.

22 Q Okay. He just filled it out?

23 A Yeah. It's not like I -- you know, I
24 didn't scrutinize what was filled out. I just saw
25 him write his name, and that's what I was notarizing

1 was his signature.

2 Q So he gave you all the information?

3 A Yes.

4 Q And he signed it and you notarized it as
5 being correct?

6 A I notarized his signature.

7 Q Right.

8 MR. HOWE: That's all I have. Thank
9 you.

10 MS. WIMBERLY: Your Honor, this witness
11 may be excused.

12 THE COURT: Thank you.

13 (At this time, the witness, Annmarie Voytko, is
14 excused from the witness stand.)

15 MS. WIMBERLY: Your Honor, is it too
16 early for lunch?

17 THE COURT: Not at all.

18 (At this time there is an off-the-record
19 conversation.)

20 THE COURT: See you at 12:40.

21 (At this time there is a brief break in the
22 deposition for lunch from 11:30 am. to 12:45 p.m.)

23 MR. VARNADO: We're ready to call our
24 last witness.

25 THE COURT: Okay.

1 MR. VARNADO: Mr. Gunnells.

2 (At this time, the witness, Glenn Gunnells, is
3 called to the witness stand.)

4 THE COURT: Good afternoon,
5 Mr. Gunnells. How are you?

6 THE WITNESS: Good sir. How are you?

7 THE COURT: Good.

8 - - -

9 Whereupon, Glenn Gunnells, having been first
10 duly sworn, testifies as follows:

11 - - -

12 THE COURT: Please be seated. I'll have
13 you state your full name for the record.

14 THE WITNESS: Glenn Arden Gunnells.

15 THE COURT: Thank you, Mr. Gunnells. If
16 you answer any questions of counsel.

17 MR. VARNADO: Thank you, Your Honor.
18 May it please the Court.

19 DIRECT EXAMINATION

20 BY MR. VARNADO

21 Q Mr. Gunnells, tell the judge how old you
22 are today?

23 A Fifty-eight.

24 Q What's your birthday? And where were
25 you born?

1 A 7/7/57. Charleston, South Carolina.

2 Q And you're the third child of the late
3 Arden and Helen Gunnells; is that correct?

4 A That's right.

5 Q And you grew up in Charleston. And
6 where did you attend high school?

7 A St. Andrews.

8 Q West Ashley, right?

9 A That's right.

10 Q And what did you do after you graduated
11 from West Ashley? Why don't you tell the judge,
12 just briefly run down what you did career-wise, and
13 work-wise.

14 A Well, I didn't graduate at the time.
15 But I went to work for a service station. This was
16 during the time of things happening with my parents.
17 But I went back and took the GED and then I went to
18 Trident Tech for little over a year.

19 Q When was that, roughly? When were you
20 at Trident Tech, roughly?

21 A About '77, I believe.

22 Q Okay. Then what happened?

23 A I studied power mechanics, psychology
24 and physics without mathematics, and then I
25 proceeded to another job.

1 Q What was that?

2 A That was with Davis & Doscher
3 Construction, I believe, which was my sister's
4 husband's company.

5 Q Okay. And what did you do with Davis &
6 Doscher Construction?

7 A I was a laborer at first and worked my
8 way up to a heavy equipment operator.

9 Q Okay. And when did you leave that firm?

10 A I'm not sure.

11 Q Was it in the '80s or the '90s?

12 A Probably the '80s.

13 Q Okay. Then what did you do next?

14 A I went to another construction company,
15 which was Truluck Construction and did the same
16 thing, machine operator.

17 Q How long did you stay around with
18 Truluck?

19 A About a year and a half.

20 Q Okay. And then did you ultimately end
21 up going into business with your father?

22 A Yes, I did.

23 Q What was your father's business?

24 A Used car sales.

25 Q So that was the family business, used

1 cars?

2 A Yes, mine and my father's.

3 Q And where was the lot?

4 A It was on Folly Road.

5 Q On James Island?

6 A That's right.

7 Q Okay. And how long did you work with
8 your dad?

9 A Little over three years.

10 Q Okay. Then ultimately you had a
11 disability condition?

12 A I did.

13 Q And when was that? When were you
14 disabled?

15 A About '99 was when I first considered,
16 or 2000, of having minor -- minor problems with my
17 heart rhythm and everything. And then went to the
18 doctor and then went to the hospital and found out I
19 had congestive heart failure.

20 Q Okay. So you've been on disability
21 since then; is that correct?

22 A I have.

23 Q So you're retired for all intents and
24 purposes, right?

25 A That's right.

1 Q So tell me a little bit about your late
2 mother and your late father. What did your father
3 do? He was in the Army or the National Guard for a
4 while?

5 A My father was wholesale radio supplier
6 for 38 years. He was in the National Guard Armory
7 for 28 years.

8 Q And what was his rank in the Guard?

9 A Major.

10 Q He was a major. Okay. And then when
11 did he open this business, his car business?

12 A We opened up in '98 or -- '98, I
13 believe.

14 Q Okay. And what did your mom do? Did
15 she stay at home or did she have outside work?

16 A She stayed at home.

17 Q Okay. And how would you describe your
18 relationship between your mother and your father
19 while they lived?

20 A It was good.

21 Q I mean, loving? Close? What kind of
22 words would you use to describe it?

23 A It was loving. Mom and Dad had a real
24 good relationship.

25 Q They never had problems between each

1 other, right?

2 A Everybody has a little problems, but you
3 know, nothing major.

4 Q Now, I think it's become patently clear
5 that the three children had a lot of problems with
6 each other; is that fair?

7 A That's right.

8 Q So Belinda, she testified about your
9 character. So what would be your response? What
10 would Belinda's character like? She was pretty
11 frank about how she felt about you. What do you
12 feel about her?

13 A Me and Linda got along well over the
14 years until the last time when she found out that
15 dad and mom wanted me to be power of attorney, and
16 then the mood just changed for the worse.

17 Q What happened, I mean, in terms of
18 forgiving you for doing that?

19 A Yeah, she felt like she deserved to have
20 control over everything, which I was there every day
21 and I knew the finances of the parents. I knew from
22 dad showing me how to do things, and they're the
23 ones who wanted me to have it.

24 Q Okay. Well, we're still talking about
25 her. She said you were conniving and a control

1 freak. How would you describe her level of control
2 that she wanted to assert?

3 A I think it was reversed, that she wanted
4 to be in control of everything.

5 Q And then Cathy. How would you describe
6 Cathy's character?

7 A Very demanding.

8 Q In what ways?

9 A When things weren't done her way, she
10 would get all upset and have a little tantrum and
11 just wouldn't confront the issue and just either
12 walk out or hang up on the phone, according to what
13 I've seen.

14 Q Is it fair to say that you and Cathy did
15 not have a good relationship?

16 A Ever since I was around 10 years old we
17 never got along.

18 Q All right. Now why don't we fast
19 forward up to the time when your mother and
20 father -- this is before your dad has cancer, but
21 they need help, okay? And I'd like to talk about
22 how y'all, the children, divided the labor of how
23 you would help care for your elderly parents, all
24 right? So how did it start that your father and
25 your mother both needed help and assistance? What

1 had happened? When did your dad -- this is before
2 the cancer but when he needed help. Tell me around
3 what time and what happened.

4 A This was about eight years before Mom's
5 passing that I started coming into the picture just
6 about every day. Dad and Mom was physically fit. I
7 came over there because I was on disability, and you
8 know, to give me something to do and help them out.
9 Which I did. I helped with the lawn and cooking for
10 them. And me and Dad loved to plant the garden all
11 year long. And Mom would come out there and sit
12 with us or sit down and watch us. And you know,
13 just do whatever needed to be done around there.

14 Q What did Belinda do to help out?

15 A Really nothing. She'd come over and
16 just communicate for a little while and then she'd
17 go on her way.

18 Q How did your parents react or what did
19 they want in terms of her helping out or being
20 there, or not?

21 A Before or after the cancer?

22 Q Before the cancer.

23 A Before the cancer, really no need.

24 Q Well, was there -- okay. What about
25 Cathy, what was she doing around this time?

1 A Come over sometimes and give a haircut
2 or -- just really not that much. You didn't see
3 that much of her. You know, after I entered the
4 picture she just weaned off.

5 Q Didn't she move to Myrtle Beach for a
6 while?

7 A This was after her divorce right before
8 dad got cancer.

9 Q Okay. Now, right around the time that
10 your father gets cancer, I want to know what your
11 parents expected of you and Belinda and Cathy in
12 terms of coming over and helping or even wanting
13 them there at all. Okay? So let's start with
14 Belinda. How did your parents want her to be
15 involved in their life or not?

16 MR. HOWE: Objection. That's all just
17 summary of hearsay.

18 THE COURT: Okay. If you can just ask a
19 direct question. Sustained.

20 A May I go back a little bit on as far as
21 what they wanted, Belinda?

22 THE COURT: Just wait for the next
23 question.

24 MR. VARNADO: I'm trying to rephrase it,
25 Judge.

1 BY MR. VARNADO

2 Q All right. Belinda admitted on the
3 stand she had a drinking problem. All right. Was
4 that an issue with your mom and dad?

5 A Yes, it was.

6 Q How was that an issue with your mom and
7 dad?

8 A Well, she would always come over usually
9 high, and always she had a little stash in her
10 purse, and would go off into the bathroom quite
11 frequently. And then she'd come out not being the
12 same.

13 Q Would they want her to be around?

14 A Not in that condition.

15 MR. HOWE: Objection.

16 THE COURT: Why is that?

17 MR. HOWE: Objection. I mean, the only
18 way he could know that is to say they said. I mean,
19 he's asking for what they said to him, basically, in
20 an indirect way.

21 MR. VARNADO: Presence and suppression.

22 THE COURT: Overruled. If you have
23 another question, go ahead.

24 MR. VARNADO: He overruled the
25 objection, so you can answer the question.

1 A Which one?

2 THE COURT: State the question again.

3 MR. VARNADO: Can you read it back,
4 Madam Court Reporter. Would that be a problem? The
5 last one before Mr. Howe's objection.

6 (At this time there is read back in the
7 record.)

8 A Not in that state of mind.

9 BY MR. VARNADO

10 Q Okay. How big an issue was that in your
11 family?

12 A It was getting pretty big. I mean, just
13 every time she'd come over it was like she was at
14 ease and wouldn't tend to hide it anymore. I mean,
15 it was like her normal life of being that way.

16 Q Now, Cathy says you got a drinking
17 problem?

18 A No, sir.

19 Q Okay. Have you ever been
20 institutionalized for alcohol?

21 A I have not.

22 Q Have you attended Alcoholic's Anonymous?

23 A No, sir.

24 Q Have you been in an alcohol treatment
25 program?

1 A No, sir.

2 Q Or a drug treatment plan?

3 A No, sir.

4 Q Do you drink?

5 A Yes.

6 Q Do you consider yourself an alcoholic?

7 A No.

8 Q Has any doctor ever told you that you're
9 an alcoholic?

10 A No.

11 Q Has anyone ever accused you of being an
12 alcoholic other than your sister, Cathy Harkness?

13 A No.

14 Q Okay. Tell me about Cathy's reputation
15 in your family.

16 A Cathy is very demanding. If things
17 don't go her way, she gets all upset, she storms
18 out, she hangs up the phone on you. She's just --
19 it's hard to describe her. From the time I've known
20 her -- I don't know how she's been in the last eight
21 years, except for the last time I've seen her. But
22 the years that I've known, she's just high pressured
23 on everybody when things aren't done her way, you
24 know. Just like, for instance, she came over one
25 day to help clean up and she brought the kitchen

1 trash beside me when I was in the den talking with
2 my parents. And she said, can you take the trash
3 out? And I said yes.

4 So it wasn't two minutes later she comes
5 up a huffing and puffing, grabs the trash bag, goes
6 out, puts the trash bag and comes back in the house
7 and just started an attitude from there on during
8 that day.

9 Q How would she assert herself in terms of
10 trying to put you down or put herself forward?

11 A Just everything I did was wrong, you
12 know. It's like damned if you do and damned if you
13 don't. I mean, it's just like in her eyes it's
14 okay, but behind her eyes, it's like backstabbing.
15 I mean, Cathy didn't know me.

16 Q And how did she and your late father get
17 along right around the time he got the cancer and
18 needed the cancer treatment?

19 A Well, that's when I took my tail and I
20 called Cathy in Myrtle Beach and told her about dad
21 having cancer.

22 Q Okay.

23 A So we talked a little bit. And she
24 said, well, I guess I'm going to have to pack up and
25 move. So she did. And then when she got down and

1 settled, we discussed things. And she was going to
2 come over and help me out, because the pressure was
3 on me taking care of dad now, to where dad used to
4 help with Mom. So I had to fill in some blanks.

5 Anyway, this went on for about 30 days.
6 And like I said, like with the trash incident,
7 things just kept going on. She started getting
8 demanding until finally after about 30 days Dad
9 said, Cathy, you know...

10 MR. HOWE: Objection.

11 THE COURT: Sustained.

12 MR. VARNADO: May I have one second,
13 Your Honor?

14 I would say he was talking about his
15 father.

16 THE COURT: Okay.

17 MR. VARNADO: And I would say that his
18 father is not part of the dead man statute. That's
19 already, whatever's happened there is already done.

20 THE COURT: Okay.

21 MR. VARNADO: I mean, I know
22 Ms. Wimberly and I haven't objected a lot. Mr. Howe
23 got a lot of the same leeway. I just want -- I'm
24 happy to --

25 THE COURT: Okay. State your question

1 again and let me hear his objection and we'll go
2 from there.

3 BY MS. WIMBERLY

4 Q How did your --

5 THE COURT: Because if you don't object
6 doesn't mean that he can't object.

7 MR. HOWE: That's a new rule.

8 A No, I was there.

9 MR. VARNADO: I would need to have the
10 question read back again. I think that the question
11 was, how did your dad react to that? And he started
12 to testify, well, dad said this, and Mr. Howe got up
13 at that point, so...

14 THE REPORTER: Do you want the question?

15 MR. VARNADO: Sure, the last question.

16 (At this time there is read back in the
17 record.)

18 MR. VARNADO: May he testify to it, Your
19 Honor, what his dad said.

20 MR. HOWE: A reported statement by
21 somebody who is dead and by somebody who has
22 interest, it's hearsay and not subject to
23 cross-examination.

24 MR. VARNADO: It's part to a -- he
25 doesn't have an interest in the late Arden Gunnells

1 estate, that's already done. Two, it's presence and
2 suppression. Three, we've already been sort of
3 going down this road a bunch.

4 MS. WIMBERLY: Sorry. May I interject?

5 THE COURT: Okay.

6 MS. WIMBERLY: Under 804, it's when a
7 declarant's unavailable, if they passed, they can
8 testify to anything regarding family history
9 including relationships and family history. So it's
10 804 (B), family history and family relationships,
11 804 (B) 4.

12 THE COURT: Okay. Statute approach to
13 that, actually I think everybody agreed that
14 everybody wanted to invoke.

15 MS. WIMBERLY: I think we invoked
16 testimony about the will in general.

17 MR. VARNADO: Your Honor, I'll try to
18 wrap it up. Because I need an instruction on how to
19 go forward. Yesterday both the girls testified kind
20 of at length about what the family relationships
21 were like, and he went, and it's fair.

22 I'm trying to establish a family
23 relationship. This is what we wanted to say. We
24 constantly were involved in mom and dad's life until
25 Glenn cut us off entirely, and that is proof

1 positive, they say, that there is undue. And that's
2 what he wants to argue. And that's he's going to
3 argue in summation and in a written order. So I
4 need to be able to say, at least I have some
5 probative testimony from my client. I was the guy
6 actually there and this is the reason why they
7 weren't around, when they probably were around.

8 MR. HOWE: And he can do that any way,
9 except quoting his father. He can bring in evidence
10 he wants to, but he can't say dad said this, mom
11 said this. That's what the whole purpose of the
12 dead man's statute is.

13 MR. VARNADO: It's dead man's statute if
14 you have a benefit, Your Honor. And Arden Gunnells'
15 estate is not...

16 THE COURT: Well, I think the benefit
17 goes to the person testifying. Question applies
18 to --

19 MR. VARNADO: We would just renew our
20 point, talking about family relationships, and the
21 door is wide open on that.

22 THE COURT: I'll allow the question.

23 BY MR. VARNADO

24 Q Thank you, Your Honor. Tell me about
25 what your dad said about Cathy and this time, he's

1 gotten the cancer. He's not able to help your
2 mother as much as he used to be. You're living in
3 the house.

4 MR. HOWE: Now we're getting into a
5 whole argument, not just a leading question.

6 MR. VARNADO: No, I'm just trying to get
7 back to where we were after this long objection.

8 THE COURT: Just ask him a direct
9 question.

10 BY MR. VARNADO

11 Q What did your dad say?

12 A I was there, and dad said, Cathy, we
13 need your help, Glenn needs your help, but you can't
14 come in here and try and change us, try and tell us
15 what to do. We've been living here our whole life.
16 I'm 80 years old.

17 And she didn't take that too well and
18 she went storming out the house and never to be seen
19 again as far as in the house.

20 Q Okay. What about this business of you
21 threatening to call the cops on her?

22 A That's not true.

23 Q What about telling her she'd be
24 trespassing if she came?

25 A That's not true.

1 Q What about changing the locks?

2 A That's not true. The same lock was on
3 the door. Nothing was changed.

4 Q You never changed the lock?

5 A No, sir.

6 Q How would she know the lock was changed
7 then?

8 A Pardon?

9 Q How would she know the lock was changed
10 then?

11 A Well, unless she snuck over overnight or
12 something, I don't know. Because she was never
13 there.

14 Q When was this that your father said, you
15 know, don't tell us what to do?

16 MR. HOWE: Objection just continuing.

17 THE COURT: Noted.

18 A About 30 days after she came in the
19 picture, moved from Myrtle Beach.

20 Q Okay, after your father got cancer?

21 A That's right.

22 Q When did you move in the house?

23 A After I sold my house, which was April,
24 I believe.

25 Q Of what year?

1 A 2013.

2 Q Thereabouts?

3 A Somewhere there, '13, I think so.

4 Q When you sold your house, how much money
5 did you bring in in your own personal account?

6 A Little over \$35,000.

7 Q Okay. So you're living in the house,
8 correct?

9 A That's right.

10 Q Who was forbidden to -- who was
11 forbidden to enter house, anybody?

12 A Nobody.

13 Q Who is -- who has been told never to
14 step foot on the house property again?

15 A I don't know.

16 Q Who has ever called the police ever told
17 somebody not to call the police to come?

18 A Nobody.

19 Q Okay. What evidence is out there to
20 support your sister's contention that she was told
21 by you never to come over again under and the threat
22 of law enforcement?

23 A I have no idea where that came from.

24 Q Okay. How did it go -- who was in the
25 house helping take care of your parents right around

1 the time your father's cancer got to that final
2 stage?

3 A It was just me and healthcare workers
4 and the nurse.

5 Q We heard from two of them today?

6 A Yes.

7 Q Okay.

8 A And also a friend of hers from 20 years
9 that worked for Roper healthcare during the years,
10 and so she'd come over and give mom hygiene twice a
11 week on her own time, because she loved mom that
12 much, and mom loved her.

13 Q Well, how is Cathy coming over every day
14 and taking your mom out shopping, what's your
15 position on that?

16 A That never happened.

17 Q Explain how Cathy is involved right
18 around the time your father goes in that late stage
19 of cancer through his death. When is she over?
20 When is she coming? What is he doing?

21 A Never seen her. Don't know what she was
22 doing. She wasn't there.

23 Q What about forbidding to use the van?

24 A That was dad's van. And when I was
25 taking dad to the cancer center, we went there, and

1 all of a sudden Cathy started coming up with things
2 wrong with mom and said, oh, she's got an emergency
3 and everything. This is after we got back from the
4 cancer center. She said she had an emergency and
5 everything and I have no transportation, y'all have
6 the van, you got the keys to your truck. And here
7 she is sitting with her car, which is a Corvette,
8 and she's worried about why I can't get the
9 wheelchair in there. And I said, Cathy, they have
10 wheelchairs at the emergency center or doctor's
11 offices if you needed them. So she got all upset
12 about it. And then dad stepped in. But that's
13 dad's van, and that's what we used every day to go
14 to the cancer center and back.

15 Q But you never forbade her from using it?

16 A No. As a matter of fact, she used it a
17 couple of times a couple of times during the time
18 she was over there to take mom to the doctor.

19 Q Okay. And that's before she voluntarily
20 took herself out of the picture; is that your
21 testimony?

22 A That's right.

23 Q How would you describe the level of
24 upset that your mom and dad were about Cathy and
25 Belinda?

1 A They couldn't believe that was their
2 children. That you know, why -- and they can't
3 understand and I still can't understand either, why
4 they wouldn't come over and help. I mean, I even
5 offered to remove myself, that would give me a
6 break, to where they didn't have to see me at all.
7 They could come over and help them out, and that
8 didn't even go. I don't know what the picture was.
9 But she did not want to step in that house at all.
10 And Linda come over and helped a couple times and
11 then she was done. So Linda next would come over
12 every now and then and socialize and then she'd be
13 gone.

14 Q How did they react to her going to
15 Hawaii when your father had his cancer?

16 A They didn't understand that either.
17 They said her daughter-in-law is going to lose her
18 job if she didn't go over there to take care of the
19 new grandchild. Now, there are daycare centers in
20 Hawaii. They didn't understand. Now, the final
21 stages of my father's life is more important than
22 going over there and taking care of a grandchild.

23 Q She knew there was cancer when she left?

24 A Yes, she did. She knew that before she
25 even took off to go.

1 Q And you didn't keep her in the dark as
2 to your father's medical condition? They could have
3 called at any time, right?

4 A That's right.

5 Q Tell me about Helen Carroll. Nice lady.
6 We saw her deposition yesterday.

7 A Me and Helen Carroll have been good to
8 go all these years. As a matter of fact, the last
9 time I saw Helen Carroll, she was there -- I was
10 running an errand or something, and she was there,
11 and I hugged and kissed her. And anyway, she said,
12 I brought you a sucker-to-me cake. And I don't know
13 if y'all are familiar with that, but it's like a
14 pound cake with nuts in it, but she makes it. She
15 makes plenty of them. So that was presented to me.
16 And we talked a little bit and then I went outside
17 and started doing what I do and let mom and
18 Ms. Carroll have their girl stuff.

19 Q When did you cut your mom off from
20 communicating with her friends?

21 A I never cut my mom off.

22 Q When did you cut your mom off from
23 communicating with Ms. Helen Carroll?

24 A I never cut Mom off from anybody.

25 Q Okay. Ms. Helen even said she'd come

1 over once when you weren't there. Were there times
2 when she would visit and you weren't there, you
3 weren't around?

4 A I don't know.

5 Q Was there ever a time that you know that
6 Helen Carroll visited but you weren't there?

7 A That's right. Okay.

8 Q Tell me about those. Do you remember
9 that? Once? Twice? How many times did that
10 happen?

11 A It started okay at the beginning, but
12 this was when dad was alive. But when he got the
13 cancer and everything, things started easing off
14 because Ms. Carroll's health problem was getting bad
15 because she couldn't drive from Goose Creek to West
16 Ashley anymore, and plus she was having problems
17 with her own children, so it got limited. And even
18 so with the phone calls, because of one of her
19 daughters was really having problems. And like I
20 said, the health issues of her were really going
21 down so...

22 Q Who were your mother's other friends?

23 A She had Grace.

24 Q Who is Grace?

25 A Grace was that home healthcare worker

1 that after 20 years of being friends wanted to come
2 over on her own time to help Mom with hygiene.

3 Q Do you remember her last name?

4 A Vanderhurst.

5 Q So Grace would visit?

6 A Yes.

7 Q So who are your mom's other friends?

8 A This lady named Cam, she owns a beauty
9 salon, which that's where mom would get her hair
10 done. And she'd come over and visit with mom. And
11 sometimes she'd come over and crab. Mom told her to
12 come over and crab anytime, so she did. And we'd
13 walk Mom out to the swing to where she could watch.
14 And mom really enjoyed watching.

15 Q She had fallen on her hip?

16 A She's fallen a couple of times, yes.

17 Q So what was her physical condition right
18 around the time your dad goes into that final cancer
19 stage?

20 A She wasn't bad. I mean, she could get
21 up and walk on her own with the walker and she
22 didn't need no help.

23 Q What kind of things did she like to do
24 in terms of getting out the house?

25 A She liked going outside in the backyard

1 and looking at the boats go by and looking at -- she
2 loved the clouds. And taking rides. We rode down
3 the Battery. Just wherever she wanted to go. She
4 just liked the outside. She didn't like staying
5 inside too much.

6 Q You heard the lawyer Ms. Klok and Annie
7 say that she seemed frame, but she had a good mind.
8 How would you describe your mother's mental state
9 and her mental abilities right around that time your
10 father went into that final cancer stage?

11 A Mom was fine.

12 Q Elaborate. What do you mean by fine?
13 What was her mental acuity like? What was her
14 ability to know her family and understand what was
15 going on?

16 A She was very aware of what was going on.
17 I mean, there were times I had to explain the
18 medical conditions to her, exactly what was
19 happening. And then she started keeping up when
20 we'd come back from the cancer center, because she
21 had some booklets reading on what kind of cancer dad
22 had, and she wanted to know what the white cell
23 counts were, the red cells. And so she was pretty
24 much up on everything, what was happening, when we
25 told her the information. She had her head

1 together. She was still head of the household.

2 Q What kind of -- your father passed away
3 in June of 2013. How would you describe what impact
4 that had on your mother, personality and how she
5 outlook on life?

6 A Well, she grieved. But she handled it a
7 lot better than what I thought it was going to be,
8 but...

9 Q Why do you say that?

10 A Well, I mean they'd been together for so
11 many years and they loved each other, and just the
12 sudden impact of him gone, she cried a little bit,
13 but she was just -- come out at a better stage of
14 life than what I thought she would have.

15 Q What other deaths or trauma had she
16 suffered sort of mentally and emotionally in that
17 time?

18 A We had three passings in eight months;
19 that was my father's, that was her sister in
20 Waynesboro, and that was her 13-year-old Dachshund
21 dog.

22 Q Because she was very attached to it?

23 A Yes.

24 Q And that Aunt, is that Aunt Evelyn, was
25 that her brother and Jack's sister who lived in

1 Waynesboro --

2 A That's right.

3 Q -- who lived in Waynesboro with Uncle
4 Jack?

5 A That's right.

6 Q Carly Bryant (ph)?

7 A Right.

8 Q All right. So what about this business
9 at the funeral? When did you ever wave round a
10 power of attorney at the funeral in your sister's
11 faces?

12 A Probably in her imagination, because I
13 would never disrupt a funeral like that. That
14 didn't even make any sense.

15 Q Did you ask her to leave the funeral?

16 A No, I did not.

17 Q Did you use your power of attorney to
18 eject her from the funeral?

19 A No, I did not.

20 Q I mean, that's what I thought when I
21 first heard it.

22 THE COURT: If I am correct, I think her
23 testimony was during the arrangements, not during
24 the funeral.

25 Q Okay. During the arrangements, like the

1 visitation, did you ask her to leave?

2 A I never asked anybody to leave.

3 THE COURT: Even before the visitation.

4 I guess meeting with the funeral home director.

5 Q Okay. Did you ask other to leave the
6 funeral home?

7 A No.

8 Q Did you kick her out of the funeral home
9 at the director's meeting?

10 A No.

11 Q Did you prevent her from putting up
12 pictures and stuff?

13 A No. As a matter of fact, I distributed
14 pictures to Linda from the house to bring over to
15 the funeral home to put up.

16 Q Okay.

17 A And Linda even come over to the house to
18 pick pictures out of the house to take pictures to
19 the funeral home.

20 Q Your Uncle Jack seemed his sister seemed
21 more emotionally distant. How would you describe --
22 did your mother -- was she more distant? Was she
23 more cold during this time of grief after Arden's
24 passing?

25 A I wouldn't say cold. I would say kind

1 of rebounding. And it would come a part where you'd
2 grieve and then you'd come back, and it'd hit her
3 sometimes. But overall, I thought she was doing
4 pretty good.

5 Q Did y'all change bank arrangements after
6 your father passed?

7 A We did.

8 Q What did you do?

9 A It was in my father's name and her name.

10 Q Okay.

11 A So we got his name off the account, me
12 and Mom went to the bank and we had a joint account.

13 Q You had a joint account with -- is that
14 one of those things they call joint of account with
15 rights of survivorship, do you know?

16 A That sounds right.

17 Q Okay. So that's in both your names?

18 A That's right.

19 Q So that if one dies, the account
20 continues on in the name of the other?

21 A That's right.

22 Q All right. So after your father's death
23 after the funeral, was there a time when your mom
24 didn't want to see Belinda?

25 A After the father's funeral?

1 Q Yeah. Was there a time when she didn't
2 want to see Belinda, and why? Where I'm kind of
3 going, just to give you heads-up, into that whole
4 situation where you allegedly assaulted your sister.

5 A No, not at that time.

6 Q Okay. Well, tell us about that day.
7 What happened on that day? We heard from Cathy. We
8 didn't hear much about -- Belinda said she tried to
9 get in and someone said call the cops. Then we
10 heard from Cathy that you actually Cathy that you
11 actually physically braced her against the wall.
12 Then we heard from the home healthcare nurse. Now
13 we want to hear from you..

14 A Okay.

15 Q Okay. What happened that day? And why
16 did your mom not want to see her?

17 A She was still upset --

18 MR. HOWE: I'm going to object to
19 hearsay again, so I'll object to that.

20 THE COURT: Okay.

21 BY MR. VARNADO

22 Q What was your understanding why your
23 mother didn't want to see her? And that's not
24 hearsay.

25 MR. HOWE: That's the same as what did

1 your momma tell you.

2 MR. VARNADO: I don't think so.

3 THE COURT: Ask again.

4 MR. VARNADO: You do? Okay.

5 BY MR. VARNADO

6 Q What happened that day?

7 A From my picture, she was still upset.
8 But Belinda had called that day and said she needed
9 death certificates because she was in charge of
10 dad's arrangements. She called a few days before
11 that, a few days before, but we had a waiting on
12 them to process to get them. So anyway, we had
13 gotten them in. And I told her I'd put them in a
14 bag and leave it at the front door, because mom
15 didn't want to see her that day.

16 Q Why not? What was your understanding?

17 MR. HOWE: Objection.

18 MR. VARNADO: Is he sustained?

19 THE COURT: I mean, I'm not sure what
20 he's objecting again.

21 MR. HOWE: He said, why didn't want to
22 see her? The answer is going to be -- the only way
23 for him to get there is, mom said so and so. That's
24 what the objection is.

25 MR. VARNADO: I think he can answer the

1 question.

2 THE COURT: Go ahead. You can answer
3 the question.

4 A She was still upset with everything that
5 had been going on and she didn't really want
6 interruptions that day, and plus, we had the
7 physical therapist there. So that's why I was going
8 to leave it out there on the front door.

9 Anyway, she said that's fine. She'd
10 just come pick it up and go take care of business.

11 Q Let me ask you this. Was it your
12 decision to keep Belinda out?

13 A No.

14 Q Did you ever tell Belinda she could
15 never come over if you hadn't been told by your mom?

16 A No.

17 Q Did you use physical threats against
18 Belinda?

19 A I did not.

20 Q Did you use physical threats against
21 your mother?

22 A No.

23 Q Has anyone ever accused you of that
24 except Cathy Harkness?

25 A No. I protected my mom.

1 Q Did you physically assault your sister
2 Belinda?

3 A I did not. She assaulted me.

4 Q Is this something you want to get past
5 and move on?

6 A Yes, I would like to get on with my
7 life.

8 Q All right. Was there a -- after your
9 father died, was there a fish fry at the house?

10 A No. This was before. Sorry.

11 MR. VARNADO: One second, Your Honor.

12 THE COURT: Take your time.

13 A I'm sorry. You said after my father
14 died?

15 THE COURT: Sorry. Just wait for the
16 next question.

17 THE WITNESS: Sorry, sir.

18 THE COURT: That's okay.

19 BY MR. VARNADO

20 Q Let me start back at the beginning. I'm
21 sorry. Just a little bit back. After your father
22 died and before your mother's death --

23 A Right.

24 Q -- and even before you had the will
25 changed, okay -- she did. Were people over at the

1 house?

2 A Yes.

3 MR. VARNADO: Really not feeling good.

4 MR. HOWE: I wish I could say that's
5 never happened to me.

6 Q Did you have people over at the house?

7 A Yes.

8 Q Okay. And give me an example of when
9 that happened?

10 A We had Jack and my cousin Patricia and
11 mom's sister Aunt Evelyn. And Linda came over, we
12 had a little fish fry.

13 Q So there were people in her life? There
14 were people coming over; is that correct?

15 A That's right.

16 Q Now I just made a complete buffoon of
17 myself, but tell me, whose idea and how did it come
18 up to change the will?

19 A That was Mom's.

20 Q And why? What was her understanding?

21 A She did not like the way --

22 MR. HOWE: Objection.

23 THE COURT: I think he can't testify as
24 to what she told you.

25 BY MR. VARNADO

1 Q Can't testify to what she told you. But
2 what was going on in her decision making that you
3 understood without being told?

4 A I was there. And from what I heard was,
5 the kids -- the two girls wouldn't come over and
6 help and she was not happy with that, and this was
7 also being submitted when my father was alive in
8 front of Jack Brantley, in front of Terry Gunnells
9 about the will being changed, how she wasn't
10 satisfied with the girls.

11 MR. HOWE: I'll object. My objection
12 into that is because it's all talking about what she
13 said. I'm sure where "there" is, so...

14 MR. VARNADO: Okay. It's essential in
15 the case, Judge?

16 THE COURT: I understand, but...

17 MR. VARNADO: Okay. I respect you. Do
18 I --

19 THE COURT: I think you continue on, but
20 it depends on how he answers it.

21 MR. HOWE: Just note my objection.
22 Thank you.

23 THE COURT: Noted.

24 BY MR. VARNADO

25 Q What choice of law firms did she have?

1 A She had Weeks & Irvine and Ms. Klok's.

2 Q How did you know that she had the choice
3 of those law firms?

4 A Mom and Dad and myself went to Weeks &
5 Irvine, and that's where we had the power of
6 attorney done.

7 Q Okay.

8 A And with Ms. Klok, I had the closing on
9 the house, not by my choice, but the buyer.

10 Q Why did she end up with Ms. Klok?

11 A She would feel more comfortable being
12 around women than she would the men.

13 Q Okay. Was it your idea to go to
14 Ms. Klok?

15 A No, it was suggestion of the two that I
16 had recommended, that what had happened with the
17 power of attorney and what had happened with the
18 selling of the house, and she wanted to go and talk
19 with Ms. Klok.

20 Q And what was the reason why she wanted
21 the will changed?

22 A Because of the girls, because of no
23 help, no love, no respect, no attendance. Just
24 weren't there. They were absent.

25 Q Did you tell her to change the will?

1 A No, sir.

2 Q Did you tell her it was time to change
3 the will?

4 A No, sir.

5 Q Did you tell her to write the girls out
6 of the will?

7 A No, sir.

8 Q Did you have that ability to control
9 your mom like that?

10 A No, sir.

11 Q What was your mom like? I mean, what
12 was her -- how would she react when people came
13 around and tried to push her around and make her do
14 something?

15 A She didn't like it. She'd try to hold
16 her tongue sometimes. But she wouldn't let herself
17 get run over.

18 Q In that way is she kind of like Cathy
19 and Belinda? They don't seem to let themselves get
20 run over much either.

21 A Okay. Well, she didn't go to that
22 extreme. Like I said, she was a southern woman,
23 southern lady. But she stood her ground when she
24 couldn't stand it no more.

25 Q What power did you have to make her do

1 what you want instead of what she wanted?

2 A I didn't have any power. She had the
3 head of the household, whatever she wanted to do.

4 Q I'm not talking about the power of
5 attorney. I'm actually talking about, what ability
6 did you have to make her do something if she didn't
7 want to do it?

8 A I had no ability.

9 Q Was she a meek? Was she a meek person?
10 Meek and timid? Or was she assertive, she would say
11 what she wanted?

12 A Kind of in between, if that makes any
13 sense.

14 Q So you go to the law firm. What does
15 Ms. Klok tell you to do?

16 A Well, we talked and said hello for a few
17 minutes and everything. And then when it was time
18 for business, she said, Glenn, you know, you're
19 going to need to go outside.

20 Q Did you know you would have to go
21 outside.

22 A Yeah. Because when we talked before,
23 you know, I even asked her, I said, you know, make
24 sure that mom's knowing what she's doing, you know,
25 that way I don't want nothing done that's not right

1 and that she's fully capable of knowing what the
2 will says. And she knows that. And she said, I'm
3 planned on that anyway.

4 Q So you left the office voluntarily?
5 Where did you hang out while she was meeting with
6 Ms. Klok?

7 A I had Casey with me. She let me walk in
8 the office with Casey, which is my dog. So me and
9 Casey went and hung out outside until I was called
10 in.

11 Q Okay. And what happened with this
12 personal property dispute that Cathy has going on
13 about? When was the first time that crops up? And
14 were there 14 times that you stood with your arms
15 crossed in the driveway laughing at her or telling
16 her she couldn't get her property?

17 A There was only two times that she come
18 over to get things, and that was it.

19 Q Not 14?

20 A No.

21 Q So there's this email that came in to
22 your Uncle Jack. How did that start? Did your
23 Uncle Jack call you up? Tell me how it started that
24 she wanted property back.

25 A This was my suggestion, not his. I

1 told -- called Terry Gunnells.

2 Q Who's Terry Gunnells again, just to
3 remind?

4 A He's my cousin. He's my dad's nephew,
5 lives in Barnwell.

6 Q Okay.

7 A I asked him if he could call Cathy up
8 and see if there's anything she might want of dad's.
9 That's where it started from. And then it just
10 escalated to where we're at now.

11 Q Well, how did it escalate? So you
12 called Terry. He's a minister too, right?

13 A Yes.

14 Q He's a doctor of divinity, and he lives
15 in Barnwell?

16 A That's right.

17 Q And did you make the same offer to
18 Belinda?

19 A Yes, Belinda physically came over. I
20 invited her over and told her let's go through some
21 things, see what she wanted. I said, you can have
22 complete control over upstairs, which was mainly
23 Mom's clothes and whatever else was up there for
24 her.

25 Q Did she take you up on it?

1 A Yeah. We walked around the whole house
2 and walked into the yard and she pointed out a few
3 things.

4 Q Did she take them?

5 A Not at that time. She said she was
6 going to make arrangements to get some help and a
7 truck, and she said that she'd be over, I think it
8 was a Tuesday, and this was a Sunday that she was
9 over -- that's she'd be over Tuesday around 11
10 o'clock. Anyway, 11 o'clock come and gone, and I
11 ended up calling her. And by the way, she said she
12 was also representing Cathy while she was at the
13 house of the things to pick.

14 Q Did they ultimately get picked up?

15 A No.

16 Q Okay. Then what happened next with this
17 whole property business?

18 A With -- the rest with Linda?

19 Q No, with moving on to Cathy now.

20 A Like I said, it escalated with that.
21 She started nick-picking things, just like Dad and
22 Mom --

23 Q How was she nick-picking? How was she
24 communicating with you to nick-pick?

25 A Through Terry, she emailed him a list of

1 things that she wanted.

2 Q Okay. Did you refuse it, or what?

3 A I asked Terry about that. And he said
4 it would probably be best to give her what she
5 wants.

6 MR. HOWE: Objection.

7 THE COURT: Wait. Stop.

8 MR. HOWE: I'll withdraw it. Go ahead.

9 BY MR. VARNADO

10 Q All right. And then what happened?

11 A It would be best to give her what she
12 wants so I can be done with it, and that way
13 everything is done and everybody go on about their
14 business.

15 Q Then what happened?

16 A Then this was the first load, which was
17 done with not the court proceeding. This was done
18 on free will, that I got everything together that
19 she wanted and put out on the driveway.

20 Q She came and got it?

21 A She did. And then I asked for the
22 sheriff to be there, which was, and everything went
23 smooth.

24 The second time, this is when y'all are
25 back -- I'm getting a court order.

1 Q What about this letter that's in
2 evidence as Respondent's Exhibit 3, did you see
3 that?

4 A Yeah, this is her doing. This had
5 nothing to do with -- that's completely her doing.
6 That's not even legal.

7 Q But you got -- did you see this letter?
8 Is this part of what -- the escalation you were
9 talking about?

10 A Yes.

11 Q And why did you refuse her on this?

12 A I didn't refuse her. Oh, on the legal?

13 Q No. She writes the letter and then
14 there's this lawsuit. That's this (indicating)?

15 A This one was mailed and --

16 Q You're looking at Exhibit 3?

17 A Yeah. And this is the stuff I got
18 together on free will for her, but that wasn't good
19 enough, she wanted more. So that's where this court
20 order came in, this summary.

21 Q Exhibit 4? Okay. And so now we're at
22 that point, did your mom see that summons before she
23 died?

24 A Yes, she did.

25 Q How did your mom react to that summons?

1 A She about broke down. Couldn't believe
2 that she's being sued. She couldn't quite take it
3 in that her own daughter is suing her.

4 Q Was that before or after y'all drove
5 over to Ms. Klok's office?

6 A This was before.

7 Q To your knowledge, was that lawsuit part
8 of what precipitated her wanting to change the will?

9 A I believe the free will one before was
10 the one that she wanted, but I could be wrong. But
11 this showed me right here that --

12 Q I don't think you understood my
13 question, I'm going to ask it again.

14 A Probably not.

15 Q Your mother, she saw that -- those legal
16 papers, okay? Did that precipitate her wanting to
17 get the will changed? Was that part of it?

18 A No.

19 Q It wasn't?

20 A No.

21 MR. VARNADO: Hold on one second, Judge,
22 Please.

23 BY MR. VARNADO

24 Q Glenn, I'm sorry. I feel like I may not
25 be asking good questions. I'm going to try --

1 Your mom saw those legal papers,
2 correct?

3 A Yes.

4 Q You said it almost made her break down?

5 A Yes.

6 Q It was before she decided she wanted to
7 change the will?

8 A Looking at the date, the will was
9 changed before that. I mean, excuse me, the will
10 was -- hold on a minute. I'm a little confused.

11 THE COURT: I thought one was late July
12 and one was early July?

13 MR. VARNADO: That's right. We'll move
14 on.

15 BY MR. VARNADO

16 Q Mr. Howe, he has made a big deal about
17 an inventory and appraisalment. Do you remember
18 doing an inventory and appraisalment?

19 A I do.

20 Q Your mom's dead at this point, correct?

21 A Right.

22 Q You're the personal representative of
23 the estate, correct?

24 A Right.

25 Q I'm going to show you this inventory and

1 appraisement, all right? Whose handwriting is on
2 this thing mostly?

3 A Mine.

4 Q Had you ever been a personal
5 representative before?

6 A No, I haven't.

7 Q Have you ever done an inventory and
8 appraisement before?

9 A No, I hadn't.

10 Q Is Ms. Klok your lawyer at this time, or
11 is she helping at all? Or what is she...?

12 A Well, no, she just gave me a little
13 advice, and then I took it home and tried to take
14 care of it. And I brought it back and then let
15 Annie review it. So all she did was notarize it
16 because of my signature.

17 Q What was your intention in terms of
18 filling this thing out? What was your goal? What
19 were you trying to do? Were you trying to be
20 truthful? How were you approaching this thing?

21 A Yeah, to get things taken care of the
22 way it was supposed to be that I thought.

23 Q What was your thinking about the bank
24 account?

25 A What was I thinking about the bank

1 account?

2 Q Yeah, Mr. Howe made a big deal you
3 didn't put a bank account on there. I know you
4 testified earlier it was a joint bank account. Why
5 did you not include a bank account in there? It
6 seemed to be a big deal to the other side?

7 A Mom's already passed. I haven't been
8 served yet. The will's in my name. Everything
9 belonged to me, according to what I thought. So I
10 put the house down and thought that represented
11 everything in the house, or you know, the whole
12 property.

13 Q What was the furniture like in the
14 house?

15 A Years.

16 Q I mean, describe it. I mean, Mr. Howe
17 thinks it's a very big deal. So what was in the
18 house in terms of the furniture?

19 MR. HOWE: I object.

20 THE COURT: Okay.

21 MR. VARNADO: I'll rephrase it.

22 BY MR. VARNADO

23 Q Respondent's have raised the position
24 that the failure to put down the household items
25 means that you were untrue and not -- and lying on

1 purpose. So I want to know what you were thinking
2 when you didn't put the inventory of the house down.

3 A I tell the truth. I don't lie. And
4 like I said, what I was thinking was, the house
5 would take care -- the furniture, anything that had
6 to deal with in the house, the house itself and
7 business-wise, checking account, anything that had
8 to do with it. That was my thinking.

9 Q And the checking account you thought was
10 your own name then?

11 A The checking account was in my mom's
12 name.

13 Q And she was dead and it was in your name
14 still?

15 A It goes changed, closed out that
16 account.

17 Q But not at the time you filled that
18 appraisement out, correct?

19 A I'm not really sure.

20 Q Okay. You filled that appraisement out
21 right after she died, correct?

22 A Yes.

23 Q Okay. You kept that joint account open?

24 A Yes, I did. Yes, I did.

25 Q It was a joint account?

1 A It was.

2 Q In both your names?

3 A Yes.

4 Q Okay. In terms of the household items,
5 what was the quality of the household items?

6 A Quality?

7 Q Value? Quality?

8 A It was mediocre. It was okay, but it
9 wasn't the fanciest thing in the world. I mean, it
10 was just --

11 Q What ended up happening to it?

12 A Some was sold and some was donated and
13 some is still in my house.

14 Q Were you trying to mislead the Court?

15 A Never.

16 Q Were you trying to undervalue the house?

17 A No.

18 Q How did you come up with that valuation
19 on the house?

20 A I had a statement before, and I didn't
21 have a statement with me at the time, because we get
22 one every month. And I came as close as I could.
23 But at that time it was like 385-, \$380,000. So in
24 my memory of trying to recall the last statement,
25 this is what I came up with.

1 Q All right.

2 MR. VARNADO: Judge, that would finish
3 my Direct Examination, and I really could use a
4 two-minute break.

5 THE COURT: Okay.

6 (At this time there is a brief break in the
7 deposition.)

8 THE COURT: Counsel, ready?

9 MR. HOWE: Yes, sir.

10 THE COURT: Mr. Howe?

11 MR. HOWE: Thank you, Your Honor.

12 (At this time there is a brief break in the
13 hearing.)

14 CROSS-EXAMINATION

15 BY MR. HOWE

16 Q Mr. Gunnells, let me get my notes here.
17 You went to St. Andrews school; is that right?
18 Where had you gone to school?

19 A That's right, Wappoo Road.

20 Q And you went to the 9th grade?

21 A Yes.

22 Q Did you finish the 9th grade?

23 A No.

24 Q So you finished the 8th grade but you
25 didn't finish the 9th grade?

1 A Right.

2 Q You audited some courses at Trident; is
3 that right?

4 A That's right.

5 Q You didn't get any official credits for
6 any of that?

7 A No.

8 Q You haven't worked since 2000?

9 A No, I've worked after that.

10 Q Okay. You've been on disability since
11 then?

12 A Yes.

13 Q You haven't had a full-time job?

14 A No.

15 Q You're allowed to do some partial small
16 things, that kind of thing?

17 A Right.

18 Q And essentially you live on your social
19 security?

20 A That's right.

21 Q And you receive about \$1,138 a month?

22 A Yes. But it's like a -- I went back and
23 it's like a hundred and something more dollars to
24 that, but Medicare is taken out for that, but the
25 net is \$1,138.

1 Q And when you were living over in the
2 Ponderosa, your house payment was about 448?

3 A That's about right.

4 Q So that gave you about \$690 a month to
5 live on?

6 A Okay.

7 Q All right. In terms of employment, your
8 dad, he worked at the wholesale radio place over on
9 East Bay, didn't he?

10 A Yeah, he was retired.

11 Q But his main job, he had been full time
12 over there for 38 years?

13 A Thirty-eight years, yes.

14 Q Thirty-eight years, okay. And you
15 mentioned that you and your dad were in business.
16 But you worked at a variety of places in used cars.
17 You worked at Yonco, right?

18 A That's right.

19 Q Hoover Chrysler?

20 A Right.

21 Q Stokes Honda?

22 A Yes.

23 Q Burnside?

24 A Yes.

25 Q And y'all had your own place. So that's

1 one, two, three, four, at least five -- oh, yeah,
2 Burnside Dodge, correct?

3 A Uh-huh.

4 Q You worked at all those places?

5 A I did.

6 Q All as a used car salesman?

7 A That's right. Some were new cars.

8 Q All right. You got power of attorney
9 for your mom and your dad in 2011 from Irvine &
10 Weeks; is that right?

11 A I'm not sure what year it was, but yes
12 at Irvine & Weeks.

13 Q Okay. I think, just so I got it
14 straight. Let me make sure I have the record
15 straight, if I can find that I have it. Does this
16 look like a copy of what you got from Irvin & Weeks?

17 A It does.

18 Q Okay. And what was the date on that,
19 just so we have it sort of nailed down?

20 A Looks like 21st of January 2011.

21 Q Okay. So this was well in advance of
22 your dad's diagnosis or anything like that?

23 A Yes.

24 Q Okay. And you had power of attorney for
25 both parents at that time?

1 A That's right.

2 Q All right. So when your dad was
3 diagnosed with having his cancer, you were still
4 living in the Ponderosa?

5 A That's right.

6 Q And you were getting that 1,138,
7 correct?

8 A Yes.

9 Q Paying the 440?

10 A No, it was more than that because
11 Medicare would -- I had extra help then, so that
12 extra hundred something dollars would come up to
13 where the State was paying my Medicare.

14 Q Okay.

15 A So you can add that.

16 Q All right. So another hundred or so
17 dollars. So you were living on between 7 and \$800 a
18 month?

19 A Right.

20 Q And it was around this time, or you were
21 helping your parents, according to you, as I
22 understand, with everything?

23 A With whatever needed to be done, yes,
24 and plus.

25 Q One of the things you helped to -- I'm

1 sorry. Go ahead.

2 A And plus.

3 Q Okay, and plus. And one of the things
4 you helped them with was in January of 2013, you
5 helped them get a reverse mortgage on the house?

6 A I made the connection, but they did it
7 on their own.

8 Q Well, you're one of the witnesses,
9 aren't you?

10 A I am.

11 Q And that was -- you got \$50,000 out of
12 the equity of the house?

13 A That's right.

14 Q And did you discuss that with the girls?

15 A No.

16 Q Now --

17 A It wasn't my job to discuss it. It was
18 Dad and Mom.

19 Q And in March and April, you moved into
20 your parents' house, of 2013?

21 A Yes.

22 Q So that would have been a couple months
23 after this reverse mortgage, correct?

24 A Sounds right.

25 Q Okay. And your closing was actually on

1 June 6th, 2014, on your house, the day before your
2 dad died -- two days maybe?

3 A Something like that, yeah.

4 Q And that's where you got to know
5 Ms. Klok, correct?

6 A Prior to that, yes.

7 Q Right. And once you sold that house and
8 you were living in Capri, you didn't have anywhere
9 else to go, did you?

10 A It was all planned before I sold the
11 house.

12 Q And once you did that, you didn't have
13 anywhere else to go. You didn't have another home
14 to go to, did you?

15 A No.

16 Q And your position is that Cathy and
17 Linda just didn't show any love to your momma or
18 your daddy, did they?

19 A That's right.

20 Q And that was for like a seven-year
21 period basically before they died?

22 A That's right.

23 Q And you begged people for help to try to
24 get them to come help you?

25 A I wouldn't say beg, but I pleaded.

1 Q Okay. So you pleaded, and one of those
2 people was Jack Brantley?

3 A I mentioned to Jack that -- what the
4 situation was and that I could use their help.

5 Q And you asked them to help you to get
6 them to help you?

7 A Not directly, no.

8 MR. HOWE: Hold on a second, Your Honor.

9 Q And did you also talk to Terry?

10 A About?

11 Q The same thing?

12 A Yes.

13 Q And Terry, as I understand it, you and
14 Terry and your dad were almost like three brothers,
15 y'all were very close?

16 A That's right.

17 Q Okay. And I noticed, too, that in your
18 direct testimony you mentioned that when your
19 parents were talking about this will and about why
20 they were changing things, that one time
21 Mr. Brantley was there?

22 A Yes.

23 Q Did you put surveillance cameras in the
24 house?

25 A Outside the house.

1 Q Right. And what all did you see?

2 A Saw the front door. Saw the driveway.
3 Saw the backyard. Saw the back door. That way, in
4 case I left somewhere, Mom knew if somebody come up.
5 If the door bell rings, she could see who's at the
6 door, see who's at the back. She could see them.

7 Q And you had surveillance at the
8 Ponderosa when you had that?

9 A That's right.

10 Q And did you make your bedroom in the
11 living room at some point?

12 A I did.

13 Q Now, the closing attorney for you was
14 Ms. Klok; we went over that, right?

15 A Yes.

16 Q How many times did your mother see -- go
17 to Klok's office before executing this will?

18 A I thought it was one to two times, but
19 it was actually one time and talked to her three
20 times. So it was reversed from what I had said
21 before. I thought it was two to three days that
22 we'd seen her, but it was two to three hours that we
23 saw her.

24 Q I'm going to hand you a copy of your
25 deposition, Your Honor. That's a copy of your

1 deposition (document tendered to witness).

2 If you'll turn to page 37. I'm looking
3 at -- let's start at line 9.

4 A Okay.

5 Q And I asked you, or you answered, "And
6 she felt comfortable with going to females.

7 That's what you talked about a little
8 bit earlier, correct?

9 A Right.

10 Q Question, "And so how many times did she
11 go? And tell me about that. Did she go there
12 once?"

13 MS. WIMBERLY: Objection. Mr. Gunnells
14 just corrected his testimony, so this is an improper
15 impeachment. He actually just corrected his
16 testimony on the stand. He said he had read through
17 his deposition and he wanted to correct it. So
18 improper impeachment.

19 THE COURT: I'm going to allow the
20 question.

21 BY MR. HOWE

22 Q "Did she go there, once, twice, three
23 times; do you remember?"

24 And what was your answer?

25 A It's what I just told you, that I

1 thought it was two or three times. But it was
2 actually one time for two to three hours. So I had
3 it reversed.

4 Q Okay. Let's go to the next page then,
5 and let's look at line 21. And I asked you, "How
6 long did they spend with her?"

7 What was your answer?

8 A I put down, "Thirty to 45 minutes."

9 Q And I said, "Okay. And was that on two
10 or three different occasions?"

11 What was your answer?

12 A Well, I said, "That's right."

13 But I just told you that I had it turned
14 around, reversed.

15 Q Okay. So it was wrong?

16 A Right.

17 Q On this inventory and appraisalment, you
18 actually -- so I understand it, you took it home to
19 look at it. I'm going to hand you that (document
20 tendered to Witness). This is what you filled out
21 for the court to talk about your mother's
22 belongings?

23 A Right.

24 Q So you weren't in a rush. You filled
25 that out and you had plenty of time to read it and

1 look at it?

2 A No. This -- I'm sorry. This was done
3 there at the office. My mistake.

4 Q You didn't go home and bring it back?

5 A No. My mistake.

6 Q So now you didn't go home.

7 A No. My mistake.

8 Q All right. And there's a --

9 A That's why I didn't have the exact
10 mortgage amount on there, because I was at the
11 office.

12 Q This Section F, you're supposed to put
13 down personal items, aren't you?

14 A As far as I'm concerned, like I told you
15 before, there's the -- the will was in my name. I
16 hadn't been served yet. So everything that was
17 associated with this was in my name. So I figured
18 it wasn't Mom's at all anymore, it was mine.

19 Q Okay. I understand your legal
20 interpretation. The question says -- it's a form
21 that's by The Court, isn't it?

22 A Yes.

23 Q Does it ask for Glenn Gunnells'
24 interpretation of what he's supposed to be doing?

25 A I did what I did.

1 Q Okay. And you said, you put in that
2 blank there were no personal items, didn't you?

3 A There wasn't.

4 Q Let's look at your deposition on
5 page 51. Look at line 18. My question was, "All
6 right. How about personal items around the house?
7 What all did she have?"

8 What was your answer? Are you with me?

9 A Yeah, I am.

10 Q Okay, okay. Sorry.

11 A This was second time around after the --
12 this deposition, this was -- my answer was before,
13 with this, none. This is after the definition
14 (sic). How am I trying to say this? This is
15 afterwards when I found out I was doing things wrong
16 as far as when I first filled out this inventory
17 here.

18 Q Well, I'm not asking about inventory
19 here. I just said how many -- I said, "How about
20 personal items around the house. What did she
21 have?"

22 What was your answer?

23 A It's showing furniture, clothes.

24 Q Just read your answer, please. I'm
25 sorry.

1 A "There's so many, I mean it would take a
2 day to list everything. I mean, furniture,
3 clothes."

4 Q Right. "There's so many, I mean, it
5 would take a day to list everything. I mean,
6 furniture, clothes." Correct?

7 A That's right.

8 Q And in fact, when we asked for a list of
9 non-probate assets later, you did list a whole bunch
10 of furniture and stuff, didn't you?

11 A I did.

12 Q And you also said, well, it's been so
13 long now I can't remember?

14 A Well, it's going back to the same deal
15 again here, to where my first one was done before
16 this deposition was ever served, before I was
17 served. So I was going back to where I thought
18 everything was in my name. So it was mine and there
19 was nothing there as far as in her name. So this is
20 totally getting turned around back and forth here
21 from one to another.

22 Q You got me turned around, you're talking
23 used-car-ese.

24 A You're turning me turned around, too.

25 MR. VARNADO: Judge?

1 BY MR. HOWE

2 Q You also put there were no bank accounts
3 on that personal -- on the inventory and
4 appraisalment, didn't you?

5 A There wasn't at that time.

6 Q And why wasn't there at that time?

7 A Because it was in my name.

8 Q You had already closed it out and put it
9 in your name?

10 A That's right.

11 Q Okay. And did you -- you talked about
12 that there was something about the joint tenancy.
13 Now, did you bring any of those documents to show to
14 The Court that what you're telling is the truth
15 about that account?

16 A No. I tell the truth. I wasn't told to
17 bring any documents.

18 Q Okay. They were your accounts; you got
19 control over them, right?

20 A That's right.

21 Q You certainly could have brought them?

22 A Why?

23 Q To show the Court that what you're
24 saying is the truth?

25 A Well, I didn't know we needed that.

1 Q You were served with a lawsuit about
2 this will in August, weren't you?

3 A Okay.

4 Q And -- well, let's go back for a second.
5 You had a yard sale of a number of the personal
6 items, didn't you?

7 A Yes.

8 Q You sold some silver, a set of silver?

9 A Not in the yard sale.

10 Q Okay. You sold that, too, didn't you?

11 A Yes.

12 Q Put all that straight in your personal
13 account, didn't you?

14 A Yes.

15 Q And there were creditors' claims being
16 filed on the estate all through this time, weren't
17 there, credit card bills?

18 A I received a couple of them.

19 Q Six?

20 A Not at the time.

21 Q Well, all right. You want to go over
22 and look at them?

23 MS. WIMBERLY: Objection, Your Honor.

24 This is Déjà Vu. We have been through these
25 creditor claims already, gone through the

1 administration of the estate. We are getting close
2 to that time to wrap up.

3 THE COURT: Overruled. I'll allow the
4 question.

5 BY MR. HOWE

6 Q There were a number of creditor's
7 claims, were there not?

8 A Yes.

9 Q For thousands of dollars?

10 A Yes. They all got paid, too.

11 Q In 2015, correct?

12 A They got paid.

13 Q In 2015; is that correct?

14 A They got paid, yes.

15 Q In 2015; is that correct?

16 A As far as I know, yes.

17 Q Well, you paid them, didn't you?

18 A I did, through the company, the
19 attorneys.

20 Q And so in August of 2013 -- if I got my
21 dates -- I'm starting -- my head is swimming a
22 little bit. It's Rob's fault (laughing). You got
23 served with a lawsuit that Cathy had drawn up?

24 A In 2013?

25 Q Yeah. And after your mom -- oh, 2014.

1 Thank you. After your mom passed away. She passed
2 away February 2014.

3 A Yes.

4 Q See, I was wrong.

5 A Yes.

6 Q And in August that year you received
7 court suit papers, legal papers saying that this
8 will was being challenged?

9 A Right.

10 Q And the challenge was essentially that
11 there had been something wrong about the will, that
12 your mom signed at Suzanne Klok's office, correct?

13 A Right.

14 Q And you knew if that was successful you
15 weren't going to get all the money anymore, didn't
16 you?

17 A Oh, this was done before the lawsuit
18 come to me.

19 Q Right. But I'm getting ready -- but --
20 I'm not talking about -- you're anticipating
21 something that's not there.

22 You knew that if you -- if that lawsuit
23 was successful that the money would not all go to
24 you, didn't you?

25 A Yes.

1 Q And then it was some months later you
2 sold the house, didn't you?

3 A Yes.

4 Q And you put it all in your personal
5 account, didn't you?

6 A Some of it. Most of it.

7 Q Like you had \$140,000 net?

8 A \$20,000 of that went to pay off the
9 credit cards.

10 Q But those weren't paid off until months
11 after?

12 A Right, but they were paid.

13 Q Okay. At that time, that money went
14 in -- how much -- when that check came, what account
15 did it go into?

16 A It went into mine and then 10,000 was
17 transferred into the estate.

18 Q Okay.

19 A And if any money needed to be handed out
20 more, all I had to do was transfer it over.

21 Q How long was your dad in ICU before he
22 passed away, or in the hospital?

23 A Two weeks.

24 Q I want to hand you what's been marked as
25 Petitioner's Exhibit No. 4. Can you tell me what

1 that is?

2 A Yeah.

3 Q What is it?

4 A It says I have power of attorney and Dad
5 wasn't able to handle things. I had asked Mom to be
6 weary of things that Linda or Cathy brought to them,
7 to please let me look at it first. Because seeing
8 how they are as far as sneaky, so to speak, I wanted
9 to look at them to make sure everything was okay.
10 So I let her know that.

11 Q And so that was something you sent to
12 Linda?

13 A Yes.

14 Q So you had her address, you knew how to
15 contact her, correct?

16 A Yes.

17 Q You had her mailing address, knew how to
18 write her a letter?

19 A Yes.

20 Q And your position is that you reached
21 out to them directly and said, I could use some help
22 with Mom, didn't you?

23 A Yes.

24 Q And you reached out to Uncle Jack and
25 said, I sure could use some help from the girls?

1 A I could use help, yes.

2 Q And to Uncle Terry?

3 A Yes.

4 Q And how about these other ladies you
5 talked about, Aunt Mildred?

6 A Aunt Mildred is 96 years old.

7 Q Right. And did you reach out to her?

8 A No.

9 Q What about Grace? How about Grace, did
10 you talk to her about it?

11 A Yeah, Grace came over.

12 Q Yeah. Did you tell her, say, boy, I
13 sure could use some help from these girls?

14 A Yeah. And she came.

15 Q Do you have any letters or emails that
16 you wrote to Uncle Jack saying, boy, I sure could
17 use some help from these girls?

18 A I don't think so.

19 Q How about to Uncle Terry?

20 A I don't think so.

21 Q How about Grace?

22 A No.

23 Q How about Cathy?

24 A No.

25 Q How about to Linda?

1 A Just this.

2 Q Just that?

3 A As far as I know.

4 Q It says, don't do nothing unless I look
5 at it, basically?

6 A Yeah.

7 Q You do have -- you did put into
8 evidence, at least your lawyer put into evidence and
9 you did bring a birthday card.

10 A What about this?

11 Q You did bring that and y'all put that
12 into evidence, right?

13 A Yeah.

14 Q And it says basically that Cathy is a
15 phone call away and she wishes she could see her
16 momma, doesn't it?

17 A Okay.

18 MR. HOWE: That's all I have.

19 MS. WIMBERLY: Your Honor, I'm going to
20 take over because Rob's not feeling so well.

21 THE COURT: Yeah, he doesn't look so
22 good.

23 MR. VARNADO: Do you mind if I don't
24 stand over you? Probably more kosher and gets done
25 faster.

1 MS. WIMBERLY: Just very briefly.

2 THE COURT: Let me just make sure
3 Mr. Howe's fine.

4 MR. HOWE: I'm sorry. I missed it.

5 THE COURT: She wants to substitute for
6 Counsel.

7 MS. WIMBERLY: Rob's not feeling very
8 well.

9 MR. VARNADO: I'm going to tap out on
10 this.

11 MR. HOWE: Oh, sure.

12 MR. VARNADO: I won't touch you on the
13 way.

14 REDIRECT EXAMINATION

15 BY MS. WIMBERLY

16 Q Mr. Gunnells, Mr. Howe just asked you
17 about whether or not you reached out to family
18 members and friends to ask for help. Do you
19 remember him asking you that right now?

20 A Yes.

21 Q How did you typically reach out to
22 family members and friends, in general, just to talk
23 and discuss things that were going on with your
24 parents?

25 A I talked with -- over the phone with

1 Jack and Terry.

2 Q Was that your main method of
3 communication?

4 A Yes. I'm not a big text deal or
5 computer. I'm still illiterate on the computer.

6 Q All right. And do you ever remember
7 ever writing Cathy or Linda a letter asking for
8 help?

9 A No, I don't.

10 MS. WIMBERLY: Well, at this time, Your
11 Honor, I'm going to mark for identification a letter
12 that was actually produced to us by Ms. Harkness.

13 (Respondent's Exhibit No. 9 is marked for
14 identification.)

15 BY MS. WIMBERLY

16 Q Mr. Gunnells, if you don't mind just
17 looking over. It's actually two pages, the first
18 page is a letter, the second page is an envelope
19 with a date. And once you're done looking at the
20 letter, just let me know.

21 A Yes, I wrote that.

22 Q And in that letter, you actually ask
23 both of your sisters, or you actually ask Cathy for
24 help; is that correct?

25 A That's right.

1 Q What kind of help were you asking for?

2 A To relieve some of the pressure of work
3 loads that I was doing. I was taking care of the
4 house. To take care of Mom in little ways where I
5 can have a break. Just basically take care of what
6 I've been doing to where I can have some time.

7 Q So would you like to change your answer
8 to that question? So did you ever reach out to your
9 sisters to ask for help?

10 A Yes.

11 Q Thank you.

12 MS. WIMBERLY: Just a moment. No
13 further questions, Your Honor.

14 THE COURT: Thank you. Mr. Howe?

15 MS. WIMBERLY: That's all, Your Honor.

16 THE COURT: Mr. Howe?

17 RECROSS EXAMINATION

18 BY MR. HOWE

19 Q This is a letter asking for money?

20 A Yes, it was, because they still owed the
21 parents money and weren't paying them.

22 MR. HOWE: That's all the questions I
23 have, Your Honor.

24 THE COURT: Thank you. You may step
25 down. Thank you.

1 THE WITNESS: Yes, sir.

2 (At this time, the witness, Glenn Gunnells, is
3 excused from the witness stand.)

4 MR. HOWE: Looks like at a bewitching
5 hour. I don't anticipate having any rebuttal, but
6 if I do it won't be more than five or ten minutes,
7 so...

8 THE COURT: Okay. Anything else for
9 tomorrow?

10 MS. WIMBERLY: No, Your Honor. I think
11 we rest.

12 THE COURT: Okay. Y'all are up.

13 MR. VARNADO: I'll renew my motion, but
14 respectfully -- closing arguments.

15 THE COURT: Okay. You want to do
16 closing arguments in the morning or do you want to
17 submit proposed order, how would you like to do it?

18 MR. VARNADO: I would like to submit a
19 proposed order.

20 MR. HOWE: Whichever way you'd prefer,
21 Judge.

22 THE COURT: Either way. I will be here,
23 so let me know what y'all --

24 MR. HOWE: I'd like to do a little
25 closing argument. It won't be long. I promise.

1 THE COURT: Okay. We'll do that at
2 9 o'clock in the morning.

3 MR. VARNADO: Your Honor, may I be
4 excused from that? I double booked. I thought we'd
5 be done in two days.

6 THE COURT: Okay.

7 MS. WIMBERLY: Same court room?

8 THE COURT: Yes, should be same
9 courtroom.

10 MR. VARNADO: If we do a proposed order,
11 if there is a closing argument or a proposed order,
12 30 days, is that your normal?

13 MR. HOWE: That's fine with me, I
14 certainly can't be quicker than a month.

15 THE COURT: That's fine with me.
16 Whatever y'all need.

17 (Whereupon, the hearing is concluded at 2:20
18 p.m.)
19
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25

CERTIFICATE

I HEREBY CERTIFY that the above-referenced
hearing was taken by me and that this transcript is
a true record of the testimony given.

Judy W. Galuppo
Court Reporter/Notary Public
Commission Expires 3/18/2023

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STATE OF SOUTH CAROLINA) PROBATE COURT
COUNTY OF CHARLESTON) CASE NO.: 2014-ES-10-0202
IN RE: THE ESTATE OF
HELEN B. GUNNELLS

VOLUME III

BEFORE JUDGE IRVIN G. CONDON

Date Taken: Thursday, March, 3rd, 2016
Time Taken: 9:00 A.M.
Location: Judicial Center
100 Broad Street, 3rd Floor,
Courtroom 3D
Charleston, South Carolina 29401

Reported By: Judy W. Galuppo, Court Reporter

Job No.: 238385

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1 THE COURT: Counsel, ready to proceed?

2 MR. HOWE: Ready, Your Honor.

3 THE COURT: Okay. I know there were two
4 things; one, that document that was attached to the,
5 I guess, the video deposition, I'm not going to
6 allow that in. Under the rules, I don't believe it
7 comes in.

8 MS. WIMBERLY: Thank you, Your Honor.

9 MR. HOWE: Subject to my objection.

10 THE COURT: I understand. And then I
11 had a few questions that I had written down that I
12 didn't get a chance to ask Mr. Gunnells; I don't
13 know if you have any objection to that.

14 MR. HOWE: No, Your Honor.

15 MS. WIMBERLY: No objection, Your Honor.

16 THE COURT: All right. Mr. Gunnells,
17 please come forward.

18 (At this time, the witness, Glenn Gunnells, is
19 recalled by The Court to the witness stand.)

20 THE COURT: You're still will be under
21 oath.

22 Good morning, how are you doing?

23 THE WITNESS: Well, sir. Thank you.

24 THE COURT: I know they were talking
25 yesterday about the joint account.

1 THE WITNESS: Right.

2 THE COURT: And I'm not even sure what
3 the value in that account was. I know you filled
4 out what, a non-probate document, but I don't think
5 that was made a part of the exhibits. But when the
6 account was changed, do you know how much money was
7 in the account?

8 THE WITNESS: About \$8,000.

9 THE COURT: And then when she passed?

10 THE WITNESS: 24, I believe.

11 THE COURT: Okay. And I guess the
12 question now is, why was that changed to a joint
13 account? I mean, you had the power of attorney.

14 THE WITNESS: My father had deceased.
15 My father's name was on it and my mother's name was
16 on it, so we went to we close it out and to have his
17 name taken off and me put on it as a joint.

18 THE COURT: Okay. But you also at that
19 time, I guess, had power of attorney?

20 THE WITNESS: Yes, sir.

21 THE COURT: And you could have just
22 added yourself as power of attorney, or did you
23 think about doing that?

24 THE WITNESS: I didn't.

25 THE COURT: Didn't, okay.

1 THE WITNESS: This was all new to me,
2 and I just...

3 THE COURT: Yeah, I understand.

4 And then I know your mother changed her
5 will. Do you know why your father didn't change his
6 will and, I guess, disinherit your sisters and name
7 you as personal representative?

8 THE WITNESS: I'm sorry. Bring that to
9 me one more time?

10 THE COURT: I guess, first of all, why
11 he didn't disinherit your sisters as the alternate
12 takers?

13 THE WITNESS: Dad was really down from
14 the chemo and everything, and Mom had talked to him
15 about changing the will while he was alive.

16 MR. HOWE: Objection.

17 THE COURT: Okay.

18 MR. HOWE: That's total hearsay.
19 Objection.

20 THE COURT: Okay.

21 Let me make sure I'm clear that the
22 joint account was changed I guess sometime in the
23 summer after your father had passed?

24 THE WITNESS: Probably around March.

25 THE COURT: Because he had passed what,

1 in February?

2 THE WITNESS: Oh, I'm sorry. I was
3 thinking about my mother. Yeah, he passed in June,
4 so it would have probably been about July or August.

5 THE COURT: August, okay. I'm just
6 trying to get my timeline squared away.

7 That's all I have. I've asked you some
8 additional questions, I'm going to ask counsel if
9 they have any follow-up questions to what I've
10 asked.

11 MS. WIMBERLY: I do not, Your Honor.

12 THE COURT: Okay.

13 MR. HOWE: I don't think I have any,
14 Your Honor.

15 THE COURT: All right. Thank you. You
16 may step down. Thank you, Mr. Gunnells.

17 THE WITNESS: Yes, sir.

18 (At this time, the witness, Glenn Gunnells, is
19 excused from the witness stand.)

20 THE COURT: Was there any other, I
21 guess, was there a reply --

22 MR. HOWE: Just very briefly, Your
23 Honor.

24 THE COURT: Okay. Ms. Wimberly, do you
25 have any objection?

1 MS. WIMBERLY: No objection, Your Honor.

2 MR. HOWE: We recall Ms. Belinda Davis,
3 Your Honor.

4 (At this time, the witness, Belinda Davis, is
5 recalled to the witness stand.)

6 THE COURT: Thank you. You're still
7 under oath. And again, just state your full name
8 for the record.

9 THE WITNESS: Belinda Davis.

10 THE COURT: Okay. Answer questions of
11 Counsel.

12 THE WITNESS: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. HOWE

15 Q Ms. Davis, there were a few things that
16 came up in Mr. Gunnells' testimony that we've
17 discussed and I wanted to clarify for His Honor in
18 terms of your perspective on them, so just go down
19 the list real quick, okay?

20 A Thank you.

21 Q First of all, there was an incident at
22 the funeral home after your dad died involving, I
23 guess, him using the power of attorney or something.
24 But what can you tell us? What do you remember
25 about that?

1 A It was referencing him waving the power
2 of attorney and making sure that the personnel at
3 the funeral home was aware that he was in control.

4 Q What was the nature? Like give us a
5 little background on how it came up that he felt he
6 had to do it?

7 A How he...?

8 Q Why he was doing that? What was his --

9 A Oh, to make a point that we had -- that
10 Cathy and I did not have any say-so in anything.
11 This was during the planning stages.

12 Q Okay.

13 A This was not during the funeral itself.
14 And with reference to the pictures, he only wanted
15 pictures of daddy and I believe our cousin Terry in
16 those pictures, not representing pictures of he and
17 mom or any of the children or grandchildren or other
18 friends.

19 Q Okay. And y'all had brought some of the
20 other pictures?

21 A Correct.

22 Q And the Terry that you're talking about
23 is Terry Gunnells?

24 A Correct.

25 Q He's the Reverend that was like a

1 brotherhood friend with your dad, they were all --

2 A He's a cousin.

3 Q Cousin. I'm sorry.

4 A That's okay.

5 Q And again the dispute was, you had --
6 you guys had pictures of the whole family, he just
7 wanted certain pictures?

8 A Yes. He was very controlling with Dad's
9 and Mom's arrangements.

10 Q Now, he also made a point that you often
11 went to your parents' house in an altered state of
12 mind, I guess we'll say, intoxicated in some way.
13 What can you tell His Honor about that?

14 A I have done drugs with different people
15 and with Glenn many times. I never took it into my
16 parents' house.

17 Q And you also --

18 A Can I add something to that?

19 Q Okay, sure.

20 A To stop smoking, drinking, I went
21 through Chantix, which is a prescribed medication,
22 which was originally for alcohol but was given to me
23 for smoking. And so that was over about a
24 two-and-a-half month period of time many years ago
25 that I took that.

1 Q Okay. Now, Mr. Gunnells also talked
2 about a time that you came by the house on Capri,
3 and this was after -- if my thoughts are correct,
4 after your mother passed away and you came by to
5 look at some items to see whether you and/or Cathy
6 might want some of those items. So tell me a little
7 bit about what you remember about that visit from
8 your perspective?

9 A From my perspective, that was not a
10 visit that would encompass me going upstairs or
11 outside. He and I never went outside to look at any
12 goods at all. I walked into the house. It was very
13 strange. There were curtains up on the open
14 doorways of the living room to where he said, you
15 don't go in there, you don't go in the little office
16 here. I continued to walk to the kitchen, and he
17 said, here's your stuff. And it was items like
18 cheap vases that were from -- if somebody sent you
19 some flowers. Very incidental junk. And I asked
20 him about the other goods, and he said he was going
21 to keep them all. That was very insulting to me and
22 I left.

23 Q Okay. And the email that has been
24 marked Petitioner's No. 4 --

25 A Yes, sir.

1 Q -- Mr. Gunnells sort of said that was
2 sort of a generalized email just saying -- to let
3 y'all know he had the power of attorney. But you
4 already knew he had the power of attorney, didn't
5 you?

6 A Yes.

7 Q What was that email about, from your
8 perspective?

9 A Control.

10 Q Okay.

11 A Power.

12 Q And what incident led to it?

13 A Me going to Bon Secours Hospital when
14 Daddy was given chemotherapy and I was sitting with
15 him, and I wanted to -- I asked Dad who was -- I
16 wanted to check to see who was allowed and approved
17 to receive information about his health.

18 So I went up to the front where the
19 records were kept, and it was only Glenn and Mom. I
20 had me added because I felt sure it was all still
21 there, you know, that we should be -- we're still
22 children of, you know, Dad and Mom. So to me this
23 just represents another manipulation.

24 MR. HOWE: That's all the questions I
25 have. Thank you.

1 THE COURT: Thank you, Ms. Davis.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Wait a second.

4 Ms. Wimberly, any questions for this witness?

5 MS. WIMBERLY: No, Your Honor. But I
6 would like to briefly recall Mr. Gunnells as
7 rebuttal to that statement for just quick minute.

8 THE COURT: Okay. You may step down.
9 Thank you.

10 THE WITNESS: Thank you.

11 (At this time, the witness, Belinda Davis, is
12 excused from the witness stand.)

13 THE COURT: Take your time there.

14 THE WITNESS: Yes, sir.

15 THE COURT: If you can answer questions,
16 Mr. Gunnells, of Ms. Wimberly.

17 (At this time, the witness, Glenn Gunnells, is
18 recalled to the witness stand.)

19 REDIRECT EXAMINATION

20 BY MS. WIMBERLY

21 Q Mr. Gunnells, you just heard what your
22 sister Belinda Davis had to say about several
23 incidents that you had with her. What, if anything,
24 do you have to say about what she just testified to?

25 A I called Linda up to come and look

1 through some stuff at the house. And we made an
2 appointment and she came over I believe it was a
3 Sunday. And we walked upstairs and looked. And I
4 told her she could have just about everything
5 upstairs she wanted, Mom's clothes. There was
6 jewelry on the dresser drawer. And I left her up
7 there.

8 So I came downstairs. And then when she
9 was done she came downstairs. And sure there was a
10 curtain closed, because that curtain was my bedroom.
11 I was in the living room, I was in there. And on
12 the right side was the office, and the door was
13 closed. And I did not say anything about going in
14 there.

15 So we proceeded down the hallway, and
16 all of a sudden she grabs a picture off the wall and
17 just starts putting it over to her stuff. And I
18 said, hold on, wait a minute, I said, don't just
19 come in here and start grabbing things. I said, you
20 know, we talk about things first, whether this is
21 yours or what. But anyway, I let her have it.

22 So we did walk up into the dining room.
23 And yes, there was a lot of stuff that was from the
24 dining room, crystals and everything sitting on the
25 dining room table. And she went through that.

1 There was pictures of Mom there, and I let her have
2 that, too. And then we went into the den and
3 automatically she ran to the couch and pulled from
4 underneath the cushions this Mexican, I don't know
5 what you call it, some kind of blanket that she got
6 that she gave to Mom and Dad and immediately just
7 started taking that off. And I said, I remember
8 that. Go ahead.

9 So yes, we did walk outside because she
10 asked if we had any garden tools we wanted to get
11 rid of. So we walked out to the shed and I showed
12 her rakes, and you know, excess of tools that we had
13 and a bench that she wanted.

14 So anyway, after that she said, well,
15 this little table here, you know, was promised to me
16 through Mom. And I said, okay, you can have that,
17 and I carried it out for her. So we made
18 arrangements to where she was going to get some
19 people together and come back two days later at 11
20 o'clock, which I think was a Tuesday. She never
21 showed up.

22 So let me go back a minute. She also
23 said that she was representing Cathy while she was
24 there, too, on the things there. So she never
25 showed up at 11 o'clock. I ended up calling her

1 about 11:30, and she was there at the house. And I
2 said, well, are you coming to get the stuff, or
3 what's going on? And she said, no. She said, none
4 of the stuff is worth it to me, just forget about
5 it. I said, you and Cathy don't want none of this
6 stuff? She said, no, we're done. So I figured
7 everything was said and done.

8 Q Okay. And with regards to you living in
9 the living room, why were you living in the living
10 room?

11 A Well, my little dog Casey has seizures,
12 and I've got to take him outside, and you don't know
13 when he's going to have it, it could be 1 o'clock
14 the morning, 4 o'clock in the morning. And it's
15 access to go out to the backyard, because after a
16 seizure he throws up and he poops and he's not in a
17 state of mind, you know, to control himself. And
18 plus, I had complete access of airway to hear my mom
19 if she needed anything.

20 Q With regards to the pictures that
21 Ms. Davis just talked about at your mother's
22 funeral, what, if anything, do you have to say about
23 that?

24 A Well, like I said yesterday, Linda came
25 over and picked clothes out for Mom's funeral. So

1 she wanted to get some pictures also. So we went
 2 down in the den and she got the big pictures and all
 3 the frames with Mom and Dad and whatever she wanted
 4 to bring to the funeral home. So we got that
 5 together, loaded it in the car, and she took off
 6 with them. So I don't know what's going on about
 7 the funeral home.

8 MS. WIMBERLY: Thank you. That's all
 9 the questions I have. Thank you, Mr. Gunnells.

10 RE CROSS EXAMINATION

11 BY MR. HOWE

12 Q You mentioned that there was jewelry and
 13 stuff. What type of jewelry did your mom have?

14 A All types of necklaces and pins and
 15 rings; most of it was cosmetic.

16 Q And you never put any of that on the
 17 distribution either, did you?

18 A No.

19 THE COURT: You may step down. Thank
 20 you.

21 (At this time, the witness, Glenn Gunnells, is
 22 excused from the witness stand.)

23 THE COURT: Anything else, Counsel?

24 MR. HOWE: No.

25 MS. WIMBERLY: No.

1 THE COURT: Thank you. You want to do
2 closing arguments or do you want to submit proposed
3 orders, whatever is --

4 MR. HOWE: I'd like to do a closing
5 argument.

6 THE COURT: Okay.

7 MR. HOWE: And let me just say, Judge,
8 the reason is, I guess, before I start, I don't do a
9 lot of probate stuff. These are messy situations.
10 I still feel like I'm getting, as I say, I'm
11 drinking from a fire hose when it comes to the
12 facts. And I think about you watching this for the
13 first time. I've been dealing with it for a year
14 and I still have a hard time keeping it straight.
15 So I feel I need to for my clients to sort of give
16 it our best shot to make sure we sort of get down
17 the list. So with that, I'll start.

18 THE COURT: Okay.

19 - - -

20 CLOSING ARGUMENT BY MR. HOWE

21 - - -

22 MR. HOWE: May it please the Court.

23 What I'd like to do first is, we've
24 talked, and I'll spare you the argument on the law,
25 too much, but it is a case of undue influence. We

1 have to show that what happened was not what
2 Ms. Gunnells wanted to happen. And obviously the
3 first and main poor witness is Helen Gunnells (ph).
4 And while the statement may not come in, her
5 testimony comes in. And her testimony, not the
6 statement, her testimony as part of the deposition
7 was that Helen had told her, having been refreshed
8 by the statement, is still good evidence, that Helen
9 said, I did something I didn't want to do. I didn't
10 want to sign the will and basically Glenn made me do
11 it. You'll have to go listen to the exact wording
12 or look at the transcript, but that's the essence of
13 that. And that in and of itself proves the case, I
14 mean in terms of is there enough evidence.

15 And I want you to think for a second
16 about the setting in which that conversation came up
17 in. Of all the things that happened in the case,
18 when she talked to her brother Jack on the phone,
19 Glenn was always around. The other times that she
20 talked to Helen Carroll, I mean, Glenn was always
21 around.

22 She -- her best friend of like 40 years,
23 they used to go on church trips together.
24 Ms. Carroll said that when her husband died she
25 would go over to her Helen's house and hang out all

1 day. Those are bosom buddies.

2 If you've got a bad family situation and
3 you're distraught and you're concerned and you vent,
4 who do you vent to? You vent to your best friend.
5 That's what best friends are for. Best friends are
6 the people we go and hang our heads a little bit and
7 say, oh, my God, I'm having trouble with Brother X,
8 Sister Y. Okay? And the context of this outcry is
9 that Helen Carroll drops by, drives herself,
10 unannounced and happens to walk in when Glenn's not
11 around. And they start talking, and Helen Gunnells
12 says, I just -- man, I did something terrible, I had
13 to do this, you know. And as soon as Glenn comes
14 back in she clams up. That is just compelling
15 testimony. That is powerful stuff. And you saw
16 Ms. Gunnells, she's a nice lady. And she said she
17 quit going after that --

18 THE COURT: You mean Ms. Carroll.

19 MR. HOWE: Ms. Carroll. I'm sorry. Too
20 many Helens, too many Gunnells. Sorry. And she
21 quit going after that because it was cold and it was
22 unfriendly when Glenn was around.

23 Now, Glenn has no problem,
24 interestingly, speaking for Ms. Carroll. He said
25 she quit coming because she had health problems and

1 she couldn't drive. I think you remember his
2 testimony. Okay? Well, that's not what Helen
3 Carroll says. Helen says, I drove myself that day.
4 I went there and they were so cold and so unfriendly
5 I just decided to stay away from them. Okay? Helen
6 Carroll never said she had any problems getting over
7 there. Glenn does. So that's really the point.

8 And like all lawyers, I've already
9 gotten ahead of myself a little bit.

10 What I want to do first, really, is I
11 want to catch you up, but I want you to keep those
12 things in mind. I want to catch you up a little bit
13 on the deposition of Dr. Chanson which has been put
14 into evidence, but if you've read it, it's hard to
15 read. And I'll admit I didn't do my best job on
16 keeping that straight. But there are some nuggets
17 in it that are, I think, extremely important to The
18 Court. I have it highlighted so I don't mess it up.

19 MS. WIMBERLY: I'd like to see it, if
20 you don't mind?

21 MR. HOWE: Yeah.

22 Dr. Chanson, as you remember, was the
23 doctor that Belinda helped Ms. Gunnells get to after
24 she left Ms. Davis, Segal (ph) Davis, or something.
25 Okay? And Dr. Chanson says that Ms. Gunnells had a

1 sound mind. We don't have any problem with that.
2 She has a sound mind, she wrote the letter that you
3 looked at. But when it comes to the date of the
4 will, of the execution of the will, July 3rd, 2013,
5 Ms. Gunnells not only went to see Ms. Klok, she went
6 to see Dr. Chanson, same day, and Dr. Chanson says
7 in there that when she checks for us it was around
8 11 o'clock. Okay? And the words that Dr. Chanson
9 uses to describe Ms. Gunnells on that day is, she
10 was distraught, she was visibly upset and she was
11 crying. And this number over here circled 35,
12 that's the page number of the deposition you can
13 find it at. That was the doctor's assessment.

14 And when I asked the doctor, I said,
15 listen, with all that, was she emotionally stable to
16 make an important legal decision? And she says she
17 has no opinion on that. That's on page 38.

18 So if they say to you, oh, the doctor
19 said she was fine. When it comes to undue influence
20 issue, the doctor had no opinion and says so under
21 oath in her deposition on page 38.

22 The visit was around 11:15. And then I
23 went through some things about Glenn's care of his
24 mother because -- and this goes to the point they
25 made that Glenn was this fabulous caregiver, always

1 concerned about his mom, didn't miss a beat, okay?

2 If you will look at Exhibit 2, it's
3 attached and I made a copy, just so I don't have to
4 find it, but on page 2 of that exhibit, Ms. Gunnells
5 had had a fall and she was taken to the emergency
6 room, and I don't remember the date right off, but
7 in January, early, I think. And at the bottom of
8 that page, Mr. Gunnells is instructed in the
9 emergency room to take his mother to Dr. Chanson,
10 not one of these general, hey, follow up with your
11 provider. Take this lady to Chanson tomorrow. And
12 we asked Dr. Chanson, did that ever happen. And on
13 page 64 she checks her records and it was never
14 done. This is the world champion caregiver.

15 Another thing that Chanson said, it's
16 stunning, they're discussing one time, you know,
17 maybe the mom should be coming in a little bit more.
18 And Glenn said, you know, "I can't do that. Because
19 of my ongoing work schedule, I can't get my mother
20 here like I'd like to." This is the guy who's been
21 on disability for almost 15 years at that point, and
22 his ongoing work schedule's got him so busy he can't
23 make the visits. That's what he told the doctor.
24 And they're bringing up -- they're obviously talking
25 about the fact -- there's no reason for that to come

1 up, except maybe, you know, why didn't she come in a
2 little earlier? What's going on? Oh, I've been
3 working so hard, you know, I've just got so many
4 things to juggle.

5 There were three particular medications
6 that I want to point out. On page -- it's really
7 from pages 58 to 61, you will see that she was
8 prescribed potassium. And she talks about the
9 reasons for it and what happens -- Dr. Howe here, so
10 be careful -- when you're taking diuretics and
11 things like Lasix and those -- my father-in-law had
12 this. But anyway, you've got to have potassium,
13 it's an electrolyte and it keep your heart going and
14 you can have all kind of heart problems if you don't
15 do it.

16 And on January 7th she was prescribed
17 potassium, and that prescription was never filled.
18 And that's noted when he takes her back in February,
19 a month later, and she leaves the doctor's office in
20 an ambulance to go to the hospital to die.
21 Potassium never filled, okay?

22 There's another drug called Tiazac, and
23 I'm not even sure what that is, but it was
24 prescribed, okay? And the doctor's testimony on
25 pages 67 to 68 was that the drug was prescribed, and

1 then when I hand her the pharmacy records she saw
2 that it was last filled, a 90-day supply, one a day,
3 on July 23rd, 2013. And she's way past 90 days.
4 And the records show that it was never refilled. It
5 had two or three refills, but she got the initial
6 one, but it was never refilled. So she got 90 to
7 cover 180 days worth.

8 Then one of the most peculiar things, it
9 is a little hard to read, so I'm going to put my
10 description on it. But one of the problems she had
11 and that you'll see is, there are diagnosis of
12 senile dementia. She's older. She's having
13 trouble. And one of the drugs that's given to help
14 with this senile dementia is a drug called Remeron.
15 It's also got a second name, I can't remember right
16 now, but Remeron is the one that comes up quite a
17 bit. And there's a number of visits in December and
18 little earlier where she says, well, go try the
19 Remeron. And then they come back. And she says,
20 are you taking the Remeron? Well, she doesn't --
21 there seems to be confusion, she says, about the
22 Remeron, okay? Whether she's really getting the
23 Remeron or not.

24 So she actually says that she -- in one
25 of her notes she says, I had to counsel them. And I

1 said, this Remeron's really important now. And this
2 would be on December 16th, if you look at page 45.
3 And the reason you can tell that it got to be sort
4 of more of an issue is that on December 18th she
5 actually has her office call and saying, did you get
6 it? Are you giving it to her yet? As a follow-up.
7 Because she's supposed to have been taking it
8 before. They come in, well, you know, we don't have
9 the Remeron yet, okay? And it appears, as we
10 progress, that the reason Glenn gives is I've been
11 having trouble getting it from the pharmacy.

12 Script's not going through? Well, no, I
13 don't think we've gotten it. Okay? And the reason
14 we know that is that on January 2nd, you'll see this
15 on page 53, he comes in and she says, is she getting
16 the Remeron? Oh, I still haven't been able to get
17 those pharmacies to get it, or something. And she's
18 frustrated so she hand writes out the prescription.
19 In a day when everything is computerized and says,
20 well, if there's a problem, here's this. Because
21 he's still making this excuse that he's having a
22 hard time. Go check the records. He, frankly,
23 already picked it up in December. He picked it up
24 the week before. He's still giving her the excuse
25 that the pharmacy won't get it. I don't know why he

1 has to make that stuff up. But the records are
2 there, and the records show that what he's telling
3 her, it's just flat not correct. And it's about a
4 really important drug to keep his momma's mind
5 working, and the potassium is to keep her heart
6 working, okay?

7 So from our standpoint, Dr. Chanson is
8 of no value to them when it comes to whether or not
9 there was undue influence because she says, I have
10 no opinion about that. I have no opinion about
11 whether she was emotionally stable enough to make a
12 decision on that day. All I know is, she was
13 distraught, visibly upset and crying in my office
14 for 45 minutes.

15 But when you go down this other list, we
16 were able to discover that when Glenn's supposed to
17 take her to the doctor after a fall in the hospital,
18 he doesn't do it. He says he's busy because of his
19 work schedule. And there's three drugs that she's
20 prescribed, but he has not followed up on that.

21 So keeping focused, it's not easy. So
22 that's Dr. Chanson.

23 So now we're going to go -- what is our
24 case? First and foremost, obviously, our case is
25 Helen Carroll. And as I've said, we believe that

1 her testimony -- and I sort of put -- there's the
2 independent witnesses down here, there's the
3 stakeholders over on this side. So it gives you an
4 idea who's the...

5 Helen Carroll's a good friend, I've
6 described that situation: Bosom buddy, compelling
7 testimony.

8 The next witness is Jack Brantley. And
9 Jack Brantley says a number of things that are
10 important. He says the girls had a good
11 relationship with the parents. He was extremely
12 close with his sister Helen, that he noticed a
13 remarkable difference in her during the time after
14 Glenn moved in; so much so that he mentioned it to
15 his wife; so much so that when Cathy said, I've been
16 to DSS and I'm concerned, he says, I'll talk to
17 them, too. That family member doesn't say, Cathy,
18 what on earth are you doing? DSS? Are you crazy?
19 And says, oh, no, here's my number, tell them to
20 call me at any time. I'm concerned, too. I talked
21 to her yesterday and I'm still concerned, and I'd
22 love to be available to talk to her. You don't do
23 that to your sister unless you're very concerned
24 about her, okay?

25 Glenn says that he asked Mr. Brantley,

1 help me get -- help with his sisters. I asked him,
2 I said, can you get me some help from the girls?
3 Jack Brantley says, no, that didn't happen. Never
4 happened. He said, in fact, when Dad went in the
5 hospital and we were talking about what would happen
6 to the mom, he said, I mentioned, you know, the
7 girls would be there, they'll be available. He
8 said, no, that'll never happen. That was a year
9 before Dad died.

10 Mr. Brantley is I guess about as
11 trustworthy and model of a witness as the Court
12 could hope to get. He's been a lieutenant colonel
13 in the services. He's been a city administrator for
14 20-something years. He remains, even in his 80's,
15 on the election board and has to run back when
16 there's a trial. How do you get a nicer guy? And
17 he comes over here from Georgia to help set the
18 record straight in this case. And in doing so, he
19 says, what Glenn says is not correct.

20 He says Cathy and Linda had good
21 relationships. I wrote these emails, and it shows
22 that at the time he was concerned, ready to go to
23 DSS and go to bat -- not for Cathy, for his sister.
24 It's not a will dispute at time. This was concern
25 about his sister who wasn't herself anymore while

1 living with Glenn and under his control.

2 Cathy and Belinda have testified. Now
3 obviously as stakeholders, they're, you know, I
4 mean, use your common sense and credibility, there
5 are different issues with them. But these two, they
6 don't have the -- no stake in the game, just love
7 for a best friend and a dear sister.

8 When you come to them, Cathy says, I did
9 a lot of stuff for Mom and Dad. What kind of
10 things? Cleaned the house, cleaned up the rooms,
11 took my mom shopping, took her to the doctors. What
12 doctors did you go to? Oh, Dr. Poletti, this
13 doctor, that doctor. Knows all the names. Knows
14 where they went. You know, she did it. Okay?

15 Glenn, however, says nobody did anything
16 for seven years with me. Okay? And that's one of
17 the reasons I want to give the closing is, I want to
18 remind you, he doesn't say all this just happened.

19 The girls say, the girls say once -- we
20 were all doing fine, Dad gets sick with the cancer,
21 things start going back and forth a little bit more
22 and goes downhill. Glenn says, oh, no, for seven
23 years I was the only person that did anything.

24 Cathy obviously is the workhorse because
25 she's here. She's a little closer. Belinda has

1 some relatives in Hawaii, there's a new baby,
2 grandmother goes over to help take care of the baby.
3 That's what people do. Lives are busy and you have
4 to make some choices sometimes.

5 In many ways one of the most telling
6 things in terms of whether they were interested in
7 their mother, whether they were reaching out,
8 there's sort of two examples. One was a little
9 rough around the edges, and that's Belinda being at
10 the front door and saying, my God, I still can't see
11 her? This is crazy. And maybe not with the best
12 manners but certainly with the best heart, she says,
13 I just want to see my mom. Okay? That's -- what
14 you see there is frustration with not being able to
15 see her.

16 Glenn says, no one ever reached out. I
17 mean, please, Judge, go back and read this card,
18 this birthday card that Cathy writes to her mom in
19 October. It says, I miss my old mom. Don't you
20 want to go shopping at Belk's like we used to? Call
21 me sometime. That's not someone who's turning their
22 back on their mother.

23 What about the fact that, in a more
24 formal sense, these girls go down to the Probate
25 Court to find out what they can do to get access to

1 their mother. Cathy goes to Legal Aid. They both
2 go to DSS. Okay? And they both see a lawyer. What
3 do we do? What do we do? Those aren't steps of
4 people who are disinterested, as Glenn says. Those
5 are steps of people who are desperate and very
6 interested. As my mom used to say, "It's not what
7 you say, it's what you do."

8 And we know, one of the reasons, and I
9 think this is important when you're looking at the
10 evidence in a whole, we've done, I'll say, a good
11 job. We've made efforts to show that when we say
12 certain things happened, like there was contact with
13 DSS, we brought in witnesses to back that up so that
14 it's not, well, I just said so and I say I tell the
15 truth. And what's important about Jack Brantley's
16 email is, he says, have DSS call me, here's my
17 number.

18 So clearly there's talk at the time
19 about DSS, and concern, if you can get that point.
20 That's not just Cathy saying, hey, I went to DSS.
21 We've got the cards, too. But it is -- this was an
22 issue, we were going out, we were trying to get
23 help. So what we see is a situation where these
24 girls were kept away from their mother and that
25 Glenn was controlling and that Helen lost her old

1 self. And what I would point out to you one more
2 time is this is the same experience that her best
3 friend had and the same experience, not keeping away
4 as much, but the difference in the lady that her
5 closest living relative had with her. So what these
6 people say is entirely consistent with what they
7 say.

8 Let's look at their case for a minute.
9 There's a doctor named Chanson, and that doctor has
10 no opinion about the critical issue in this case.
11 The issue is not whether she had a sound mind. I
12 know -- sound mind in Probate Court is a low hurdle.
13 Okay? The issue is, was she under someone else's
14 control or did she do what she wanted to do. And
15 the doctor has no opinion about that. And that's
16 what she says. There's a lawyer that says, well, I
17 talked to her and I think she was doing what she
18 wanted to do. And that lawyer met her one time.

19 The appointment was made by Glenn, he
20 brought her there, he left with her, and gave her
21 the will in a loose envelope, wasn't even sealed up.
22 I mean, that's about as much control as you can
23 have, other than sitting in the room. And very
24 interestingly, Ms. Klok also said that Glenn asked
25 her if she did wills when they were doing the

1 closing. This is like -- they closed a day before
2 the dad died. And he's asking, do you change wills
3 for people?

4 So it's obviously not for the dad, it's
5 for the mom. That's coming from him. He called to
6 make the appointment, he drove her there, he drove
7 her back. His lawyer. His lawyer before, started
8 doing the estate work, his lawyer after.

9 The nurses, the nurses were only there
10 on a professional basis. They only were there
11 relatively briefly when compared with Helen Carroll
12 and Jack Brantley. They were there, at most, of the
13 last couple of years of her life, over a 60-day
14 period here, 30-day period there. One of them was
15 only there over the last two months, five months
16 after the will was executed. And she said something
17 I'll get back to in a minute which I think is
18 actually quite helpful.

19 And then we have Glenn's position.
20 Glenn's position is that, I wanted help, I asked
21 everybody in town to help me get help from these
22 girls, but they just wouldn't help me.

23 Now, as I said, we brought Jack Brantley
24 to say, that didn't happen with me, despite what he
25 said to the contrary. Well, I asked all these other

1 people. Terry Gunnells, who's like a brother to me.
2 No Terry Gunnells here. Grace somebody, all these
3 different people. Not a single one of them is
4 coming in here to back them up based on what he
5 says. Okay?

6 There's a letter from the dad that
7 totally negates what he says, that she did nothing
8 for the dad. Because she said, my dad called me
9 among other things, little migrant worker, and that
10 kind of stuff. You don't get names like that if you
11 don't do things for people. Glenn says they did
12 nothing for seven years. This is two years before
13 the dad, three years before the dad dies. And she's
14 saying, and he's still got this nickname for me
15 because I do so much stuff for him. So really the
16 dad has contradicted him as well. His disposition
17 is absolute, the girls just left him, which is not
18 true. It's just not supported by anything except
19 his bald statement.

20 Now, it's supported by the nurses who
21 were there when he was there, when he was living in
22 the living room. Okay? Talk about control. Oh, my
23 mom had a great social life, you know, but my dog
24 needed to go to the bathroom so I put myself in her
25 living room. Can you imagine trying to go by and

1 see somebody under those circumstances? Just the
2 body language of that is stunning. He took over the
3 house. As Uncle Jack said, you know, his bedroom's
4 upstairs. Well, yeah, the dog had some problems so
5 I just made the house mine.

6 We know that Glenn's a good salesman.
7 He's a good talker. If he wasn't very good at it he
8 could not have been in the car business for as long
9 as he was. He worked at four or five different
10 places. What he's done for a living is to be a good
11 communicator and make a good sale.

12 I will just point out this is a little
13 more jury-like, but bear with me for a second. The
14 old AT&T ad, you remember they used to say, "Put it
15 in writing." Don't tell me what you say. Put it in
16 writing.

17 He says a lot of stuff. But what backs
18 him up? There's little things that he could do.
19 He's never brought in the joint -- oh, that joint
20 account. But did you bring us something to see on
21 that? Nope. I said so, I tell the truth.

22 Well, Jack Brantley was there when my
23 mom told him all about why she didn't want to leave
24 this stuff to the girls. Oh, really? Jack Brantley
25 never said anything about that. Glenn says about

1 that. Glenn says a lot of things. But when it
2 comes to the things that you can check, you can't
3 check everything. But when it comes to the things
4 that you can check, he doesn't pass, okay? We'll
5 get to that in a second.

6 There are three instances of
7 manipulation in here that I want to point out to
8 Your Honor that it, frankly, took me until the
9 middle of this trial to kind of get that ah-ha
10 moment. These nurses and Glenn say, this lawsuit
11 really made Ms. Gunnells mad at Cathy. Stunning
12 thing that this girl would do a lawsuit against her
13 mother. Okay? No wonder she was mad.

14 Point No. 1, lawsuit wasn't filed until
15 after the will had been changed. The lawsuit was
16 filed on June 15th. Will was changed on July 3rd.
17 Okay.

18 No. 2 --

19 THE COURT: You mean the will was July?

20 MR. HOWE: July. Yeah, July 15th and
21 July 3rd. There was absolutely no need for a
22 lawsuit, except for Glenn. I want you to think
23 about that for a second. Jack Brantley, the most
24 credible guy I maybe ever met, says, "Hi, Cathy,
25 hope all is going well. I talked to Helen and Glenn

1 on July the 12th. Helen gave the phone to Glenn to
2 explain to me what was going on with the property.

3 He handed that problem over to the son.

4 "After some discussion, he told me to
5 have the property ready for you to pick up on
6 Friday, July 12th."

7 This is a done deal. It's worked out,
8 there's no reason for a lawsuit. I've got a date.

9 "I encouraged Glenn to do this because
10 it would seem so easy and it would prevent
11 controversy with him and Helen."

12 He had the control to stop it, prevent
13 it and get it done. He didn't do it. Didn't live
14 up to what Uncle Jack had set up because he knew
15 she'd have to go to court, and he knew it would
16 infuriate the mother. That was in his control. And
17 she hands the phone because he's in charge, she
18 doesn't know what to do. He sits back, all he's got
19 to do is grab those two things, put them out where
20 she could get them and there would have been no
21 lawsuit. He created the need for the lawsuit. That
22 was totally in his court.

23 No. 2, one of the nurses -- and I'm
24 pretty sure it was the nurse that was only there
25 that last two months, that December and January,

1 said that she's walking through the living room with
2 Ms. Gunnells and Ms. Gunnells says, you see that
3 table? My daughter tried to take that from me in a
4 lawsuit. That's what she believed. She was still
5 mad about it. She was still talking about it.
6 Wasn't true. Never was part of the lawsuit. The
7 lawsuit was over. She got everything back, it
8 didn't include the table.

9 Now, who would have ever made her think
10 that that table -- in fact, she said she's trying to
11 take my whole dining room, basically is what she
12 said. But they were looking at the table, she said,
13 oh, my daughter tried to take all this from me. The
14 daughter never tried that. Wasn't part of the
15 dispute. She believed it. Wonder where she would
16 have gotten that idea?

17 Probably the starkest manipulation, we
18 heard from the nurses that Ms. Gunnells really
19 resented the fact that when Arden was really having
20 his hardest time with his cancer the girls didn't
21 come through. And you can see why that would stick
22 in her craw. I think that would be tough. Yet we
23 know that according to Glenn's testimony that about
24 two weeks before his father died he went into the
25 hospital and was in ICU. Two weeks. We know that

1 one week before he died Belinda was coming home.
2 And her testimony, undisputed, is that Cathy called
3 her and said, I can't find anybody. I don't know
4 where anybody is. Something's going on. I can't
5 get in touch with anybody. And she says, hmmm, I
6 better call Jack. And she learns from her uncle
7 that her father's been in the intensive care and
8 he's been in the hospital for a week already. Who
9 created that resentment? Who created that
10 resentment? He says it was two weeks. She came a
11 week before he died. She called Jack, and Jack
12 says, oh, no, you didn't know your -- your dad's in
13 the hospital. News to Cathy because she's calling
14 around saying I can't find him. News to Belinda.
15 She's getting on the phone, come on back. She
16 called the week before and said, well, how is he
17 really doing? You know, no communication that way.
18 Who created that resentment?

19 Now again, let's look at just
20 credibility for a second. Give me one second. I
21 promise I'm getting close, Judge. Because as I
22 pointed out many, if not most, of the things that we
23 have alleged, we've tried to bring in independent
24 people who knew her a long time to have credibility.

25 I want to go over with you now a list of

1 assertions by Mr. Gunnells that we don't believe
2 have been backed up or that have been contradicted.

3 Glenn testified that he asked
4 specifically Jack Brantley to help him get the girls
5 to help. Jack Brantley says, he never asked me to
6 do that. In fact, he says, when he mentioned --
7 when Jack Brantley mentioned to him the girls coming
8 to help, he said, that'll never happen.

9 And in one of these same emails, he
10 mentions, this is in July -- this is July 22nd:
11 Glenn should be thankful for you both to help, and
12 so should Helen.

13 Should be? That's not how you describe
14 someone who's calling you for help. He's saying,
15 Glenn says he needs help. He says, Glenn should be
16 helpful -- should be thankful that you're willing to
17 help. And he's saying that because he's not getting
18 the vibe that he wants the help. There's no reason
19 for him to write that sentence.

20 Glenn says he did it all and Cathy was
21 there for basically one month. Brantley says that
22 Cathy was one of the main helpers. Ms. Carroll says
23 Cathy was one of the main helpers with chores and
24 stuff. Belinda says Cathy was one of the main
25 helpers. And Cathy describes a myriad of things

1 that she did for her parents for many years, and her
2 daddy has a little off-color nickname for her
3 because of her incredible amount of help.

4 Glenn says that the girls just showed no
5 love. They were just -- they were just a vacuum
6 there. Not according to Brantley. Not according to
7 Carroll. Not according to the kind of birthday card
8 that Cathy's writing to her momma when she's been
9 told she can't have any contact with her.

10 And again, I'll just point out that,
11 when you look at -- and I'm going to pick especially
12 Brantley. If you look at motives, sort of, what is
13 that, sort of context of credibility. On the one
14 hand you've got Glenn, he's a party, he's a
15 shareholder in this action, he lives on disability,
16 there's not much money to get by on. We believe he
17 has a drug and alcohol problem. And I will point
18 out that not only has Cathy said it, not only has
19 Belinda said it, Ms. Carroll said it. She said,
20 well, I knew him. This is not in the statement,
21 this is -- well, I knew him to have a alcohol
22 problem.

23 Why do you say that?

24 Well, he's slurring his speech all the
25 time. It's a pretty objective finding. Okay?

1 So it's not just the girls, not just
2 ya-ya-ya. Okay? And Belinda, very truthfully said,
3 yeah, I know he had one because I used to do a lot
4 with him. It's pretty truthful stuff. Glenn says,
5 no, he was Mr. Clean.

6 Glenn says very specifically, because
7 this is important to his case, oh, Ms. Carroll,
8 Helen Carroll, I got along with her great. She
9 brought me a cake. I used to leave them alone all
10 the time. Helen Carroll says, no, he never left us
11 alone, except when I had my surprise visit. She
12 directly contradicts that.

13 Helen Carroll, yeah, she quit coming by.
14 Oh, she had her own problems, she couldn't drive
15 anymore. Helen Carroll doesn't say that. Helen
16 Carroll says, I quit going by because of the
17 unfriendly attitude that I felt after Glenn moved
18 in. Glenn had no problem saying that. But when you
19 ask somebody else -- you know, we've all had that
20 experience -- oh, I met so and so, he says he's one
21 of your best friends. He says he's one of my best
22 friends? Are you kidding me? That's what's going
23 on here.

24 She couldn't drive, but she drove
25 herself on the day that he wasn't there.

1 He's a salesman. He knows what to say.
2 He just won't put it in writing and back it up. I
3 took his deposition. I said, how did your mom get
4 to Klok?

5 He said, well, I knew Klok from this
6 closing. He said, but she met with her two or three
7 times before this will.

8 I said, two or three times?

9 Yeah.

10 I said, how much would she meet?

11 Oh, 20, 30, 40 minutes, I think it was.
12 About 30, 40 minutes at a time when went in.

13 That's not what Klok says. Klok says I
14 met with her one time. He testified under oath, she
15 met with them two or three times to get this thing
16 ready to show me that Klok was spending time with
17 his mom and there wasn't control or all that kind
18 of -- oh, two or three times. Not true.

19 With Dr. Chanson, we know he's on
20 disability, but when he's not getting his mom in,
21 oh, my work schedule. My ongoing work commitments,
22 I think it was. Ongoing work schedule, page 49. My
23 ongoing work schedule keeps me from getting her in
24 like I'd like to.

25 That's just not true. He's been on

1 disability for years. Admits to the doctor not
2 giving the Remeron. Comes up with the story that he
3 can't get it from the pharmacy, and then when we
4 check the pharmacy records he already had it. He's
5 telling another story. They just roll off the
6 salesman's lips.

7 So Helen Carroll has directly
8 contradicted him on his assertions. Jack Brantley
9 has contradicted him on his assertions. Dr. Chanson
10 has directly contradicted him on his assertions.
11 And last but not least, when it comes to being
12 honest with The Court and filling out the inventory,
13 and I know they don't like me talking about this
14 because it hurts, he doesn't fill it out right. He
15 doesn't do things right. He does it his way on his
16 terms. And we found out today there was jewelry,
17 all kind of personal items. He just doesn't write
18 them down. Oh, I thought this, or my lawyers told
19 me that, so and so. He's been around. He ran his
20 own business. He knows how to read a simple form
21 that says, "write this down." And he sat right
22 there, right here in front of Your Honor and I
23 handed them that letter and he says, this letter
24 says I was reaching out to the girls to try to get
25 all this help and so and so and so. When you look

1 at the letter, he's asking them to send some money.
2 He's representing it one way, and it's not that way.
3 He just doesn't tell the truth. Over, over, over,
4 over again documented by independent witnesses and
5 court documents.

6 So in the end we think that we have
7 shown all the elements that we need to show. We
8 showed that he had control, he had powers of
9 attorney, he brazenly whisked them around. Poor
10 sister tries to put her name on a visitation, a
11 little information, and she gets a scalding email.
12 And you'll have to look at it, but it's all caps and
13 exclamation points all over the place: Let it be
14 said, let it be done, no one does anything for the
15 parents but me.

16 This is crazy stuff, because she wants
17 to know about her dad in the hospital. So he's got
18 control, he has to drive them, he's helping with
19 their affairs. And boy, does he wave that power of
20 attorney around when it so places him when anybody
21 steps out of line.

22 Does he have a motive? Yes, he has a
23 really strong motive. He's in a desperate
24 situation. He's living on about 7, \$800 a month.
25 He's an alcoholic. He's has nowhere to go. He

1 burned his bridges when he sold his house, nowhere
2 to go.

3 Sure would have been easy to take her to
4 her old lawyer. Sure would have been easy to have
5 somebody else go. Sure would have been easy to go
6 back and give her a couple times to see, which is
7 what he said, and he didn't. But even the lawyer
8 said, oh, she just loved Glenn because he just took
9 her everywhere, and you know, she liked to go
10 places. But she wanted this done once and because
11 she was so frail I didn't want her to have to come
12 back. On the one hand she's saying they go
13 everywhere together, but she was too frail to come
14 back. That didn't even match up very well.

15 And then last but not least, it's just
16 inequitable. It's three kids, they all did a lot of
17 stuff in a lot of ways for a lot of years. And the
18 law recognizes, one of the first elements is, does
19 it look like a generally fair distribution? And it
20 doesn't. It's not a fair distribution. And it was
21 done at his instance for his needs.

22 And I'll just end on this: When it
23 comes between Glenn's needs and other people or
24 other things, it's always Glenn. When his dog needs
25 to go to the bathroom at night, he takes over the

1 house. When he needs more money, he does the will.
 2 When he doesn't like what the court form says, he
 3 writes down what he wants to write down. When he
 4 sells the house as a personal representative and
 5 he's supposed to hold the money, he goes and buys
 6 himself his own house and spends it all. He does
 7 what he wants to do for him and everybody takes a
 8 back seat.

9 That's exactly what happened in this
 10 case. It's a pattern of activity for him as his
 11 ability not to tell the truth. And we think that
 12 it's clear and convincing evidence under the facts.

13 Thank you.

14 THE COURT: Thank you.

15 Ms. Wimberly, are you ready? Do you
 16 need a break?

17 MS. WIMBERLY: Yes. No.

18 - - -

19 CLOSING ARGUMENT BY MS. WIMBERLY

20 - - -

21 MS. WIMBERLY: May it please The Court.
 22 Your Honor, today Petitioners have brought serious
 23 accusations against my client that require serious
 24 proof. And you have seen no serious proof today.
 25 You have seen inference after inference after

1 inference, and Mr. Howe has done a phenomenal job of
2 that. But you have not seen proof that my client
3 unduly influenced his mother to change her will.

4 Now, first we heard from Jack Brantley,
5 and Colonel Brantley is a relative that lives in
6 Waynesboro, Georgia. He's seemed to be kind of the
7 go-between when the family had their spats and
8 arguments. He would calm them down. They would
9 call him, they would communicate through
10 Mr. Brantley. He came here and he said that he
11 actually talked to Ms. Gunnells more after
12 Mr. Gunnells passed. Of course she changed, her
13 husband had just died. You also heard that her dog
14 died and her sister died all within a period of
15 eight months. She was distraught, understandably.
16 But that did not change the fact that her daughters
17 had stopped coming to see her. Her daughters had
18 stopped caring for her and her husband. It doesn't
19 change that. And it doesn't rise to the level of
20 not having a sound mind and being unduly influenced.

21 Now, Mr. Brantley said that Ms. Gunnells
22 was opinionated. Said she was independent up until
23 the day that she died. She knew exactly what she
24 wanted to do, and she did it. And on July 3rd,
25 2013, she walked into Ms. Klok's office for a

1 meeting. She was there for two to three hours.
2 They talked openly about what she wanted to do, and
3 she did it. And she told them, I want to do this
4 because my daughters have disappointed me. And
5 that's sad. I know. It is. It is sad. But it is
6 what happened. And that's why we're here today.
7 It's about Ms. Gunnells. It's about her will. It's
8 about what she wanted. And unfortunately she can't
9 be here today to tell us that.

10 So the petitioners have used inference
11 after inference to try to change your mind and to
12 try to get you to overturn that will that was
13 obviously something Ms. Gunnells wanted to do.

14 Mr. Brantley also said that Ms. Gunnells
15 was never hiding. He went to visit her. Yes,
16 Mr. Gunnells was living in the living room, but it
17 was because of his dog. This family loved their
18 pets, they were like family. Mr. Gunnells told you
19 his mom was more distraught over the death of her
20 dog than her sister. There was a difference in her.
21 But she had suffered losses that some of us have
22 never suffered, all of it within a very short period
23 of time.

24 With regards to the deposition of
25 Ms. Carroll, which Mr. Howe has said is the core of

1 their case, and you got to see it, Ms. Carroll is a
2 good friend of Ms. Harkness. She testified that
3 she's almost like a daughter to her, that she trusts
4 her with everything, that she would do anything that
5 Ms. Harkness asked her to do. And that's exactly
6 what she did during her deposition. She testified
7 to everything Mr. Howe wanted her to say. She had
8 to be reminded of this letter that really no one
9 understands how it came about that was based on
10 things that when I asked Ms. Carroll if she
11 remembered, she didn't. She said she never
12 remembered a conversation about a will.

13 If Ms. Carroll was so concerned, so
14 concerned to the level that Mr. Howe has said that
15 she was concerned, why didn't she do anything? Why
16 didn't she call Ms. Harkness? Why didn't she call
17 Ms. Davis? She didn't. She just stopped going
18 because she felt uncomfortable. If it was so bad,
19 if she thought it was so bad, why didn't she tell
20 somebody? She didn't. She just felt uncomfortable.

21 Along those lines, if it was so bad, why
22 didn't she say something to her best friend? Why
23 didn't she say, do you need help? Do you need
24 something? She didn't say anything. When I asked
25 her, did you ever express any concerns about Glenn

1 to Ms. Gunnells, she said no, I didn't think it was
2 my place.

3 But did you ever say anything to Glenn
4 about your concerns?

5 No, it wasn't my place.

6 But if it was so bad and it was her best
7 friend and what Mr. Howe was saying that he just
8 exercised this crazy influence over Ms. Gunnells,
9 why didn't she say something? She didn't.

10 Next you heard from Ms. Belinda Davis
11 who the -- the absent daughter. She was in Hawaii
12 much of the time when her father was sick with
13 cancer. She actually left right after his
14 diagnoses. However, she did testify that she talked
15 to her mother quite often over the phone when she
16 was in Hawaii and she talked to her mother quite
17 often when she came back.

18 However, her mother was upset that she
19 had moved to Hawaii right after her husband was
20 diagnosed with cancer. She was understandably upset
21 about that. And then you heard about a certain
22 Christmas, I believe it was 2013 when the family
23 didn't get together. Well, Ms. Davis said it was
24 her choice, it was all too fresh, she couldn't take
25 it, that's why she didn't go over to the house. It

1 wasn't Glenn keeping the family away. It was just
2 all too fresh. And that's why she didn't go.

3 Then you heard from Ms. Harkness who you
4 heard was an investigator for many years. She used
5 to take her mom along for rides. She used to take
6 Ms. Carroll along for rides. I find that very
7 interesting, because being an investigator for that
8 long, you think she could have investigated maybe
9 this case a little better and maybe could have had
10 some people come to actually prove what Ms. Harkness
11 and Ms. Davis have said. But we didn't get anybody.
12 We just got them. And we got a family member and we
13 got a best friend who trusts Ms. Harkness with
14 whatever she says and will do anything for her.

15 And we've heard a lot about her going to
16 DSS and a lawyer and Legal Aid, but where are those
17 people and what was done? Nothing. Because Glenn's
18 actions did not rise to any level for any of those
19 people to be concerned. If they were concerned
20 something would have been done and we would have had
21 someone come in here and testify to that, some kind
22 of proof for these serious accusations, serious
23 accusations that require serious proof, and we saw
24 none of that.

25 Furthermore, you saw letters that

1 Ms. Harkness wrote to her mom and dad that are just
2 out of this world. They dragged Glenn through the
3 mud. And that is what she has been doing throughout
4 the entire pendency of this litigation, dragging
5 Glenn through the mud. This sibling rivalry has
6 gotten out of hand. It started when they were ten
7 years old and it has culminated into this trial.
8 You heard a lot of bad things about Glenn, but it's
9 all opinion testimony based from his sisters, no
10 independent witnesses.

11 Now, Glenn never said that he was the
12 only one to help for seven years. He did say his
13 sister moved in -- Ms. Harkness moved in for about
14 30 days, and he said that his dad couldn't take it.
15 She was actually the one that was too controlling,
16 that she needed to move out because it was too much.
17 She was trying to tell them how to live their lives.
18 And you -- and Glenn testified also that she was
19 trying to control him as well. She was asked to
20 leave by the father, and their relationship was
21 strained after that and it never really came back
22 together. And that's unfortunate. That is
23 unfortunate. But never has it risen to the occasion
24 of anything that Mr. Gunnells did. He was there
25 throughout the entire drama throughout this entire

1 time. He was not controlling anyone. It was
2 actually the opposite.

3 With regards to Ms. -- or Dr. Chanson's
4 deposition, which I'm not quite sure if you had a
5 chance to read, but you will. In regards to
6 Mr. Howe's take on what she actually said, we'll go
7 through it.

8 Dr. Chanson did say that Ms. Gunnells
9 was of sound mind throughout the entire time she
10 treated her, which I believe was about two years.
11 On July 3rd, 2013, the same day that she drafted her
12 will, she testified that she was distraught, visibly
13 upset and crying. But she didn't say it was because
14 of Glenn. She didn't say it was because she was
15 about to go change her will and she didn't want to
16 do it. She said, my husband just died, I'm feeling
17 good today. Understandably. They're been together
18 almost their entire lives. That is less than a
19 month after her husband has died. She's upset.
20 Understandably. But it's not because of anything
21 Glenn did. It's because her husband just died.

22 Next, with regards to any undue
23 influence, I did ask Dr. Chanson, did you see
24 anything, any red flags, anything that might show
25 you undue influence? She said, I don't understand

1 that term, so I can't make an opinion on that. She
2 didn't say I don't have an opinion on that because I
3 know what it is and I don't want to say. She said I
4 don't understand what that is, so I don't have an
5 opinion.

6 With regards to the ER record after
7 Ms. Gunnells' fall, that says follow up with
8 Dr. Chanson tomorrow. That's actually false. That
9 was done. Mr. Gunnells called, and there's several
10 calls between the time -- this happened, I believe,
11 in January and Ms. Gunnells died in February.
12 There's about six phone calls to Dr. Chanson's
13 office between those two days, the time of her fall
14 and the time of her death. And you'll see that in
15 the deposition. There are exhibits to the
16 deposition. And there are exhibits in the
17 deposition where Glenn called in. You'll see where
18 home healthcare nurses called in. You'll see that
19 there was care being given. And while they didn't
20 go to the doctor the next day, Glenn did, in fact,
21 call.

22 With regards to Mr. Gunnells saying he
23 had an ongoing work schedule, you heard on the stand
24 that, yes, he wasn't working full time, but he was
25 working part time. And Mr. Gunnells has his own

1 health issues. He goes to the doctor quite often,
2 too. It could -- you know, as much as we want to
3 think doctors put everything truthful down on their
4 notes, it could have been interpreted a different
5 way.

6 With regards to the medications,
7 potassium that was "never filled," Dr. Chanson says
8 in her deposition that these types of prescriptions
9 are 90-day prescriptions and they can be filled over
10 and over and they can be stockpiled. And she had
11 absolutely no reason to believe Glenn was not giving
12 his mother the best care and her medication. If she
13 had ever had a red flag, why didn't she do anything?
14 I mean, this is a serious allegation that Mr. Howe
15 has put before you today. It sounds like what he's
16 trying to say is that Glenn killed his mother. I
17 mean, that is how I heard it. And that is a serious
18 allegation that requires serious proof. And did you
19 see any doctor come in today that had reviewed those
20 records and said, well, that's what I think. You
21 didn't. It's all Mr. Howe's conjecture, it's all
22 based on inferences, and there's absolutely no
23 proof.

24 With regards to the rest of the
25 prescriptions, you'll see in Dr. Chanson's

1 deposition, these things are explained away. She
2 understands that there was -- she was not mad at
3 Glenn when she wrote that prescription for the
4 Remeron. And it's actually called Mirtazapine, or
5 something else, too. There was a confusion at the
6 pharmacy and she hand wrote the prescription, and it
7 had actually already been filled. And Mr. Gunnells
8 has an 8th grade education. He was confused. She
9 took a lot of medication, a lot of medication. And
10 you heard from the physical therapist, Ms. Wechter,
11 that she saw Mr. Gunnells several times administer
12 those medications to his mother and talk to her and
13 say, mom, you need to take your medications. She
14 saw that Mr. Gunnells was not withholding
15 medication. That is a serious allegation and that
16 requires serious proof.

17 And you'll see from the deposition of
18 Dr. Chanson that this is not how it reads at all.
19 If Dr. Chanson had one inkling that Mr. Gunnells was
20 withholding medication or wasn't following up on
21 medical care for his mother, she would have done
22 something. But nothing was done. She said he was
23 an excellent caregiver. Whenever they went to the
24 office to visit, Mr. Gunnells was outside the room.
25 She could talk freely with Ms. Gunnells. They did

1 talk freely. And then she would follow up with
2 Mr. Gunnells afterwards regarding medication,
3 regarding care. But she had a solid 45 minutes
4 alone with her every time she visited, which was
5 about once a month. If she has any reservations
6 about the care, she, as a doctor, would have done
7 something, but she didn't.

8 So with regards to the physical
9 therapist who we brought in, you heard from the
10 first one, Ms. Wechter, who was with Ms. Gunnells at
11 the end. She was there two to three times a week
12 for about 45 minutes. She said that she spoke with
13 Ms. Gunnells, she spoke with Glenn, and she said
14 that she was distraught. I don't think anyone is
15 saying that she wasn't. She was distraught. But
16 she was distraught not because of anything that
17 Glenn did, she was distraught because her daughters
18 were absent. She was distraught because at the end
19 of her life she had lost so much. She was not
20 distraught because of anything Glenn did. And Glenn
21 left her alone with these physical therapists. If
22 she felt she was being controlled or she wasn't
23 allowed to go outside of her home or Glenn was being
24 this conniving control freak that they have said
25 that he was today, she had the opportunity to tell

1 somebody. She had the opportunity to tell
2 Dr. Chanson. She had the opportunity to tell Helen
3 Carroll. She had the opportunity to tell the
4 physical therapists. But none of them said that she
5 said anything with regards to Glenn.

6 Next you heard from this Ms. Jill Costa
7 who is also a physical therapist who actually
8 treated Ms. Gunnells from 2009 until 2013. She saw
9 her on a fairly regular basis. She saw her while
10 her husband was still alive and then she saw her
11 after he had passed. And she said that she heard
12 the same thing, Ms. Gunnells was distraught. She
13 didn't see her daughters anymore because they
14 weren't around. They weren't around to care for her
15 and she was upset about that.

16 You also heard about an incident where
17 one of the daughters tried to push her way into the
18 house. And Ms. Gunnells said herself she didn't
19 want her there. It was just too much to take, she
20 needed a simple life. She couldn't take the drama
21 anymore. She was just done. And it was not because
22 of anything Mr. Gunnells did. It's quite the
23 opposite. It was because of what the daughters did.

24 Now, after you heard from the physical
25 therapist, you heard from Ms. Klok who is another

1 independent witness. She's an attorney. She
2 drafted the will. Yes, Glenn is the one that
3 contacted her to draft the will. But she said that
4 in her discussions with Glenn over his house
5 closing, it was just a discussion, and she mentioned
6 that she drafted wills. It wasn't, do you draft
7 wills? No. She just told Glenn, it's something
8 that I practice.

9 Glenn and I had the same discussion the
10 first time I met him. What do you do? What kind of
11 things do you do? It's a very normal discussion to
12 have with your attorney the first time you meet
13 them. What other things do you practice? So the
14 fact that they're saying yes, specifically, do you
15 draft wills? Ms. Klok said that's not what
16 happened.

17 Furthermore, Ms. Klok said she asked Ms.
18 Gunnells all the right questions: Who's the
19 president? What day is it? Who are your children?
20 And she knew everything. She was quick. She was
21 witty. She was on it and she knew what she wanted
22 to do, and she knew why she wanted to do it, too.
23 She wanted to do it because she was upset with her
24 daughters. She was upset with the drama. She was
25 upset. She was done. And she had talked about this

1 for a long time coming. It wasn't just on this day.
2 It wasn't just after Mr. Gunnells passed. It'd been
3 a long time coming.

4 This is an attorney who has no stake in
5 this game who sat up here and told you if she had
6 one inkling of doubt as to whether Ms. Gunnells had
7 the capacity to draft a new will or was being unduly
8 influenced, she would not have done it that day.
9 She says she's done that in the past. She's seen
10 other people who maybe she thought, hmmm, I'm not
11 quite sure, and she's not drafted the will. She did
12 not do that in this case. She had no doubt that
13 Ms. Gunnells was completely sound mind and
14 completely knew what she wanted to do and she
15 drafted it.

16 And then you saw Ms. Annie Walton, her
17 paralegal, who backed up everything Ms. Klok said.
18 Said that she was in the room with her the entire
19 time. That she knew, she was quick, she was witty.
20 She knew what she wanted to do and she knew why she
21 wanted to do it, and it wasn't because of anything
22 Mr. Gunnells did. She was a strong, independent
23 southern lady. She knew what she wanted to do.

24 Then you heard from Mr. Glenn Gunnells.
25 You heard that Ms. Gunnells was frustrated with her

1 daughters for a long time, and that their parents,
2 both parents actually changed their POA back in
3 2011, both parents. It wasn't just one. It was
4 both. And the daughters were really upset about
5 that. And that's, you know, among other things,
6 what kind of set this catalyst of events happening,
7 is that power of attorney. And you know, Cathy and
8 Belinda have come up here and said he was waving it
9 at the funeral home. I mean, that's insane.
10 Where's the funeral director to say that that's what
11 happened? Where is an independent witness to say
12 that's what happened.

13 I mean, you saw Mr. Gunnells, he's
14 pretty just even. He just kind of tells it like it
15 is. He's a simple man. But he was upset about his
16 father's passing, understandably. He didn't wave
17 the power of attorney in front of their faces.
18 That's just drama.

19 You also heard that it was actually
20 Mr. Gunnells, Mr. Arden Gunnells who didn't want
21 Cathy back at the house. He called her a disgrace,
22 among other things that he called her. She couldn't
23 follow the rules. She was being controlling. She
24 was telling him how to live their life. It was
25 nothing that Mr. Gunnells did.

1 You heard that families still visited.
2 You heard that families still called. You heard
3 that people were always around. Everyone said that,
4 the physical therapist said there was other home
5 healthcare nurses in the house. They said that
6 people -- Mr. Brantley said he came to visit,
7 Ms. Carroll came and visited and then chose not to
8 come again. She wasn't not invited, she chose not
9 to come again.

10 You saw that Mr. Gunnells, in fact, did
11 reach out to his family for help. He called
12 Mr. Brantley. He called Mr. Terry Gunnells. He
13 wrote a letter to his sisters asking for financial
14 help. He did reach out for help.

15 With regards to these three instances of
16 manipulation that Mr. Howe brought up. First, the
17 lawsuit, it was filed after the will was changed.
18 But the initial letter threatening the lawsuit was
19 actually sent right before the will was changed. I
20 believe it was June 27th. And that letter states a
21 list of property that Ms. Harkness wanted back, and
22 it says, if you don't give it back, I'm not quoting
23 it, but, I'm going to file a lawsuit is basically
24 what it says.

25 And you heard Glenn up on the stand say,

1 we gave all those items back. That was actually
2 given back to Ms. Harkness. These are -- the
3 lawsuit was filed over more stuff that she wanted.
4 It was more stuff that she wanted after she had
5 already come and picked up the items that were in
6 the threatening letter. So it was the threatening
7 letter that was the straw that broke the camel's
8 back, not the actual lawsuit, the threat of the
9 lawsuit.

10 With regards to the nurse that was
11 walking Ms. Gunnells to the house and she pointed
12 out a table and said, oh, my daughter wanted that in
13 a lawsuit. That actually was not the words. Her
14 words were, my daughter wants this property back.
15 She thinks this is her property and she wants it
16 back. There's no lawsuit ever mentioned in her
17 testimony. So that was simply not true. It was
18 never said.

19 With regards to Glenn creating the
20 resentment for the daughters, which is a very crafty
21 tale, the resentment was created because of the
22 drama created by Ms. Harkness and the abandonment
23 created by Ms. Davis. It is nothing that
24 Mr. Gunnells did. He didn't create any resentment.
25 Mr. Howe is basically saying that my client

1 concocted this scheme seven years prior to his
2 parents' death. Okay, well, now I'm going to be the
3 power of attorney, and then I'm going to try to get
4 them to hate my sisters, and then I'm going to sell
5 the house, and then I'm going to figure out how to
6 get into their finances. Mr. Gunnells has an
7 8th grade education. You saw him. He is a simple
8 man. He couldn't come up with this even if he
9 tried. And there's been no proof. These serious
10 accusations and these serious tales require serious
11 proof, and there's been none.

12 Now, Your Honor, as you know, they have
13 a very high burden in this case, a very high burden.
14 They must prove to you by unmistakable and convincing
15 evidence that my client, Mr. Gunnells, exercised
16 such force and coercion over Ms. Gunnells that
17 basically his intentions became hers. As you know,
18 on their best day, on their best day, they may prove
19 influence. But what they have to prove is undue
20 influence, an influence that rises to such a degree
21 that it shows that Ms. Gunnells had no free will.
22 She had no ability to do the things that she wanted
23 to do on her own.

24 She essentially -- her mind became
25 essentially Mr. Gunnells' mind. And that's not what

1 happened here. You heard from multiple people,
2 including their witnesses, that she was of sound
3 mind, she knew what she wanted to do, she did what
4 she wanted to do, she was strong-willed and
5 independent. Furthermore, you heard from Ms. Klok
6 that she executed her will in July, she died in
7 February the next year, she had seven months to
8 change her will. And Ms. Klok told her, call me,
9 call me if you want to change your will. She had
10 that ability, and she didn't.

11 Finally, Your Honor, I want to bring
12 your attention to the case, I'm sure you're familiar
13 with, of Russell v. Wachovia. In that case -- let
14 me make sure I have the facts straight. In that
15 case, the testator had several instances where he
16 didn't know what kind of state of mind he was in and
17 overtook his medication. The beneficiaries of the
18 will often yelled at the testator about money. The
19 proponents of the will monitored the telephone in
20 the home, told him how to dress, would not let the
21 testator adjust the thermostat. The beneficiary
22 spent large sums of money in the testator's estate,
23 and they were in constant contact with the
24 testator's attorney. The doctors even said, two
25 doctors, two independent witnesses said there was

1 undue influence. And The Court found no undue
2 influence. Now, that is a precedent in our state.
3 So under that, clearly they haven't met their
4 burden. Clearly.

5 Ms. Gunnells marched into Ms. Klok's
6 office on July 3rd, 2013, and knew what she wanted
7 to do, and she did it. And she had seven months to
8 think about what she did. She had seven months to
9 say, well, you know, maybe that's not what I really
10 wanted to do. And you heard, there was times during
11 that seven months where Glenn wasn't around, but
12 there was other people she could have said, help,
13 help. She never said it. You didn't hear any of
14 that today. She knew what she wanted to do and she
15 did it. And it wasn't because of anything my
16 client, Mr. Gunnells, did. It was because of
17 everything her daughters did.

18 So Your Honor, I ask respectfully that
19 you find in favor of my client, Mr. Glenn Gunnells.
20 Thank you.

21 THE COURT: Thank you, Counsel.

22 MR. HOWE: Very briefly, Your Honor.
23 Just very briefly.

24 THE COURT: Okay.

25 MR. HOWE: One thing that I forgot to

1 mention, and I think sort of goes to the heart of
2 this thing. Nobody said Glenn had any control.
3 Poor Cathy had some kind of cancer on her leg.
4 Brother calls up Ms. Gunnells and says, you ought to
5 give Cathy a call and see how she's doing, she's had
6 this thing removed from her leg. Do you remember
7 what her answer was? I'll have to ask Glenn. Can
8 you imagine that? There's no evidence of control?
9 How much more evidence do you need of somebody's
10 control? I'll have to ask my son if it's okay for
11 me to call my daughter about a serious medical
12 condition.

13 She says, he tells it like it is, a
14 simple guy. He didn't tell it like it was when I
15 asked him how many times he went to the lawyer. He
16 said he went two or three. He went one.

17 He didn't tell it like it was when he
18 said Brantley was going to back him up on what was
19 going on, about asking for help. And I won't go
20 through the whole list. He didn't tell it like it
21 was on a number of things from what he said to the
22 Court to what he said to everybody else.

23 Another thing that's really interesting
24 is, this thing, she had been wanting to change her
25 will for such a long time, she was just tired of

1 this drama. They haven't brought any witness, no
2 other relatives, no other friends to say that was
3 true. The only person that's come in to give direct
4 testimony, other than Glenn, okay, my momma told me
5 this, was Helen Carroll. And Helen Carroll is dead
6 against that. She says that she came to me and said
7 I can't hardly live with this, this has happened.

8 Why didn't Helen Carroll do something?
9 Well, when you're a 80-something year old widow, you
10 drop by for a pleasant visit, somebody unloads that
11 on you, what do you do? I don't know what you do.
12 She didn't know what to do. And maybe she took the
13 safe way out and said, ewww, it's not business and
14 I'm not going back there.

15 As if she had all these other people to
16 talk to. She hadn't talked to anybody without Glenn
17 around, according to Jack, according to Helen,
18 nurses.

19 Some -- the chronology, trying not to
20 get too bite-sized facts. This will got changed 25
21 days after the husband died. They talk about how
22 distraught she was. She was in an emotionally
23 fragile state. It was 25 days after he died. I
24 don't know how many days the funeral took. It was
25 probably 20 days after the funeral. That's a tough

1 time. That's a tough time. Dad's out of the way,
2 mom's more vulnerable. Take her to my lawyer.
3 It'll be one visit. Those circumstances. And yes,
4 lots of control. Can't call people. Can't talk to
5 people. Then when she gets the one chance and the
6 surprise visit comes, there's an outburst about what
7 happened. The idea that we haven't offered evidence
8 is just not correct.

9 One last thing, hopefully, why didn't
10 they crank up all this conservatorship if there was
11 a -- you and I know that -- well, let's -- and this
12 is another thing that's real important. We tend to
13 look back at this, all through this prism of the
14 will got changed. Nobody knew the will got changed.
15 He knew, Klok knew, Ms. Gunnells knew, the girls
16 didn't know. They didn't find that until later.
17 When they're calling DSS and stuff, they're not
18 concerned about the will. They think the will's the
19 same. Never occurred to them the will's been
20 changed. They're concerned about their mother. And
21 they go and they find out, nobody knows better than
22 you what a hearing would require to DC Glenn as a
23 conservator when he's not giving them access. And
24 you know, when you go into it, but common sense
25 would tell you, you'd say, y'all don't want to do

1 that, the treatment's going to be worse than the
2 cure. You're going to have this trial, there's
3 going to be all this stuff, it's going to be awful,
4 and what are you really going to get. And they're
5 kind of, yeah, I guess the Court can't fix that kind
6 of problem. Because court's can't. Alexanders used
7 to have a cute thing about domestic cases that fits
8 here, he said, "Asking The Court to come into a
9 divorce is like calling the TV man to have him show
10 up at your door with a crowbar and say I'm here to
11 fix your set." Just not equipped. And the courts
12 aren't equipped to handle that kind of situations
13 that's in front of us here.

14 So I want you to remember when you're
15 looking at all these things and all these concerns,
16 these are not things constructed because of a will,
17 they're just concerned about the mother. It was
18 seen in light of the will months later, it was
19 ah-ha, then they kind of realized it doesn't all add
20 up.

21 Last but not least, I don't say that he
22 sat down seven years ago, or even two years ago, and
23 said, oh, I'm going to do this. But I do say this,
24 he's an opportunist. He knows his way around, when
25 his dad was out of the way, 20 days later he was at

1 his lawyer with his mother, it was one visit
2 changing the will. Thank you.

3 THE COURT: Thank you. I think we
4 discussed yesterday, 30 days for proposed orders.
5 Anything else for today?

6 MR. HOWE: Just thank you for your
7 patience.

8 THE COURT: All right. Thank you.

9 MS. WIMBERLY: Thank you. We appreciate
10 it.

11 THE COURT: Thank you. It's been a
12 pleasure. And I think I say at the end of every
13 trail, but if you come to a resolution before we
14 issue an order, just let us know. Otherwise, we'll
15 look for the proposed orders and then we'll go from
16 there.

17 Thank you very much.

18

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CERTIFICATE

I HEREBY CERTIFY that the hearing before
Judge Condon was duly taken by me and that this is a
true record of the testimony given by the witnesses.

Judy W. Galuppo
Court Reporter/Notary Public
Commission Expires 3/18/2023

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supervision of the certifying reporter.)

STATE OF SOUTH CAROLINA
 IN THE PROBATE COURT
 COUNTY OF CHARLESTON
 CASE NO. 2014-ES-10-202-2

CATHY G. HARKNESS,) DEPOSITION OF:
) RHONDA CHANSON, M.D.
 Petitioner,)
)
 -versus-)
)
 GLENN A. GUNNELLS,)
 Individually and as Personal)
 Representative of the Estate)
 of Helen B. Gunnells,)
)
 Respondents.)
)
 In the Matter of:)
 Estate of Helen B. Gunnells)
)

DATE: Wednesday, September 30, 2015

TIME: 2:08 p.m.

LOCATION: West Ashley Internal Medicine
 12 E Farmfield Avenue
 Charleston, SC 29407

REPORTED BY: JENNIFER M. HUGGINS,
 Certified Shorthand Reporter

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12 EXHIBITS

13 Petitioner's:

14 Exhibit No. Marked

15 1 (Patient Prescription List) 55

16 2 (Roper 1/6/2014 Record) 66

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19 Defendant's:

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21 1 (Letter from Dr. Chanson) 21

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1 (The reading and signing of the
2 deposition by the witness is not waived.)

3 (RHONDA CHANSON, M.D., having been
4 first duly sworn, testified as follows:)

5 EXAMINATION

6 BY MS. WIMBERLY:

7 Q. All right. Dr. Chanson, I introduced
8 myself earlier to you. My name is Alexis Wimberly.
9 I represent Glenn Gunnells in a matter that's
10 pending in probate court here in Charleston
11 County --

12 A. Yes.

13 Q. -- with regards to his mother and her
14 mental capacities at the time that she formed a
15 will. And it is our understanding that you were
16 her physician around that time; is that correct?

17 A. Correct.

18 Q. And have you ever given your deposition
19 before?

20 A. It's been years.

21 Q. Okay. Can you approximate when that
22 was, the last time you gave it?

23 A. Maybe 2003.

24 Q. Okay. So it's been quite a while?

25 A. Yeah.

1 Q. And we went over some ground rules
2 earlier, but, just to reiterate, if you don't
3 mind, you know, waiting for me to finish my
4 question, I will wait for you to finish your
5 answer.

6 **A. Okay.**

7 Q. And that is strictly for the court
8 reporter's convenience because she is taking this
9 all down by hand and just in normal speaking,
10 sometimes we anticipate the answer and anticipate
11 the question and then --

12 **A. Correct.**

13 Q. -- try to answer it. And then yeses
14 and nos as opposed to uh-huhs and huh-uhs are
15 better for the court reporter to take down. And,
16 of course, if you need to take a break at any time,
17 let me know. If you need to get some water or go
18 to the restroom, I'm more than happy to do that.
19 Like I said earlier, I don't anticipate this taking
20 too long.

21 **A. Okay.**

22 Q. But just let me know.

23 **A. I will.**

24 Q. And, if you have any questions about
25 anything that I ask or any clarification, when

1 I'm asking the question, if you don't mind asking
2 me, and then when Mr. Howe is asking the
3 questions.

4 **A. Okay.**

5 Q. Okay. And we are going to go over some
6 really preliminary matters first that we have to do
7 just legally. So it might sound silly, but we just
8 have to. So are you licensed to practice medicine
9 in South Carolina?

10 **A. I am.**

11 Q. Okay. And how long have you been
12 licensed to practice?

13 **A. Since 2000.**

14 Q. And do you mind giving me a little
15 benefit of your educational history prior to being
16 licensed to practice?

17 **A. I did my undergraduate degree at Furman**
18 **University. I obtained a PhD in biochemistry at**
19 **the University of South Carolina. I went to**
20 **medical school at the Medical University of South**
21 **Carolina. After graduating from there, I did my**
22 **internship at Bethesda Naval Hospital and my**
23 **residency training in internal medicine at**
24 **Portsmouth Naval Hospital. I was in the United**
25 **States Navy at that time.**

1 I then went to Beaufort, South
2 Carolina to active duty, served there for four
3 years. I was honorably discharged from the United
4 Stated Navy. I moved to Charleston, started
5 practicing at this practice in 2000 and been here
6 since.

7 Q. Well, thank you for your service. And
8 you've been at West Ashley Internal Medicine since
9 2000?

10 A. 2000.

11 Q. Okay.

12 A. Correct.

13 Q. What are your areas of concentration at
14 West Ashley Internal Medicine?

15 A. Basically, we're internal medicine. We
16 see a variety of disease processes and issues that
17 would come underneath that umbrella.

18 Q. Do you -- would you say that you
19 typically see a certain age range or you see all
20 age ranges?

21 A. 18 to 102.

22 Q. And today we've noticed your
23 deposition. It's called a deposition duces tecum.
24 I know. It's a legal term of art --

25 A. Okay.

1 Q. -- that means we requested a document
2 from you, and that was your CV. Did you happen to
3 bring that today?

4 A. **I don't have it.**

5 Q. Okay.

6 A. **I can get it for you.**

7 Q. Wonderful. We will just follow-up with
8 that. Okay. Great. And, in your CV, is it
9 updated?

10 A. **It will be.**

11 Q. It will be. And would everything in
12 that fairly and accurately represent your past
13 medical --

14 A. **It would. The only thing it wouldn't**
15 **have was the fact that I've been here since 2000**
16 **until now.**

17 Q. Okay. All right. Wonderful. We will
18 get that later from you. I appreciate that. In
19 the course of your practice here at West Ashley,
20 did you come in contact with a woman named Helen
21 Beatrice Gunnells?

22 A. **Yes.**

23 Q. And do you remember Mrs. Gunnells?

24 A. **I do.**

25 Q. Okay. And have you had a chance today

1 to review her medical records?

2 **A. I have.**

3 Q. Okay. Do you remember when you first
4 saw Mrs. Gunnells?

5 **A. Can I --**

6 Q. And, yes, you're more than -- yes.

7 **A. My memory is good but not that good.**

8 **All right. My first visit with her was July 23rd,**
9 **2012.**

10 Q. Okay. Do you remember about how long
11 that you treated Mrs. Gunnells?

12 **A. From July 23rd, 2012 until 2/6/2014.**

13 Q. And are you aware that Mrs. Gunnells
14 has passed?

15 **A. Yes.**

16 Q. Do you know on what date she passed?

17 **A. I don't know the exact date. I -- she**
18 **came to me on the last day I saw her, and I**
19 **transported her to the emergency room emergently at**
20 **that time, and I think her death was shortly**
21 **thereafter. But I don't have the exact date.**

22 Q. Okay. If I was to tell you it was the
23 next day on February 7th, would you have any reason
24 to --

25 **A. Yeah. That seems to be -- I knew it**

1 **was either one or two days later.**

2 Q. Okay. Are you aware of the cause of
3 her death?

4 A. **I believe it was a myocardial**
5 **infarction.**

6 Q. If I -- and I'm not -- this is not a
7 test, but if I was to say -- and please --

8 A. **Okay.**

9 Q. -- if I mispronounce these things,
10 please let me know. Ischemic cardiomyopathy, does
11 that sound --

12 MR. HOWE: Ischemic.

13 MS. WIMBERLY: Ischemic, thank you.

14 A. **Ischemic cardiomyopathy.**

15 Q. See, told you -- aortic stenosis --

16 A. **Her cardiologist took care of her in**
17 **the hospital.**

18 Q. Okay.

19 A. **So, other than a phone call from him, I**
20 **didn't --**

21 Q. But that doesn't seem way out of bounds
22 from --

23 A. **No.**

24 Q. -- what you were treating her for?

25 A. **No.**

1 Q. Okay. And then coronary artery
2 disease?

3 A. Yes.

4 Q. So do you know how it came to pass when
5 Mrs. Gunnells sought your initial treatment?

6 A. Say that one more time.

7 Q. Do you know how it came to pass that
8 Mrs. Gunnells sought your initial treatment?

9 A. For -- for the first visit?

10 Q. Yes.

11 A. My understanding is that she had
12 changed physicians from the doctor she was seeing
13 in the Mt. Pleasant area and was looking for a new
14 physician. She came here initially with her
15 daughter to establish care.

16 Q. Do you remember that initial meeting?

17 A. Yes.

18 Q. Okay. What do you remember -- do you
19 need to get that?

20 A. That's a fax.

21 Q. Okay. What do you remember, if
22 anything, about that initial meeting with
23 Mrs. Gunnells?

24 A. She was an elderly lady who seemed to
25 be somewhat frail but probably not unexpectedly so

1 for being 82. She was accompanied by her daughter
2 at that time. And everything else would have been
3 in the note from that day.

4 Q. Do you remember her daughter's name?

5 A. That daughter's name was named Belinda
6 Davis is I think her last name.

7 Q. And, upon that initial visit, did you
8 diagnose Mrs. Gunnells with anything or set up a
9 treatment schedule?

10 A. She -- yes. I mean, we reviewed her
11 past history. She had chronic ongoing issues that
12 needed to continue to need care. Let's see. She
13 had had a -- let me see here. She apparently had a
14 -- what we call a syncopal episode at home, and,
15 for that, was strongly recommended that she go back
16 to see a cardiologist. She had not seen a
17 cardiologist in a number of years.

18 Other than that, it was, you know,
19 continuing her ongoing care, and then I would need
20 to have seen the records from her previous
21 physician to see what other things needed to be
22 taken care of. But that was the most pressing
23 issue at that first visit.

24 Q. Okay. Did you set up a treatment
25 schedule? Did you ask her to come in, you

1 know --

2 A. Yeah. She -- let's see. She was to
3 follow-up in three to four weeks after that, and
4 then, subsequently thereafter, depending on what
5 active issues were going on.

6 Q. So, from that initial visit, would you
7 say she followed up with you every three to four
8 weeks?

9 A. Well, she didn't come every three to
10 four -- it wasn't necessary to come every three to
11 four weeks.

12 Q. Okay.

13 A. You know, we would need to see her
14 every two to three months and certainly sooner
15 if --

16 Q. As needed?

17 A. -- issues came up.

18 Q. How long generally would Mrs. Gunnells
19 be in your office for care?

20 A. Are you talking about from the time she
21 came -- or just face to face?

22 Q. Face to face.

23 A. Anywhere from 30 to 45 to 50 minutes,
24 depending on what was happening at the time.

25 Q. Okay. During the course of your care

1 with Mrs. Gunnells, did you notice any unusual
2 weight loss?

3 **A. Yes.**

4 **Q. Okay. And would you describe it as**
5 **unusual, or was it normal for her situation?**

6 **A. It was unusual.**

7 **Q. And how would you describe it as**
8 **unusual?**

9 **A. Just let me get through here a little**
10 **bit. It would be the amount. Typically it's an**
11 **amount over time, and -- which brings up a lot of**
12 **issues in terms of, are they eating properly?**
13 **Are they -- is there anything else going on that**
14 **would add to their anorexia and their ability not**
15 **to eat? Are there any other metabolic or**
16 **physical things going on that would contribute to**
17 **that?**

18 **Q. Did you speak to Mrs. Gunnells about**
19 **these issues?**

20 **A. We did.**

21 **Q. Okay. Do you remember what you**
22 **discussed with her?**

23 **A. We discussed the different etiologies**
24 **that might be contributing to that. Most of this,**
25 **if I remember correctly, occurred after the death**

1 of her husband, and she was very distraught after
2 that and just was not eating very well. We sent
3 her to a gastroenterologist, did a number of other
4 tests to try to elucidate other causes of why that
5 would occur.

6 Q. Do you believe that it occurred because
7 of the depression that she was suffering because of
8 the death of her husband?

9 A. After doing a relatively thorough
10 workup and not coming up with much else that would
11 contribute to that, I felt that that was a large
12 contributor to that.

13 Q. All right. Other than the weight loss,
14 did you notice anything else unusual about Mrs.
15 Gunnells' behavior over that time frame that you
16 treated her?

17 A. The most marked thing would have
18 occurred after her husband died and appropriately
19 so. She was very depressed about that. That is
20 one of the most significant losses a person can
21 undergo, secondary to the loss of a child. And
22 it is not uncommon that people will have a
23 difficult time with that. And she was no
24 different.

25 Q. Did you speak to her about the loss of

1 her husband?

2 **A. We -- she talked about it every single**
3 **time she came in.**

4 **Q. Did you ever have the occasion to meet**
5 **anybody else in Mrs. Gunnells' family?**

6 **A. On her initial visit, I spoke with her**
7 **daughter, Belinda Davis. I think I have the**
8 **correct last name. She came to the first couple**
9 **of visits. Her husband, that I don't recall his**
10 **name, came for the next maybe two or three**
11 **visits.**

12 **After the death of her husband, her son**
13 **was the main caretaker that brought her to all her**
14 **visits after that, and those are the only family**
15 **members that I know of.**

16 **Q. Okay. Did Mrs. Gunnells ever come to**
17 **an appointment alone that you remember?**

18 **A. No.**

19 **Q. She was always accompanied by**
20 **somebody?**

21 **A. Yes.**

22 **Q. And you mentioned Mr. Glenn Gunnells**
23 **earlier, and that is my client?**

24 **A. Yes.**

25 **Q. What was your impression, if any, of**

1 Glenn Gunnells?

2 A. In the context of our office visits, he
3 seemed to be attentive towards his mother, brought
4 her to the appointments. I don't think she missed
5 any. He asked what I felt were appropriate
6 questions.

7 Q. Did you talk to Mr. Glenn Gunnells at
8 any time outside of her regular appointments?

9 A. How do you mean exactly?

10 Q. Did he call in and ask any questions
11 or --

12 A. He would occasionally call in to ask
13 for, you know, things such as, you know, if he
14 needed medicine refilled, if he had a question
15 about his mother's health. We did see her pretty
16 reasonably frequently, but certainly would call in
17 if he had any concerns.

18 Q. Okay. Did you believe him in general
19 to be a good caregiver to Mrs. Gunnells?

20 A. Yes, in the context of our office
21 visits. Like, you know, he seemed to be giving
22 appropriate care to his mother.

23 Q. Okay. And I know -- I think that you
24 are aware of this, but, just to make you aware of
25 this that Ms. Cathy Harkness, who is also the

1 daughter of Mrs. Gunnells --

2 **A. Uh-huh.**

3 Q. -- has brought a claim against my
4 client as the personal representative of her estate
5 for mismanagement of care and withholding of
6 medications and general mismanagement. So that is
7 basically why we are here today to try to figure
8 that out because unfortunately --

9 **A. Right.**

10 Q. -- Mrs. Gunnells is dead, and so we
11 cannot talk to her about it. So were you aware of
12 anything of that sort, mismanagement of care or
13 mismanagement of medication?

14 **A. I was not. Her behavior seemed to be**
15 **appropriate in our offices. She didn't seem to be**
16 **fearful. I always examined her, and he was not in**
17 **the room, so I didn't see anything that would have**
18 **been concerning.**

19 Q. Did she ever say anything to you that
20 would have been concerning?

21 **A. She did not.**

22 Q. She is also -- she has a claim of undue
23 influence. So she has basically -- do you know
24 what that means?

25 **A. I have no idea.**

1 Q. Okay. It's a legal term that basically
2 means that her son influenced her to write the will
3 a certain way.

4 **A. Okay.**

5 Q. And do you have any reason to support
6 that? Did she ever say anything to you?

7 **A. She never even spoke about a will or**
8 **any -- any regards. It really wouldn't have been a**
9 **medical issue.**

10 Q. Okay. Do you believe that from the
11 time that you began treating Mrs. Gunnells until
12 the time of her death, that she was of sound
13 mind?

14 **A. She -- define what you mean by sound**
15 **mind.**

16 Q. That's another kind of term of art.
17 Did she ever indicate to you or intimate to you
18 that she might not know where she was or who --

19 **A. She knew who she was --**

20 Q. Right.

21 **A. -- and who her -- who her family,**
22 **children were. She -- we carried on intelligent**
23 **conversations in our office visits.**

24 Q. Did she follow your instructions?

25 **A. She did.**

1 Q. Okay. Did she ask questions of you
2 about her treatment?

3 A. She would. She would always thank me
4 for carrying for her. Most of the time she talked
5 about her husband and how despondent she was about
6 that.

7 Q. Do you have any reason to believe that
8 Mr. Glenn Gunnells ever exercised any influence
9 over her?

10 MR. HOWE: Object to the form, but go
11 ahead.

12 THE WITNESS: Go ahead and answer?

13 MR. HOWE: Yeah.

14 BY MS. WIMBERLY:

15 Q. Any negative influence over her?

16 MR. HOWE: Object to that as well. Go
17 ahead.

18 A. I never saw anything in the context of
19 my visits with her.

20 Q. Okay. And you said earlier that he
21 usually wasn't in the room with her when you
22 were --

23 A. He was not.

24 Q. Okay. Do you remember writing a letter
25 dated August 6th, 2013 with regards to Mrs.

1 Gunnells? And I will actually let the court
2 reporter mark it.

3 (DFT. EXH. 1, Letter from Dr. Chanson,
4 was marked for identification.)

5 **A. I believe that was in the context of a**
6 **telephone consultation.**

7 Q. Okay. I believe you're right.

8 **A. But he is the one that initiated the**
9 **request.**

10 Q. Right. And I believe that was on --
11 and I have here the records that you provided to us
12 via subpoena. It looks like -- I'm sorry for the
13 bulkiness of them. If you just want to take a look
14 at that. I am not going to mark it as an exhibit,
15 but it looks like it's July 19th?

16 **A. Yes.**

17 Q. Does that refresh your recollection a
18 little bit of what happened?

19 **A. Yes.**

20 Q. All right. Do you mind explaining to
21 me how this letter came to be?

22 **A. He called and asked that -- that his**
23 **mother was going to see a -- seek legal**
24 **consultation, and this letter was requested.**

25 Q. Okay. All right. And this letter,

1 it's very short.

2 **A. Okay.**

3 Q. Matter of fact, it says, "To whom it
4 may concern, Mrs. Gunnells is a patient of mine and
5 seems competent to make her own decisions, signed
6 Rhonda Chanson, M.D."

7 **A. Yes, correct.**

8 Q. And it's dated August 6th, 2013; is
9 that correct?

10 **A. Correct.**

11 Q. Do have any reason to take back what
12 you said in this letter?

13 **A. Again, you know, with our conversation
14 with Mrs. Gunnells, she seemed to know who she was,
15 what her surroundings were, having intelligent
16 conversations. There seemed to be nothing to
17 suggest that she couldn't make decisions on her
18 own.**

19 Q. Okay. Just a few more questions.

20 **A. Sure.**

21 Q. Did you ever prescribe home healthcare
22 for Mrs. Gunnells?

23 **A. Yes.**

24 Q. Okay. Do you remember around what time
25 that was? I'm sorry, I'm not trying to quiz you,

1 but --

2 **A. No, no, no. That's okay. It was**
3 **probably on more than one occasion. It was likely**
4 **for physical therapy. And I'd have to look back**
5 **and see the exact dates but yes.**

6 **Q. It looks as though there was a**
7 **telephone encounter where somebody called in**
8 **asking for home healthcare? Does that sound**
9 **correct?**

10 **A. That would have been one occasion, but,**
11 **again, I think it was on several occasions, and**
12 **some of those would have even come from out of the**
13 **office. But I would have to read through all of**
14 **these and find the exact time.**

15 **Q. You do remember?**

16 **A. Yes.**

17 **Q. Okay. And did you have the occasion to**
18 **talk to Mrs. Gunnells about her home healthcare**
19 **provider?**

20 **A. I don't --**

21 **Q. Do you remember?**

22 **A. I can't recall specifically. Can you**
23 **tell me what you would mean by --**

24 **Q. Did she ever talk about people coming**
25 **into her home and providing care with you? Did she**

1 ever complain about them?

2 **A. She never complained about it to me.**

3 Q. All right. And do you have reason to
4 believe that, once you prescribed it, they went
5 through with the home healthcare provider?

6 **A. That is my understanding. I think**
7 **there was even maybe one or two times to extend the**
8 **home healthcare that was being provided that the**
9 **physical therapist felt was -- sometimes they will**
10 **call to extend the amount of time they can stay in**
11 **the home.**

12 Q. Okay. And then I'm going to direct
13 your attention to -- and I believe you have the
14 medical records in front of you, but, if you need
15 to look at mine, it's fine. But it's actually --
16 looks like your notations on July 3rd, 2013.

17 **A. Are you talking about the actual office**
18 **note?**

19 Q. Yes. I'll just -- do you mind, I will
20 just give you mine.

21 **A. I believe I have it right here. Yep,**
22 **got it.**

23 Q. All right. And take time if you need
24 to, but I'm going to intimate to you that this
25 was the date that she actually executed her last

1 will and testament, the same day of this office
2 visit.

3 **A. Okay.**

4 **Q.** And after review of this, if you need
5 to review it here or if you already have reviewed,
6 is there anything in this office visit that would
7 make you think that she was not of sound mind on
8 that day?

9 **A.** She was certainly upset because her
10 husband had died several weeks earlier, and, as I
11 stated before, that's a loss that is second to
12 only losing a child and decisions and -- will
13 need to be made with the burden of that
14 knowledge.

15 She did not, you know, tell me that she
16 was going to do any -- I mean, didn't have any --
17 it didn't have any bearing on her healthcare that
18 day, whether she was going to a lawyer or not. So
19 we didn't discuss that specifically.

20 **Q.** Okay.

21 **A.** So I have no knowledge of that --

22 **Q.** That's fair.

23 **A.** -- after the fact.

24 **Q.** All right.

25 **A.** Does that answer your question?

1 Q. Yes, thank you. And you have given us
2 a lot of opinions today about the medical care of
3 Mrs. Gunnells as well as her state of mind. And
4 this is something that we all have to ask when we
5 are --

6 A. Sure.

7 Q. -- talking to doctors, but do you
8 hold all of the opinions given today most
9 probable and to a reasonable degree of medical
10 certainty?

11 A. Yes.

12 Q. Okay. And then something I didn't
13 explain to you at the beginning.

14 A. Okay.

15 Q. You have the opportunity to read and
16 sign your deposition.

17 A. Okay.

18 Q. Oftentimes we suggest it for medical
19 professionals just if there's something that the
20 court reporter didn't understand, a term of medical
21 art --

22 A. Okay.

23 Q. -- or something like that.

24 A. Okay.

25 Q. So is that something that --

1 **A. So she'll just --**

2 Q. You'd like to do that?

3 **A. Yes.**

4 MS. WIMBERLY: Okay. All right. And I
5 am done for now.

6 EXAMINATION

7 BY MR. HOWE:

8 Q. Okay. My name is Donald Howe. We met
9 a little bit earlier.

10 **A. Uh-huh.**

11 Q. I have a list. Hopefully I shouldn't
12 take very much longer. I found it. So, for me to
13 get the right picture, you would examine her by
14 herself without her son?

15 **A. Yes.**

16 Q. But you certainly -- he was waiting on
17 her in the lobby, right?

18 **A. Yes.**

19 Q. And he drove her here and drove her
20 back?

21 **A. Yes.**

22 Q. She couldn't drive herself?

23 **A. No, she couldn't drive herself.**

24 Q. Completely dependent on somebody to
25 drive her?

1 **A. Correct.**

2 Q. Okay. And you would talk to her son

3 about her?

4 **A. I would.**

5 Q. And get information about how she was

6 doing?

7 **A. As well as the patient herself.**

8 Q. Right. But the son is, I guess, a team

9 player in helping evaluate a patient in those

10 settings?

11 **A. Any family member would be.**

12 Q. Sure. And you rely on their accuracy,

13 don't you?

14 **A. You do.**

15 Q. And their completeness?

16 **A. You do.**

17 Q. And their truthfulness?

18 **A. You do.**

19 Q. Okay. Let me go through some of your

20 notes --

21 **A. Okay.**

22 Q. -- to make sure I ask the right

23 questions. So if you will go to February the 20th

24 of 2013?

25 **A. February 20th. Okay.**

1 Q. And I'll point, but, up here, it does
2 appear that she came with her son?

3 A. Yes.

4 Q. Okay. And down at the bottom of
5 symptoms?

6 A. Yes.

7 Q. One, two, three -- four lines up, "she
8 is on Celexa for depression"?

9 A. Uh-huh.

10 Q. "And continues to have some
11 neurovegetative symptoms"?

12 A. Uh-huh.

13 Q. Tell me what neurovegetative symptoms
14 are.

15 A. Symptoms of depression. I don't feel
16 like doing anything. I sleep too much, don't sleep
17 enough.

18 Q. Okay.

19 A. It's a medical term for signs of
20 depression.

21 Q. And on the next page?

22 A. Uh-huh.

23 Q. I noticed that her primary assessment
24 that you noted but was primary was HTN. What is
25 that?

1 **A. Hypertension.**

2 Q. Okay. And then --

3 **A. And it's only because we have to order**
4 **-- we have to have some order to the way the**
5 **computer system is set up.**

6 Q. Okay. And then at the bottom -- and we
7 kind of went over this, but on number 14, "patient
8 cannot drive herself to and from physical therapy.
9 She was dependent on family members to come back
10 and forth?

11 **A. Family members or friends, yes.**

12 Q. Okay. All right. And then the next
13 visit, it looks like -- sorry, I just had some eye
14 surgery. All right. May 23rd, does that look
15 right?

16 **A. It does.**

17 Q. And that seems to be primarily a
18 urinary --

19 MS. WIMBERLY: What year, I'm sorry?

20 MR. HOWE: May 23rd, sorry.

21 MS. WIMBERLY: May 23rd of what year?

22 MR. HOWE: 2013.

23 MS. WIMBERLY: 2013. Thank you.

24 THE WITNESS: Repeat that question
25 again. I'm sorry.

1 BY MR. HOWE:

2 Q. Well, just the next visit was May
3 23rd?

4 A. Yes.

5 Q. And it seems primarily that was a
6 urinary tract infection-type problems?

7 A. It -- yes.

8 Q. Okay. But you do note in the -- under
9 symptoms again, one, two, three -- fourth line up,
10 "she does have some cognitive issues"?

11 A. Yes.

12 Q. Okay. But "does not recall whether
13 she's had frequent UTIs in the past"; is that
14 right?

15 A. If it's there, that's probably
16 what's --

17 Q. Well, it's the next sentence. I was
18 just going to say, what kind of cognitive issues
19 were those?

20 A. Cognitive impairment as most people
21 over the age of 70 will likely have.

22 Q. Okay. And what would that include?

23 A. Sometimes they can't remember things.

24 Q. All right. Anything else that you can
25 remember about this lady?

1 **A. Repeat the question. I'm sorry.**

2 Q. Anything else that you remember about
3 this specific lady that we are here about today?

4 **A. Not anymore than I've mentioned unless**
5 **you have some specific.**

6 Q. Well, the word cognitive issues is a
7 general term, right?

8 **A. Right.**

9 Q. And I'm just trying to figure out, I
10 mean, there are -- I don't know how many, but there
11 could be a number of things that could constitute
12 cognitive issues. And I was wondering which of
13 those specifics you would apply to Mrs. Gunnells on
14 this date --

15 **A. On the --**

16 Q. -- that you know of?

17 **A. On the 5/23rd date?**

18 Q. Yes.

19 **A. I had asked her whether she had had**
20 **frequent UTIs in the past. She couldn't recall**
21 **that.**

22 Q. Okay.

23 **A. It's not uncommon. Sometimes they**
24 **can't remember every single aspect of their**
25 **health --**

1 Q. Okay.

2 A. -- from years gone by.

3 Q. Okay. So nothing more pronounced other
4 than that at that point?

5 A. No.

6 Q. So then the next visit that I have is
7 June 4th, 2013; is that right?

8 A. Yes.

9 Q. And that looks like it's sort of a
10 general wellness visit?

11 A. It was supposed to be, but we ended up
12 having to just go over some other things that were
13 more ongoing for her at that time, which we often
14 do.

15 Q. Well, one thing I just wasn't sure --
16 and some of this might be the typing of --

17 A. Uh-huh.

18 Q. -- the wording I didn't understand.

19 A. Right.

20 Q. "Symptoms, she comes in today initially
21 for an annual wellness visit; however, she does not
22 wish to have that done now or uterine --

23 A. Yes.

24 Q. -- the future"?

25 A. That's -- that's a Dragon typing.

1 Q. That's what I figured. So teach me
2 what that was supposed to say as best you can.

3 A. For Medicare patients now, they are
4 able and encouraged to have an annual wellness
5 visit, if they come in for that. But there are
6 other things ongoing with her health or they choose
7 not to do that. We are certainly not going to, you
8 know, have -- make them go through the motions of
9 having that.

10 Q. Okay.

11 A. It is a - obviously it's something
12 that's available to them.

13 Q. Okay.

14 A. And encouraged, but --

15 Q. She passed?

16 A. Yeah, basically.

17 Q. Fair enough. And on assessments,
18 primary was the HT, and that was hypertension?

19 A. It was.

20 Q. And the thing under that, CAD?

21 A. Coronary artery disease.

22 Q. Yeah. Tell me, what does that mean?

23 A. Blockages of your coronary arteries.

24 Q. All right. And what effects does that
25 have on people?

1 **A. They have coronary disease. They have**
2 **heart attacks. They have ongoing issues that stem**
3 **from that.**

4 Q. Okay. And does this --

5 **A. She had that for years.**

6 Q. Okay. All right.

7 **A. She had a heart attack in the '90s, had**
8 **a cardiologist.**

9 Q. Fair enough. Okay. And then the next
10 visit was this July 3rd, 2013?

11 **A. Yes.**

12 Q. Okay. And you had mentioned this,
13 but she was -- sounds like she was pretty
14 distraught at that time about the death of her
15 husband?

16 **A. She was.**

17 Q. And you noticed it's been difficult for
18 her to deal with that, correct?

19 **A. Correct.**

20 Q. And she's visibly upset at times?

21 **A. Yes.**

22 Q. And what was she doing that was visibly
23 upset?

24 **A. Crying.**

25 Q. That's what I assumed, but I need to

1 ask. Okay. Can you tell by looking at your
2 records -- or is there any way for us to maybe
3 check before we go or even later -- what time of
4 day this appointment was?

5 **A. I would not know from the record.**
6 **You would have to look it up through the**
7 **computer.**

8 Q. Okay. Is that something you could ask
9 one of the ladies to do for us maybe before we
10 left?

11 **A. Sure.**

12 Q. Okay. And her son did come with her on
13 that visit, didn't he?

14 **A. Yes.**

15 Q. It's obviously a very difficult thing
16 to put a measure on something, I guess, as
17 subjective as grief. Do you -- you used, and I
18 think we used word distraught. Would you -- was
19 she -- would it be fair to say she was emotionally
20 fragile? Would that be another term that would be
21 fair?

22 MS. WIMBERLY: Object to the form.

23 **A. She --**

24 Q. She gets to object, but go ahead.

25 **A. She was upset.**

1 Q. Okay.

2 A. So I guess it depends on a subjective
3 of what you mean by emotionally fragile.

4 Q. Okay.

5 A. I mean, I think it was appropriate for
6 what had happened.

7 Q. All right. As you said, it wasn't a --
8 it never came up as to whether she should or
9 shouldn't go see a lawyer that day. Had she asked
10 you, based on what you saw in the room that day --
11 let's make it something a little simpler. I'm
12 thinking about going to buy a timeshare in -- sign
13 a timesharing contract today. Would you have said
14 that was a good idea or a bad idea?

15 MS. WIMBERLY: Object to the form.

16 A. I don't know that I can speculate about
17 something that I wasn't asked at the -- at the
18 time. I mean, you know, I don't think -- I mean,
19 we're dealing with the medical issues.

20 You know, unless there was something
21 there that I -- that medically or legally would be
22 not a good thing for her to undertake, her business
23 of what she has to do and when she has to do it, I
24 mean, I don't see that I really have any bearing on
25 that.

1 Q. Okay. So your answer ultimately is
2 you just don't have an opinion one way or the
3 other?

4 A. **Correct.**

5 Q. And, on your assessments on the second
6 page, it looks like depression and anxiety got to
7 be the primary --

8 A. **Well, she was -- I mean, because that**
9 **was the most -- that's the only thing we talked**
10 **about that day --**

11 Q. Okay.

12 A. **-- for the most part.**

13 Q. All right. And that was 45 minutes,
14 it looks like, on the first page; is that
15 right --

16 A. **Right.**

17 Q. -- under symptoms? Okay. Then I
18 promise we are making progress. It looks like the
19 next visit, September 9th?

20 A. **Yes.**

21 Q. And, again, her son came with her?

22 A. **Yes.**

23 Q. And he describes -- I might can find it
24 quicker. It's kind of down near the bottom, about
25 there.

1 **A. So you --**

2 Q. That's where I'm -- yeah, I'm just
3 trying to --

4 **A. Okay.**

5 Q. Okay. He is the lone caregiver for the
6 patient?

7 **A. Uh-huh.**

8 Q. And is asking for help in the home, and
9 in terms of caring for his mother, correct?

10 **A. Correct.**

11 Q. All right. So he acknowledged to you
12 then that, number one, he was the lone caregiver?

13 **A. Yes.**

14 Q. And, number two, he needed help?

15 **A. Yes.**

16 Q. Okay. And it looks like, if you go
17 to the next page under assessments, that you
18 discussed or made a change in her medicines. I'm
19 looking under number one, depression with
20 anxiety.

21 **A. Uh-huh.**

22 Q. That you were going to taper her off
23 Celexa and then maybe substitute something called
24 Remeron?

25 **A. Uh-huh.**

1 Q. So tell me the reason for that and kind
2 of what happened there.

3 A. There was a potential interaction with
4 one of the medicines she was taking, and, to be
5 proactively safe in that regard, it's probably best
6 not to mix those medications.

7 Q. Okay.

8 A. So I felt it would be better to change
9 her to something else. The Remeron also can
10 stimulate the appetite, and that has a positive
11 side effect, so to speak.

12 Q. Okay. So the Remeron was sort of the
13 substitution as --

14 A. For the Celexa.

15 Q. -- the Celexa as tapered off; is that
16 fair?

17 A. Yeah.

18 Q. Okay. All right. Do you know where
19 the Remeron was called into pharmacy-wise or
20 whether you gave prescriptions or samples or
21 anything like that?

22 A. I don't have samples. It would have
23 been e-prescribed. I would have to -- I don't have
24 that part. I would have to look in the computer
25 again to see.

1 Q. Okay. We can check it if we take a
2 two-minute break at some point and you can check
3 it?

4 A. Uh-huh.

5 Q. Okay. Fair enough. All right. And I
6 think -- at the very end, it looks like three-week
7 follow-up, correct? That was your plan?

8 A. That was a long note. Hold on a
9 second.

10 Q. It was long.

11 A. Yes.

12 Q. Okay. And then it looks like that was
13 followed up 9/30. September 30th, 2013 was the
14 next visit, correct?

15 A. Correct.

16 Q. And it says she's taken Remeron to help
17 with her weight loss and anorexia, correct?

18 A. Yes.

19 Q. Okay. And then it said something about
20 -- and it was a little bit further. "Hospice has
21 evaluated her, but it's unclear whether she's been
22 accepted". What do you remember about that?

23 A. They had asked if they could -- and
24 it's not uncommon to have some help in the home for
25 members of families to care for their elderly

1 **parents. Sometimes Hospice can stay in longer than**
2 **home health can. There's just limitations by**
3 **Medicare rules.**

4 Q. Okay. I just -- to me, Hospice is sort
5 of end of life, and I -- maybe that's wrong. I
6 don't know.

7 A. You know, it -- it has a wider
8 definition these days.

9 Q. Okay.

10 A. And, again, from the standpoint of the
11 longest amount of time that a -- any kind of agency
12 can help a patient, Hospice is going to have the
13 most flexibility in Medicare guidelines.

14 Q. Got it.

15 A. Sometimes they're not able to accept
16 the patient.

17 Q. Okay.

18 A. Of course, there has to be, you know, a
19 proper evaluation, and I -- I'm not sure whether
20 that occurred or not.

21 Q. Sure. You just checked -- you just
22 heard that an evaluation had been made?

23 A. Right. Right.

24 Q. And you weren't sure what the result
25 was?

1 **A. Right.**

2 Q. Gotcha. Okay. And then back over, I
3 guess, on the next page, assessments. Again,
4 depression with anxiety?

5 **A. Uh-huh.**

6 Q. "We talked at length about her ongoing
7 anxiety and depression", correct?

8 **A. We did.**

9 Q. Is that still grief with the husband
10 and the --

11 **A. And her sister.**

12 Q. Oh, right. And her sister, that's
13 right. Okay. Her sister had passed away as
14 well?

15 **A. Yes.**

16 Q. All right. And you continued her on
17 Remeron for now?

18 **A. Yes.**

19 Q. Okay. There is some other medicines.
20 While we are on that, there was -- under
21 hypertension, Micardis. What is that, and what
22 does that do?

23 **A. It's an anti-intensive receptor**
24 **blocker.**

25 Q. You better explain that one.

1 **A. It blocks anti-intensive receptors in**
2 **the kidneys. It helps with blood pressure. It**
3 **also can serve other purposes as well.**

4 Q. What were you seeking to accomplish
5 with Micardis in Mrs. Helen Gunnells?

6 **A. I feel reasonably sure she came to me**
7 **on that medication and had been it on for a long**
8 **time.**

9 Q. I think that's correct.

10 **A. It is to control her blood pressure.**

11 Q. Gotcha. All right. And then the next
12 one was Tiazac?

13 **A. Correct.**

14 Q. And what does that do?

15 **A. It is a calcium channel block.**

16 Q. Okay. And it's under the HTN. So is
17 that another blood pressure helper?

18 **A. It is a blood pressure medicine.**

19 Q. Okay. And --

20 **A. Among other things.**

21 Q. Oh, I'm sorry.

22 **A. No. And among other --**

23 Q. And what's sort of its specific task in
24 the context of her health situation?

25 **A. It is a calcium channel blocker. It**

1 **helps with her blood pressure. Both of those also**
2 **will be used to help -- are cardio protective-type**
3 **of drugs.**

4 Q. Okay. All right. So it looks like the
5 next -- well, while we are on medications, did he
6 ever complain that she wouldn't take medicines? I
7 know sometimes older people just say, I'm not
8 taking that.

9 MS. WIMBERLY: Object to the form.

10 Q. Did you ever have that battle that you
11 remember?

12 A. I would have to look specifically
13 whether -- he did say at times she wouldn't take
14 all of her medicine. She did have some swallowing
15 issues.

16 Q. Okay.

17 A. So it was difficult sometimes to -- to
18 take a number of them.

19 Q. If it had been a problem, you would
20 have noted it?

21 A. Most likely if he had brought it up to
22 me.

23 Q. Okay. So the next visit I have is
24 December 16th; is that right?

25 A. Correct.

1 Q. All right. She's accompanied by her
2 son again?

3 A. Uh-huh.

4 Q. Okay. And it says, "because of her
5 cognitive issues" -- and I might have gotten ahead.
6 Y'all had tried an Exelon patch?

7 A. Uh-huh.

8 Q. What is that for?

9 A. It is for -- it's actually medicine
10 that's indicated for Alzheimer's, dementia.

11 Q. Okay.

12 A. We will use some of these medicines off
13 label for patients who have cognitive impairment
14 because there isn't anything at that time that was
15 FDA indicated for that.

16 Q. Okay. But I think you did -- I mean,
17 it was a dementia diagnosis that --

18 A. Senile --

19 Q. -- this was prescribed for?

20 A. Yeah, senile dementia.

21 Q. Okay. Fair enough. And -- all right.
22 Then a couple lines, according to our conversations
23 today --

24 A. Uh-huh.

25 Q. And this is going to be one of those

1 Dragon --

2 A. Okay.

3 Q. -- transcription issues.

4 A. Yeah. Sorry about that.

5 Q. That's okay. "It does not appear
6 that she and her son won't pursue further". Is
7 that probably want to pursue or something like
8 that?

9 A. They wanted to pursue continuing those
10 medications.

11 Q. And that's the Exelon?

12 A. Yes.

13 Q. What side effects was it having with
14 her or what problems, if you remember?

15 A. I believe she was on Donepezil earlier,
16 which is Aricept, and that caused nausea, which is
17 not an uncommon side effect. The Exelon patch
18 sometimes gets around that. I think that was more
19 that she was going to continue on the Exelon
20 patch.

21 Wait a minute. Sometimes that can also
22 cause nausea, so it could be that that's what was
23 going on, and he didn't to -- she didn't want to
24 continue to use that.

25 Q. Okay. But you -- as we sit here,

1 you're not positive? You're just looking at it and
2 trying to piece it together?

3 **A. Yes.**

4 Q. Fair enough. Now, a little further
5 down --

6 **A. Uh-huh.**

7 Q. -- about there, two-thirds.

8 **A. Okay.**

9 Q. She's supposed to be taking Remeron --

10 **A. Uh-huh.**

11 Q. -- but apparently there's some question
12 as to whether she is or not.

13 **A. Uh-huh.**

14 Q. What do you remember about that?

15 **A. When I asked if she was taking the**
16 **Remeron, he -- she didn't seem to recall that name.**
17 **And, again, you know, in all fairness, there's two**
18 **names for each one of these drugs.**

19 Q. Okay.

20 **A. So I just wanted to make sure that she**
21 **was on the correct medication and she was taking**
22 **it.**

23 Q. Okay. What is the other name for it?

24 **A. Mirtazapine.**

25 Q. Okay. And then almost down to the

1 bottom?

2 **A. Uh-huh.**

3 Q. He says, "it's difficult for her son to
4 bring her into the office frequently because of his
5 ongoing work schedule and other responsibilities".
6 Is that what he told you?

7 **A. Yes.**

8 Q. What did he tell you about his work,
9 anything in particular? Do you remember?

10 **A. He didn't.**

11 Q. Okay. Do you know what he does?

12 **A. No.**

13 Q. Okay. And that was a 40-minute
14 visit?

15 **A. Yes.**

16 Q. All right. And let me see. On the
17 next page under assessments, on number two, it
18 looks like your notes say you strongly recommend
19 that she restart her Remeron?

20 **A. Again, if I'm -- if there's some**
21 **question of whether we're actually taking**
22 **something, I just want to be very sure that the**
23 **patient understands it's important that we take the**
24 **medications.**

25 Q. Right.

1 **A. And make sure that we have, you know,**
2 **the prescription --**

3 Q. Right.

4 **A. -- that it's filled, et cetera.**

5 Q. Okay. All right. And then the next
6 one, I believe --

7 **A. Uh-huh.**

8 Q. I promise we're making progress.
9 January 2nd.

10 **A. Yes.**

11 Q. And I'm going to go down to this middle
12 section because this is --

13 **A. It's about --**

14 Q. -- we're back to the Remeron issue.

15 **A. Okay.**

16 Q. Quoting, "patient is supposed to be
17 taking Remeron, but apparently this has been some
18 confusion will be with getting that medication
19 prescribed". It says, "spite", but I don't -- I'm
20 thinking inspite "having it sent to her pharmacy on
21 multiple occasions. Patient's son was given
22 prescription to take to the pharmacy". And later
23 it seems to indicate you, like, actually hand wrote
24 a pharmacy note.

25 **A. I would have handwritten that**

1 **prescription and given it to them rather than**
2 **e-prescribing it.**

3 Q. Because apparently it wasn't going
4 through or there was some problem?

5 A. **Yes.**

6 Q. Okay. And, again, you -- you thought
7 it was an important medicine that she --

8 A. **Yes.**

9 Q. -- should be taking?

10 A. **Yes.**

11 Q. Okay. Had he ever called you in the
12 meantime, and said, I'm having a hard time getting
13 this filled?

14 A. **Not that I recall specifically.**

15 **12/18/2013, I just wanted to make sure that she was**
16 **taking it.**

17 Q. So that was y'all following up with
18 him?

19 A. **Yes.**

20 Q. Okay.

21 A. **And the Remeron was recent at that**
22 **time.**

23 Q. And can you tell where it was sent
24 to?

25 A. **My guess is -- I would have to look**

1 **specifically in the computer, so it's not on here,**
2 **but --**

3 Q. Okay. All right.

4 A. **Let me see. We've got --**

5 Q. So just to back up and make sure I'm
6 straight, you had seen them on 12/16?

7 A. **Uh-huh.**

8 Q. Strongly recommended recontinuing the
9 Remeron?

10 A. **Uh-huh.**

11 Q. And you followed up with a call on the
12 18th?

13 A. **Trying to make sure that -- that we**
14 **were clear.**

15 Q. To make sure there were no problems?

16 A. **Right.**

17 Q. Okay. But, when it came back on the
18 2nd, apparently there had been a problem of some
19 sort?

20 A. **Enough for me to print out a**
21 **prescription and give it to him.**

22 Q. And my impression of that is, like, if
23 this isn't going through the --

24 A. **For what they --**

25 Q. -- E-prescribe or whatever, I'm going

1 to write it and --

2 **A. Yeah, and then --**

3 **Q. -- that will keep us from having this**
4 **communication problem?**

5 **A. Right, right, like we did in the old**
6 **days.**

7 **Q. Okay. Best laid plans of Mice and Men,**
8 **sometimes you just have to write it and hand it to**
9 **them?**

10 **A. Yeah.**

11 **Q. And that was on January the 2nd of**
12 **2014, correct?**

13 **A. Correct.**

14 **Q. And his basic, I guess, problem was,**
15 **yeah, we're trying to get the Remeron, but we just**
16 **can't get it?**

17 **MS. WIMBERLY: Object to the form.**

18 **A. I don't think he voiced those specific**
19 **concerns, but I just wanted to make sure she was**
20 **taking it. And, since we couldn't relate**
21 **specifically whether we were or not, I wanted to**
22 **make sure that he had a prescription and there was**
23 **certainly no barriers to get them filled other than**
24 **taking it to the pharmacy.**

25 **Q. Okay. But, apparently at that point,**

1 he hadn't been able to fill it?

2 **A. That's what I had been told.**

3 Q. Okay. All right. And I want to hand
4 you a printout from a place. It's Plantation
5 Pharmacy.

6 MS. WIMBERLY: I'm going to object to
7 this.

8 MR. HOWE: Yeah, you can object to
9 it.

10 MS. WIMBERLY: Oh, I'm just telling the
11 court reporter.

12 MR. HOWE: Yeah.

13 BY MR. HOWE:

14 Q. And I want you to look on the bottom of
15 that page at what's highlighted.

16 **A. I'm sorry. If I can ask a question?**

17 Q. Yeah. You can go ahead.

18 **A. Am I still allowed to --**

19 Q. Sure, yes.

20 MR. HOWE: And your objection is
21 reserved for anything that --

22 MS. WIMBERLY: And can you say what
23 page?

24 MR. HOWE: I'm looking at the second
25 page.

1 THE WITNESS: Is this the page I'm
2 looking at?

3 BY MR. HOWE:

4 Q: Yes. At the bottom is a big, orange
5 highlighted thing.

6 A. Uh-huh.

7 Q. Mirtazapine -- I can't say it.

8 A. Mirtazapine?

9 Q. Yes. Is that the same thing as
10 Remeron?

11 A. It is.

12 Q. Okay. And right under where it says
13 the name of the medication, it's got your name as
14 the prescriber, correct?

15 A. Yes.

16 Q. And what was the date that prescription
17 was filled?

18 A. It appears to be 12/21/2013.

19 Q. Okay. Two weeks before you hand wrote
20 this prescription because you couldn't get it
21 filled, correct?

22 A. Correct.

23 Q. Okay. And I'm going to mark that as an
24 Exhibit for us, No. 1.

25 (PET. EXH. 1, Patient Prescription

1 List, was marked for identification.)

2 Q. And I skipped over this, and I
3 apologize. This is January 2nd, 2014?

4 A. Uh-huh.

5 Q. This was not sort of a normally
6 scheduled wellness. It looks like, reason for
7 appointment, she'd had a fall?

8 A. Yes.

9 Q. Okay. And the fall was, it looks
10 like, 12/31, so a couple days before; is that
11 correct?

12 A. Let me just see.

13 Q. Reason for appointment there at the
14 top.

15 A. She had two recent falls. They may not
16 have told me exactly when that was, but --

17 Q. I mean, I'm looking for January the
18 2nd.

19 A. Two days ago, yeah.

20 Q. Okay. Yeah. All right. So fell, ER,
21 follow-up pain?

22 A. Right.

23 Q. Okay. And she fell on December 31st;
24 is that --

25 A. It -- that's what was reported to me.

1 Q. Okay. All right. And then skipping,
2 I'm sorry, but to the back.

3 A. Uh-huh.

4 Q. On number six under treatment in your
5 list of things, hypokalemia. What is that?

6 A. Let me make sure I get the right page
7 here. That's low potassium.

8 Q. Are we on the same page?

9 A. Yes.

10 Q. Do you see it?

11 A. I see.

12 Q. Okay. And did you prescribe anything
13 for that?

14 A. Did I describe the potassium?

15 Q. Did you prescribe anything for the
16 condition of hypokalemia?

17 A. Yes, potassium.

18 Q. All right. What -- what does low
19 potassium do? What risks does it present to a
20 patient, that kind of thing? Why did she need
21 it?

22 A. She needs it because she is taking a
23 diuretic, more than likely, and low potassium can
24 cause a number of different issues to include
25 muscle spasms, cardiac issues and a number of other

1 **things. So obviously we don't want low**
2 **potassium.**

3 Q. Okay. I just went through this --

4 A. **And that was --**

5 Q. -- with the father-in-law. He was on
6 diuretics.

7 A. **Right.**

8 Q. His potassium was low. He has heart
9 problems. It's a -- it becomes a big concern if
10 you have heart issues, doesn't it?

11 A. **Yes.**

12 Q. Because potassium is an electrolyte; is
13 that right?

14 A. **It is an electrolyte.**

15 Q. That helps the muscles have their --

16 A. **Function.**

17 Q. Function, right.

18 A. **Yes.**

19 Q. And one of the biggest and most
20 important muscles we have is the heart?

21 A. **It's -- it's an important one, yes.**

22 Q. An important one, okay. And she had
23 heart problems?

24 A. **She did.**

25 Q. Okay. So potassium was, I guess

1 we'll say the order of the day if it was low,
2 correct?

3 **A. It was needed.**

4 **Q.** Okay. So the next appointment is this
5 February 6th, 2014?

6 **A. Yes.**

7 **Q.** Okay. And under the reason -- well,
8 actually, this was a follow-up. It was actually a
9 scheduled appointment as best I can tell?

10 **A. It was.**

11 **Q.** Okay. So that's why it has follow-up
12 in number one, correct?

13 **A. Right.**

14 **Q.** And, under the history of symptoms, it
15 says -- it looks like she was getting short of
16 breath the night before and maybe a few days
17 before?

18 **A. Yes.**

19 **Q.** And said, "he almost" -- "son almost
20 took her to the emergency room last night", and
21 here's another transcription "dissipated on its --

22 **A. Probably --**

23 **Q.** Probably own?

24 **A. Yeah. Probably that her symptoms**
25 **dissipated on -- on their own.**

1 Q. Okay. And was taking some Ativan?

2 A. Uh-huh.

3 Q. Was Ativan something that you had
4 prescribed?

5 A. She was already on that.

6 Q. Okay.

7 A. But that was also used for her
8 anxiety.

9 Q. Okay. Is that the same as Lorazepam?

10 A. It is.

11 Q. Okay. She was having pain in her
12 shoulder and tingling down to her arms, correct?

13 A. Yes.

14 Q. And significant cognitive issues making
15 it difficult for her to give a good history that
16 day?

17 A. She did not feel well.

18 Q. Okay.

19 A. She felt very poorly actually.

20 Q. All right. And you decided, based on
21 your evaluation --

22 A. Uh-huh.

23 Q. -- that she needed to go straight to
24 the hospital?

25 A. Yes.

1 Q. And the ambulance came to your
2 office --

3 A. Yes.

4 Q. -- and took her right on up?

5 A. Yes.

6 Q. Okay. And under -- at the top, reasons
7 for appointment, I notice number five "never got K
8 plus RX". What does that mean?

9 A. She never received the potassium
10 prescription.

11 Q. Okay. And do you know why?

12 A. I do not know that because we had all
13 of these other key things going on.

14 Q. Okay.

15 A. And so I don't know if -- who
16 verbalized that. My nurse would have taken that
17 history, so, I mean --

18 Q. Okay. And I -- and you correct me if
19 I'm wrong here, but part of what goes to the
20 hospital when she gets here is kind of your
21 workup?

22 A. Yes, yes.

23 Q. And that would be one of the things you
24 would --

25 A. Sure.

1 Q. -- want them to know?

2 A. Oh, absolutely.

3 Q. Okay. The lady's had low potassium,
4 doesn't seem to be getting the treatment I
5 prescribed?

6 MS. WIMBERLY: Object to the form.

7 Q. Is that a fair way of saying it?

8 A. It was important for them to know what
9 medicines she was currently on.

10 Q. Okay.

11 A. And obviously if potassium is not on
12 the list, then they would see that.

13 Q. Yeah. Okay. Were there any visits
14 between that January 2nd of 2014 and the February
15 6th? Let me make sure I've got everything.

16 A. I don't see any.

17 Q. Okay.

18 A. Let's see. She was coming in about
19 four weeks from the 2nd.

20 Q. Okay. All right. You've seen -- my
21 copy is missing here. One second. I'm assuming
22 you're familiar with the records at Roper St.
23 Francis? Y'all are all computerized these days,
24 right?

25 A. Actually, the hospital is not connected

1 to us.

2 Q. Okay.

3 A. It's a totally separate computer
4 system.

5 Q. Okay. But you've seen those kind of
6 records before?

7 A. Oh, yes.

8 Q. Okay. Does this look like records from
9 Roper St. Francis?

10 A. It does.

11 Q. All right. And look at the date on
12 that and tell me what the day of this visit is?

13 A. 1/6/2014.

14 MS. WIMBERLY: I'm going to object to
15 this.

16 MR. HOWE: Okay. Yeah.

17 MS. WIMBERLY: Did you ever produce
18 this to me?

19 MR. HOWE: I think so. I think we
20 did.

21 MS. WIMBERLY: I didn't get it.

22 MR. HOWE: If not, we'll get it.

23 BY MR. HOWE:

24 Q. "An 84-year-old white female presents
25 to emergency department via wheelchair with

1 complaints of a fall injury"; is that correct?

2 **A. Yes.**

3 Q. Okay. And if you will look on the
4 second page, near the bottom. What directions did
5 they give?

6 **A. To follow up with me.**

7 Q. And when was she supposed to do that?

8 **A. The following day.**

9 Q. Okay. Which would have been the 7th?

10 **A. Right.**

11 Q. Which we will go to the fourth page,
12 maybe fifth page on the encounter summary. It has
13 a special note. And what does that direct them to
14 do?

15 **A. Please follow-up with Dr. Chanson**
16 **tomorrow.**

17 Q. Okay. And do you have any -- anything
18 in your file that noted that that was complied
19 with?

20 **A. It wasn't a visit. Let's see. Just**
21 **bear with me here.**

22 Q. Yeah. If I'm missing it, I want to
23 know.

24 **A. No. I'm just -- okay. Let's see. No,**
25 **I don't see anything.**

1 Q. No calls or anything?

2 A. Not on --

3 Q. I don't have a call log.

4 A. Not on the 7th.

5 Q. Okay. All right. If we want to get
6 the physical therapy slash home healthcare notes,
7 we would get that through Roper St. Francis
8 somewhere; is that what --

9 A. I would, or whoever the home health
10 agency we did use.

11 Q. Okay. It seemed to be that's whose --
12 who it was. Can you tell from looking or -- I
13 hate making you do that, but while I've got you in
14 here.

15 A. Let's see what we've got in here. It
16 looks like it was Roper St. Francis Home Health.

17 Q. Okay. Good. Let me go ahead and mark
18 one of those as No. 2, I guess. I'm just having
19 her mark a copy of the emergency room notes that we
20 just went over.

21 A. Okay.

22 MR. HOWE: Subject --

23 MS. WIMBERLY: Subject to my
24 objection.

25 MR. HOWE: -- to Alexis' objection.

1 (PET. EXH. 2, Roper 1/6/2014 Record,
2 was marked for identification.)

3 BY MR. HOWE:

4 Q. Okay. Almost done. I also looked -- I
5 have a prescription printout from the Naval
6 Hospital, and it's dated January 28th, 2015.

7 A. Okay.

8 Q. Okay. So this would have been almost a
9 year after she died. Okay?

10 MS. WIMBERLY: Do you have a copy for
11 me?

12 MR. HOWE: I do.

13 MS. WIMBERLY: I object.

14 BY MR. HOWE:

15 Q. And if you look, go down one, two,
16 three. What is that word?

17 A. Diltiazem.

18 Q. Yeah. Is that the same as the
19 Tiazac?

20 A. Tiazac, uh-huh.

21 Q. Okay. And, if you read with me -- make
22 sure I'm right here -- that looks like she got 90
23 of those, pursuant to prescription. Your
24 prescription was that July 3rd -- no, it was wrong,
25 sorry. Start date, July 3rd, 2013?

1 **A. Yes.**

2 Q. So that would have been the visit?

3 **A. Yes.**

4 Q. Okay. So that would've been when it

5 was, I guess, e-sent over to the hospital --

6 **A. Yes.**

7 Q. -- or to that pharmacy? All right.

8 And it says refills left, three of three. So three

9 of three would have been in addition to --

10 **A. Yes.**

11 Q. -- the one that they picked up that

12 day?

13 **A. Right.**

14 Q. Just making sure, okay. And then it

15 says, last filled on 23rd, July 2013?

16 **A. Wait a minute.**

17 Q. Sorry. Right in the middle under where

18 it says --

19 **A. Oh, last filled, 23rd July 2013.**

20 Q. Okay. Is that correct?

21 **A. That's what it -- yes.**

22 Q. All right. And does that -- you're the

23 doctor. Does that indicate to you that the three

24 of three refills were left remaining?

25 **A. It would indicate that that's the last**

1 **time it was filled.**

2 Q. Okay. We'll just mark that as No. 3.

3 (PET. EXH. 3, Medication History, was
4 marked for identification.)

5 Q. Now, she got 90 of them at that time;
6 is that right?

7 **A. Correct.**

8 Q. Am I reading -- okay. And she was
9 supposed to get one a day?

10 **A. Yes.**

11 Q. All right. Okay. I think I'm done,
12 except for a couple of -- what I would like to do
13 is take a two-minute break, and if you could check
14 with your office to see -- I'll write these
15 down -- the time of the appointment on July 3rd,
16 2013.

17 **A. Okay.**

18 Q. The pharmacy potassium got called into
19 and the pharmacy for Remeron. I put called in, but
20 that may be the E thing. And then -- and also the
21 time of the visit on that February 6th -- at the
22 time of schedule. If you could check those for
23 me --

24 **A. Okay.**

25 Q. -- that would be great.

1 **A. Sure.**

2 Q. Oh, and, last but not least, if there
3 were any other pharmacies that were in your system,
4 like that I didn't know about.

5 **A. Okay.**

6 Q. Okay. The ones I've been able to find
7 were the Plantation Pharmacy and Navy Hospital or
8 the Navy whatever it is. But if there's something
9 else --

10 **A. Okay.**

11 Q. -- that will let me know where else I
12 need to check.

13 **A. You want me to --**

14 Q. Can we take a three-minute break and
15 you double check those things?

16 **A. Okay. All right. Do you just want me
17 to verbally report that back to you?**

18 Q. Yeah, that's fine.

19 **A. Okay. All right.**

20 **(A recess transpired.)**

21 BY MR. HOWE:

22 Q. All right. So we took a quick break,
23 and you went and checked a couple of things for us.
24 And tell us what you found.

25 **A. The time of the appointment on July 3rd**

1 **was approximately 11:00 in the morning.**

2 Q. Okay.

3 A. And the potassium, it must have been
4 **handwritten because there isn't an e-prescribe.**

5 Q. Okay. All right.

6 A. The Remeron on 12/2013, Plantation,
7 **e-prescribe was sent in.**

8 Q. Okay.

9 A. And there was another one on 12/16/13
10 **to Express Scripts, which is a mail order.**

11 Q. Okay.

12 A. And that's another mail order pharmacy
13 **that was on her list.**

14 Q. Okay.

15 A. That was the only other pharmacy that I
16 **could ascertain.**

17 Q. Okay.

18 A. The time of the visit on the February
19 **visit was 11:15, and that's, you know,**
20 **approximate.**

21 Q. Right.

22 A. That's just based on, you know --

23 Q. Right, right. Morning as opposed to
24 **afternoon basically?**

25 A. Yes.

1 Q. Okay. And I'll get that. When we get
2 the EMS run, it will probably have a specific
3 time.

4 A. Yeah.

5 MR. HOWE: So I think that should do
6 it. Okay. That's all the questions I have.
7 Thanks.

8 EXAMINATION

9 BY MS. WIMBERLY:

10 Q. Okay. I just have a few follow-ups.

11 A. Sure.

12 Q. And then we will be done.

13 A. Okay.

14 Q. With regards to any communication that
15 you had with Mrs. Gunnells and/or Mrs. --

16 A. Helen? Okay.

17 Q. I call her Mrs. because she's --

18 A. No, no, that's fine.

19 Q. -- a widow.

20 A. I just wanted to make sure.

21 Q. Yeah, sorry. Mrs. Helen, your patient.
22 Between the January 1st, 2014 visit --

23 A. Uh-huh.

24 Q. -- and the February 6th, 2014 visit?

25 A. Uh-huh.

1 Q. I found, it looks like one, two, three,
2 four, five -- six phone calls. Do you have those
3 records?

4 A. I don't have a date on that one. Okay.
5 From what dates again?

6 Q. It's between the January 2nd, 2014
7 visit and February 6th, 2014 visit. And I believe
8 the first one is on -- from what I can tell, and
9 you are much better at reading these than me --
10 but January 10th, 2014, answered by Susan Frees.

11 A. I'm not seeing that one. I don't see
12 that one in here. I see a couple others.

13 MR. HOWE: If you want to just hand it
14 to her and let her read it in the record, that's
15 fine.

16 MS. WIMBERLY: Yeah.

17 BY MR. HOWE:

18 Q. I'm going to hand you these phone
19 calls.

20 A. I'm sorry.

21 Q. That's totally fine. And they are -- I
22 apologize. They're really small, but if you can
23 just clarify what the phone calls -- the date of
24 each phone call and what was said on each phone
25 call, just read it into the record.

1 A. This is from 1/10/2014. "Please call
2 for son. We may need to adjust her" -- it totally
3 makes no sense -- "may need to adjust her blood
4 pressure at home". And that was the home health
5 people calling on that particular day.

6 Q. Okay.

7 A. On the 14th, she -- I think that was
8 him calling and --

9 Q. Just to clarify --

10 A. Because her blood pressures were lower,
11 so to see if her blood pressures were better. And
12 my answer was, "is she back to taking her
13 Micardis", and then I wanted to have her come in
14 and see me and "patient signed given instructions".

15 Next is dated 1/20/2014. It is the
16 Plantation Pharmacy calling. She is requesting
17 Celexa and Nexium, and she's not sure of the
18 strength of either one. So it must have been the
19 pharmacist calling.

20 The answer is, "she is not supposed to
21 be on Celexa, but called to clarify. I feel it's
22 important for her to take her Mirtazapine", which
23 is a Remeron and "left message for son to call on
24 potassium; never received it. Son told, patient is
25 not taking Micardis. Son told, does not need

1 potassium.

2 My answer is, "yes, because she wasn't
3 taking the Micardis any longer and wasn't taking
4 the diuretic". Next was on 1/23/2014 was a call
5 for Tramadol, and that was the pharmacy. And I
6 think that's -- wait a minute.

7 This is on 1/27/2014 about her blood
8 pressure readings and told me, "blood pressure by
9 home health Saturday night, 144/64". I'm better
10 without my glasses. "Saturday night called her
11 son, chest pain and arm pain; went to the emergency
12 room". And that's probably when she was told to
13 follow-up with me shortly thereafter.

14 Q. Okay. Doctor, I'm going to mark these
15 as the next exhibit.

16 MR. HOWE: Yeah. Let's get a copy so
17 you don't lose track of them.

18 (DFT. EXH. 2, Telephone Encounter, was
19 marked for identification.)

20 MS. WIMBERLY: And that is all I
21 have.

22 MR. HOWE: All right. I just need to
23 look at those for one second, if I can read them.

24 EXAMINATION

25 BY MR. HOWE:

1 Q. Okay. And, I'm sorry, let's just go
2 through these.

3 A. Okay.

4 Q. So this first one, where is -- what is
5 the date on that?

6 A. This is 1/27/2014.

7 Q. Okay. So we are going, I guess,
8 backwards. And so that was Glenn calling?

9 A. It was.

10 Q. All right. And he was worried about
11 her blood pressure?

12 A. He was calling in blood pressure
13 readings probably per my request.

14 Q. Okay. If you get numbers of such and
15 such?

16 A. Yes.

17 Q. And what were the readings?

18 A. 168/80, 144/64.

19 Q. Those are on the high side or --

20 A. They are, but, since it was lower now
21 that her blood pressure has gone back up, we would
22 have reinstituted her medications.

23 Q. Okay.

24 A. But previously they had been in the
25 90's.

1 Q. Okay. All right. Let's go -- it looks
2 like February 3rd.

3 A. Yes.

4 Q. And so what does that one tell us?

5 A. Caller can't be -- it says caller self.
6 They didn't delineate who that was, but apparently
7 prescriptions were asked for.

8 Q. Okay.

9 A. And those were filled.

10 Q. Okay. And that was Plantation or
11 something, or does it say?

12 A. It doesn't specify.

13 Q. Okay. This one?

14 A. That is Mr. Glenn Gunnells calling
15 again with blood pressure readings on the 14th.
16 Off the Micardis because the blood pressure had
17 been lower, and I wanted make sure she was getting
18 back to taking her medication.

19 Q. Okay. It says something about "back
20 taking Micardis"?

21 A. That was my question to him, whether
22 she was back taking her medication.

23 Q. And he was saying not yet or --

24 A. Yes. The answer was no.

25 Q. Okay. I think I got it. And this --

1 maybe I'm just missing -- I don't see the date yet,
2 I'm sorry. Just tell me what that one says.

3 **A. The date was on the 10th.**

4 Q. Okay. Of January?

5 **A. Yes.**

6 Q. All right.

7 **A. This is the physical therapist calling.**
8 **They would like to extend the therapy twice a week**
9 **for three more weeks.**

10 Q. Got it.

11 **A. I had mentioned the lower blood**
12 **pressure readings and had asked my nurse to call**
13 **and get more details on what was occurring so I can**
14 **make an appropriate decision on what to do.**

15 Q. Okay. Got it. And then this one, the
16 caller was Plantation Pharmacy?

17 **A. It is Plantation Pharmacy calling for a**
18 **refill, and there's some -- calling for a refill on**
19 **the medication that she shouldn't be taking at that**
20 **time.**

21 Q. Right.

22 **A. I just wanted to make sure that we were**
23 **clear.**

24 Q. And that was the Celexa? She had
25 tapered off because of the interaction with the

1 Ultram, I think it was?

2 **A. Yes.**

3 Q. Okay. And then this 1/23, it looks
4 like another pharmacy refill?

5 **A. It is the pharmacy calling for a refill**
6 **on Tramadol.**

7 Q. And that's pain medication, right?

8 **A. It is.**

9 Q. Okay. Is that a narcotic? Is that
10 considered a narcotic?

11 **A. It is not a narcotic.**

12 Q. Okay. Tell me what it is then.

13 **A. It is a non-narcotic opioid.**

14 Q. Okay.

15 **A. It is not a non-steroidal, but not**
16 **Hydrocodone.**

17 Q. Okay.

18 **A. It's sort of in between.**

19 Q. In between, okay. And I think -- she
20 had been on that for quite a while?

21 **A. Intermittently.**

22 MR. HOWE: Yeah. Okay. That's all I
23 have. Anything else?

24 MS. WIMBERLY: That's it.

25 (The deposition concluded the 3:40

1 p.m.)
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1 CERTIFICATE

2

3 I do hereby certify that the witness whose
4 attached deposition was taken before me in the
5 aforementioned matter was, by me, first duly sworn
6 to testify the truth, the whole truth, and nothing
7 but the truth; that the testimony contained in said
8 deposition was, by me, reduced to writing in the
9 presence of said witness by means of computerized
10 transcription. The said deposition is a true and
11 accurate transcript of the whole of the testimony
12 given by the said witness, as aforesaid.

13 I do further certify that I am not
14 connected by blood or marriage with any of the
15 parties or their attorneys or agents, and I am not
16 an employee of either of them, nor interested
17 directly or indirectly in the matter of controversy
18 either as counsel, attorney, agent, or otherwise.

19

20

21

22

23 Jennifer M. Huggins

24 Court Reporter And Notary Public

25 My commission expires: 02/07/2022

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1 DEPONENT CORRECTION SHEET

2 I, the undersigned, RHONDA CHANSON, M.D., do
3 hereby certify that I have read the foregoing
4 deposition and wish to make the following
5 clarifications and/or corrections, if any.

6

7 PAGE LINE CHANGE REASON

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RHONDA CHANSON, M.D.

Date

25 JH

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

VIDEOTAPED DEPOSITION OF HELEN CARROLL

IN THE MATTER OF:

HELEN B. GUNNELLS

CATHY G. HARKNESS,

Petitioner,

vs.

CASE NO. 2014-ES-10-2022

GLENN A. GUNNELLS, Individually
and as Personal Representative
of the Estate of HELEN B.
GUNNELLS,

Respondent.

DEPONENT: HELEN CARROLL
DATE: November 6, 2015
TIME: 9:53 A.M.
LOCATION: LAW OFFICES OF DONALD H. HOWE, LLC
818 Wappoo Road
Charleston, South Carolina

REPORTED BY: TRISHA RARICK
MAGNA LEGAL SERVICES
(866) 624-6221
WWW.MagnaLS.com

A P P E A R A N C E S

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I N D E X

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EXAMINATION

Page

By MR. HOWE

5, 40

By MS. WIMBERLY

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Certificate of Reporter

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E X H I B I T S

Page

PETITIONER'S EXHIBITS

1 STATEMENT

4

1 VIDEOGRAPHER: We are now on the record.
2 This begins videotape number 1 in the
3 deposition of Helen Carroll, in the matter of
4 Cathy G. Harkness versus Glenn A. Gunnells in
5 the State of South Carolina, in the Probate
6 Court, County of Charleston. Case number
7 2014-ES-10-2022.

8 Today is November 6th, 2015, and the time
9 is 1:09 p.m. This deposition is being taken at
10 the law office of Donald Howe, LLC, 818 Wappoo
11 Road, Charleston, South Carolina, at the
12 request of attorney Donald Howe. The
13 videographer is Michael Carr of Magna Legal
14 Services, and the court reporter is Trish
15 Rarick, also of Magna Legal Services.

16 Will counsel and all parties present state
17 their appearance and whom they represent, after
18 which, the court reporter will swear in the
19 witness and we will proceed?

20 (Petitioner's Deposition Exhibit No.
21 1 was marked for identification.)

22 MR. HOWE: Good afternoon. My name is
23 Donald Howe, and I'm here on behalf of Ms.
24 Cathy Harkness.

25 MS. WIMBERLY: Good afternoon. My name is

1 Alexis Wimberly, and I am here on behalf of
2 Glenn Gunnells.

3 THE WITNESS: Oh, I'm Helen Carroll and --

4 MR. HOWE: You're just the witness. So
5 you need to put your -- she's going to swear
6 you in.

7 THE WITNESS: Oh, okay.

8 MR. HOWE: Sorry.

9 HELEN CARROLL,
10 having been first duly sworn, was examined and testified as
11 follows:

12 THE WITNESS: Yes.

13 BY MR. HOWE:

14 Q Good afternoon, Ms. Carroll. We've met
15 before. My name is Donald Howe, and I'm just going
16 to ask you -- I've already lost my mic -- ask you a
17 few questions. Yeah. I think I'm close enough.
18 All right. What is your full name, please, ma'am?

19 A Helen -- Helen Campbell Carroll.

20 Q Okay. And Ms. Carroll, how old are you?

21 A Ninety-two.

22 Q And where do you live?

23 A 403 Splitrail Drive, Goose Creek.

24 Q How long have you lived at that address?

25 A Thirteen years.

1 Q How long have you lived in the Charleston
2 area?

3 A Since 1948.

4 Q And I believe you are a widow; is that
5 correct?

6 A Yes.

7 Q What did your husband do when he was down
8 here in Charleston? Where did he work?

9 A What he'd done?

10 Q Yeah.

11 A He worked at Westvaco.

12 Q Okay. And do you have any children?

13 A I have four, one deceased.

14 Q Okay.

15 A I have three now.

16 Q Three now? Okay. Tell me a little bit --
17 how is your health?

18 A It's fair.

19 Q All right. But you feel well enough to
20 answer questions today and be truthful; is that
21 correct?

22 A True.

23 Q Okay. As I explained to you a little
24 earlier, we're taking this deposition to be used in
25 a court hearing. It's a trial before a judge, and

1 it's about the will of a lady named Helen Gunnells,
2 and you understand that?

3 A Yes.

4 Q And you understand you're under oath
5 today?

6 A Yes.

7 Q Okay. How did you know Helen Gunnells?
8 Did you know her?

9 A I knew her through the church.

10 Q All right. And over how long a period did
11 you know her?

12 A Oh, I think about 40 years.

13 Q Okay. And were you -- how close of
14 friends were you? What was your relationship like
15 with Ms. Gunnells?

16 A Well, we started getting -- we started
17 getting pretty close, and we got closer when the
18 church would go on trips and we'd room together.

19 Q Okay. And how long ago was that?

20 A I don't remember.

21 Q All right. Good while though?

22 A It's been a good while.

23 Q And how would you describe how close
24 you-all were as friends? Good friends, medium
25 friends? What would you say?

1 A I'd say we were pretty good friends,
2 because I was over at her house a good bit.

3 Q And when you say a good bit, what was
4 that? How much -- how often would you say?

5 A Well, after my husband passed away, I
6 didn't have nothing to do. And I'd -- she'd called
7 me, and we'd -- I'd come over there and stay most of
8 the day.

9 Q Okay. And how often would you do that?

10 A At least once a week.

11 Q Okay. And did you also talk on the phone?

12 A Oh, we talked on the phone every day.

13 Q All right. Now -- and did you know her
14 husband as well?

15 A Yes.

16 Q All right. And do you -- his name was
17 Arden; is that correct?

18 A Yeah.

19 Q Do you remember, and I'm not looking for
20 an exact date, but just sort of a generally when
21 Arden was diagnosed or got news that he had cancer?

22 A I don't remember.

23 Q Okay. Do you remember that he did at some
24 point --

25 A Oh, yeah.

1 Q -- become sick with cancer? I'm not
2 looking for the date, but just generally that that
3 happened?

4 A I guess about a month before it happened.

5 Q Okay.

6 A I mean after it happened.

7 Q Okay. And were you still in contact with
8 Helen during that time?

9 A Oh, yeah. Uh-huh.

10 Q All right. Still talking to her regularly
11 and --

12 A Oh, yeah.

13 Q -- see them? Would you go by and see them
14 after that?

15 A Yes.

16 Q All right. And do you remember when their
17 son, Glenn, moved in to help take care of Arden and
18 Helen?

19 A About -- I guess about four months
20 before -- three or four months. I don't recall.

21 Q Right. And before what?

22 A Before he moved -- after he moved in.

23 Q Okay. So you were aware that he moved in
24 a little bit afterwards?

25 A Uh-huh. Uh-huh.

1 Q All right. And how did your relationship
2 with Helen progress after Glenn moved in?

3 A Well, she quit calling me, and -- and
4 we -- whenever I'd -- I'd call her. Most of the
5 time, she wouldn't -- didn't answer the phone.

6 Q Who would answer?

7 A Glenn.

8 Q Would you get to talk to her?

9 A No. He would say she was upstairs
10 going -- taking a nap or in the bathroom.

11 Q All right. And was that -- I guess, would
12 you -- well, would you hear back from her?

13 A No. He'd say he'd tell her to call me,
14 but she never did.

15 Q Okay. And was that different from what --
16 how it had been before?

17 A Oh, yeah.

18 Q And did you ever go by and see Helen after
19 Arden died?

20 A Yeah.

21 Q All right. And why did you -- tell me how
22 that came about and why you would -- why you did
23 that.

24 A Well, he didn't -- he'd never go out of
25 the room or stay in the kitchen while I was -- whole

1 time I was there.

2 Q Okay. And you say he, are you talking
3 about Glenn?

4 A Glenn, uh-huh.

5 Q All right. So when you would go by and
6 visit, did you ever have any time alone just with
7 Helen?

8 A Huh-uh, no.

9 Q Okay. And what were your conversations
10 like with Glenn? How was -- how did Helen act when
11 you were talking when Glenn was around?

12 A Well, she wouldn't say very much.

13 Q And that --

14 A As if -- as if -- as if she didn't want
15 Glenn to know what I was saying -- what we were
16 talking about.

17 Q And was that different from the way she
18 had been before?

19 A Oh, Lord, yes.

20 Q Okay. And how -- so tell me a -- I guess
21 give me little bit before and after. What were your
22 conversations like and how were you before he moved
23 in?

24 A Well, before that, we would just talk and
25 tell each other jokes, and -- oh, I'm sorry. Tell

1 each other the jokes, and we just had a conversation
2 or talk about church or something like that.

3 Q Okay.

4 A And our traveling, what good times we had.

5 Q And the nature of that changed after Glenn
6 moved in?

7 A Yeah.

8 Q All right. You had a particular visit
9 after Mr. Gunnell -- Gunnells, Arden, died; is that
10 correct?

11 A Uh-huh.

12 Q Where you went over; is that correct?

13 A Yes.

14 MS. WIMBERLY: Object.

15 BY MR. HOWE:

16 Q And that's okay. And did you -- how did
17 you get to Helen's house that day?

18 A Well, I -- I generally went through the
19 garage, because most of the time, the garage door
20 was open. And it wasn't open that day. So I went
21 to the door and rang the door bell, and I knew she
22 was there, because I could see her sitting in the
23 den. And it had taken her a long time to get to the
24 door.

25 Q Okay. Was anybody with you that day?

1 A No. I was alone.

2 Q Had you driven yourself?

3 A Pardon?

4 Q Did you drive yourself --

5 A Oh, yeah.

6 Q -- to get there?

7 A Uh-huh.

8 Q Okay. All right. And so did she,
9 ultimately, come and answer the door?

10 A Yeah. She came and answered the door.

11 Q All right. And so tell me a little bit
12 about that visit.

13 A Well, she said she was glad to see me,
14 that she was there alone, and that Ar- -- Glenn was
15 gone somewhere.

16 Q Okay. And I'm sorry. I'm tearing a piece
17 of paper from my own notes here. And how did she
18 seem to be that day?

19 A Well, she kept -- kept looking out the
20 window waiting to see -- seemed to me like waiting
21 for him to come home.

22 Q Okay. Were you able to talk to her though
23 and have a conversation?

24 A Oh, yes. We had a conversation.

25 Q And did at some point she start talking to

1 you about her -- I guess her living arrangements?

2 A Yes. She did.

3 MS. WIMBERLY: Objection.

4 BY MR. HOWE:

5 Q And what all did she tell you?

6 A I don't really recall everything, but she
7 said that she couldn't talk on the phone like she
8 used to could, and that he'd tell her she need to
9 get up and walk more, and she needed to do this and
10 she needed to do that. And she said, Helen, I just
11 don't feel like it.

12 Q Okay. And what about talking on the
13 phone? Did she mention any particular people that
14 she had a hard time --

15 A No.

16 Q -- talking with?

17 A Not that I can recall.

18 Q Any family or anybody like that?

19 A Not that I recall.

20 Q Okay. All right. What else did she tell
21 you?

22 A Well, she said she'd like to go see her
23 sister in Georgia, Evelyn, but Glenn wouldn't take
24 her.

25 Q Okay. Did she mention anything about

1 going with Glenn to see a lawyer at any time?

2 MS. WIMBERLY: Objection.

3 A No.

4 BY MR. HOWE:

5 Q Okay. Did she ever talk to you about
6 signing a will or something like that?

7 A No.

8 Q Never came --

9 A No.

10 Q All right. Did -- how long were you
11 there?

12 A I'd say about an hour.

13 Q Okay. What else did she tell you, if
14 anything, about Glenn that day?

15 MS. WIMBERLY: Objection.

16 A Nothing that I can recall.

17 BY MR. HOWE:

18 Q Okay. You and I have met before, correct?

19 A Yes.

20 Q All right.

21 A Uh-huh.

22 Q And do you recognize -- I got a -- what we
23 call a document.

24 A Yeah.

25 Q All right. And tell me, it's got a date

1 up here of April 2nd, 2014. Is that a couple of
2 months after Ms. Helen Gunnells died, correct?

3 A Yes.

4 Q All right. And have you had a chance to
5 look that document over?

6 A Yes.

7 Q Before we started?

8 A Yes.

9 Q You and I went over it just a little while
10 before we came in here, correct?

11 A Yes.

12 Q And actually made a couple of little
13 changes on letters but nothing on the content; is
14 that correct?

15 A Right, right.

16 Q All right. And --

17 MS. WIMBERLY: Sorry. Changes on letters?

18 MR. HOWE: Yeah. There was a one -- it
19 said every instead of very.

20 MS. WIMBERLY: I see.

21 MR. HOWE: And then -- and she initialed
22 it.

23 MS. WIMBERLY: Thank you.

24 MR. HOWE: Yeah. It's very minor, but
25 it's just something --

1 MS. WIMBERLY: Okay.

2 MR. HOWE: -- she noticed as we were going
3 through.

4 MS. WIMBERLY: Okay.

5 MR. HOWE: Okay? We didn't even catch
6 them all when we called.

7 BY MR. HOWE:

8 Q I'm going to turn to the third page,
9 and -- well, before we look at that, when we went
10 over the document, did you have any changes you
11 wanted to make about any of the substance of
12 anything that's in it?

13 A No.

14 Q Do you feel like it's true and correct?

15 A I do.

16 Q And it was done pretty -- well, about two
17 months after -- after your friend died; is that
18 correct?

19 A Yes, sir.

20 Q All right.

21 MS. WIMBERLY: I'm going to make an
22 objection to this document.

23 MR. HOWE: That's fine.

24 BY MR. HOWE:

25 Q Let me ask you -- how is your reading?

1 Can you read well enough to look at that? I'm
2 looking right --

3 A Yeah, uh-huh.

4 Q Yes, ma'am. If you'll just look at that
5 paragraph just for a second, let me ask you a couple
6 of questions.

7 A Okay.

8 Q Does that help refresh your memory about
9 whether she talked to you about a will?

10 A Yeah.

11 Q Okay. What -- and what did she tell you
12 about a will?

13 A She said that -- she didn't say too much,
14 but she said that Glenn told her she had to.

15 Q Had to do what now?

16 A Sign a new will.

17 Q Okay. And how did she seem to feel about
18 it?

19 A She didn't want to.

20 Q Okay. And your statement says, Helen, I
21 had no choice. Is that her talking to you?

22 A Yeah, uh-huh.

23 Q All right. And the paragraph right above
24 as well, right here, does that refresh your memory a
25 little bit about what she may have said about

1 talking to relatives and things like that?

2 A Yeah. She talked to Evelyn a good bit.

3 Q Okay.

4 A That was her sister.

5 Q Okay. But your opening sentence says,
6 Glenn has made it to where I can't even talk to my
7 brothers anymore.

8 A Uh-huh.

9 Q Is that correct?

10 A Yeah.

11 Q Was that something she discussed with you
12 that visit?

13 A No. She just said -- she just said she
14 couldn't talk to her brother and sister.

15 Q Okay. And why was that?

16 A I don't really -- I don't know.

17 Q Okay.

18 A She didn't say why.

19 Q When -- when you had been there a while,
20 apparently Glenn came back?

21 MS. WIMBERLY: Object to the form.

22 BY MR. HOWE:

23 Q Is that correct?

24 A Yeah.

25 Q And tell me what happened once he came

1 back.

2 A Well, she seemed to clam up and
3 wouldn't -- didn't talk anymore. So then I told her
4 that I was going home, and that I loved her.

5 Q Okay. What did you feel like being there
6 and watching the relationship between Glenn and Ms.
7 Helen? What --

8 A It just didn't seem the same.

9 Q Okay. And how was it different? How
10 would you describe that?

11 A Well, it was kind of cold.

12 Q Okay.

13 A And she generally asked me to stay for
14 lunch if I went over there about lunchtime, but I
15 didn't feel welcomed, so I left.

16 Q Okay. And what was it that didn't make
17 you feel welcomed?

18 A I just felt -- well, you know, you can go
19 in places, and you don't feel right?

20 Q Okay. And I --

21 A I guess that's the only way I can put it.

22 Q And didn't -- was that coming from Helen,
23 or was that coming from Glenn?

24 MS. WIMBERLY: Objection.

25 A Well, I'd say kind of both of them.

1 BY MR. HOWE:

2 Q Okay. And in what way?

3 A Well, Helen would clam up and wouldn't --
4 didn't have much to say after that.

5 Q Okay. Was that different --

6 A It was just --

7 Q -- when you saw her -- excuse me -- when
8 you saw her later without Glenn? Was she pretty
9 open at that time?

10 A Yeah, uh-huh.

11 Q All right. How was Ms. Helen's daughter,
12 Cathy, about doing things to take care of her and
13 being of assistance for her mother?

14 A Well, Cathy was always there, and -- and
15 she said she would have done more after Glenn went
16 in there, but he wouldn't let her.

17 Q Before Glenn got there, would you -- were
18 you there to see Cathy coming by and being around --

19 A Oh, yeah. Cathy came by a good bit and
20 done -- done things for her.

21 Q There's one other paragraph I wanted to
22 talk to you about on this second page. I'm just
23 going to point and let you look at it, and then I'll
24 ask you what you remember about it, starting right
25 there.

1 A Okay.

2 Q Okay. So that's the one --

3 A About calling Jack and --

4 Q Yeah. About calling and asking about

5 Jack?

6 A Uh-huh.

7 Q First of all, who is Jack?

8 A It was Helen's brother.

9 Q Is it Jack Brantley I think is his name?

10 A Yeah. Brantley.

11 Q Okay. And so, apparently, you were asking

12 her about --

13 A I was asking her about Jack and Evelyn.

14 Q Okay. And you were on your phone at your

15 home or wherever, correct?

16 A Oh, yeah. Uh-huh.

17 Q She was at her house?

18 A Yeah.

19 Q Glenn would have been present with her?

20 A Uh-huh.

21 MS. WIMBERLY: Object.

22 A And also her niece.

23 BY MR. HOWE:

24 Q Okay. And so tell me a little bit about

25 that conversation and what you noticed that was

1 unusual about it.

2 MS. WIMBERLY: Object to the form.

3 A I just asked her, and she said, I don't
4 know. I don't talk to him that -- I can't talk to
5 him that much.

6 BY MR. HOWE:

7 Q Okay.

8 A And generally, she would tell me anything
9 I asked her about him.

10 MR. HOWE: I think that's all the
11 questions I have. Answer any questions that
12 Ms. Wimberly has for you.

13 EXAMINATION

14 BY MS. WIMBERLY:

15 Q Hi, Ms. Carroll, once again, my name is
16 Ms. Wimberly, Alexis Wimberly, and I represent Glenn
17 Gunnells. Can you hear me okay?

18 A Yeah.

19 Q Okay. And as you know, this is a lawsuit
20 that is pending in Charleston about a will that Ms.
21 Gunnells executed on or about July 3rd, 2013. Ms.
22 Harkness has brought this action against my client,
23 Mr. Gunnells, saying that Ms. Gunnells was unduly
24 influenced by Mr. Glenn Gunnells to sign a will. So
25 saying that, I want to direct your attention, once

1 again to --

2 MS. WIMBERLY: Is this Petitioner 1?

3 MR. HOWE: Yes.

4 MS. WIMBERLY: Okay.

5 MR. HOWE: Exhibit Number 1 is, one and
6 only for today.

7 MS. WIMBERLY: Okay. Okay.

8 BY MS. WIMBERLY:

9 Q Exhibit Number, 1, which you have in front
10 of you.

11 A Yeah.

12 Q I just have a few questions about this,
13 and this is my one chance to kind of talk to you.

14 A Uh-huh.

15 Q So if you don't mind just answer my
16 questions, and if you have any questions, direct
17 them towards me. Did you prepare this document?

18 A No.

19 Q Okay. Who prepared this document?

20 A I'm -- one of -- somebody else did it. I
21 don't know -- recall their names. I don't know who.

22 Q Okay. How did this document come into
23 being? Did you speak with somebody, and did they
24 write it down? I'm just -- I'm a little confused
25 about how this --

1 A Yeah. Uh-huh.

2 Q -- document was typed up.

3 A Yeah.

4 Q Is that what happened?

5 A Yeah.

6 Q Was it typed on a computer in front of
7 you?

8 A No.

9 Q Did you talk to somebody over the phone?

10 A Talked to -- told them over the phone.

11 Q Okay. And you don't remember who that
12 was?

13 A No.

14 Q Okay. You don't remember who it was,
15 because it was somebody you didn't know, or you
16 don't remember who it was because you --

17 A I don't remember who it was.

18 Q Okay. Did you sign this document?

19 A Yes. I did.

20 Q Okay. And it looks like on the fourth
21 page -- I'll direct your attention to the fourth
22 page and last page. It looks like it says, Helen
23 Carroll, and then it is signed underneath. Is that
24 your signature?

25 A The top one is my signature.

1 Q Okay. And who is -- it looks like Polly
2 Davis is the person that signed underneath you. Do
3 you know who that is?

4 A I think it's a friend of Cathy's.

5 Q Okay. But you don't know her personally?

6 A No.

7 Q Okay. So you didn't type out this
8 document?

9 A No.

10 Q Okay. And you don't know who did?

11 A No.

12 Q When you signed this document, did you
13 read through the document before signing?

14 A Yes. I did.

15 Q Okay. Did you have any chance to change
16 things at that time?

17 A No. I mean, I didn't -- I didn't want to
18 change anything.

19 Q Okay. But today, earlier today, you
20 wanted to change a few things when you arrived at
21 Mr. Howe's office, is that correct, just some
22 grammatical errors?

23 A Well, some words is all.

24 Q Okay. Who was with you when you signed
25 this document?

1 A I was -- Cathy.

2 Q Cathy. Did Cathy bring you this document?

3 A I guess. I don't know.

4 Q Okay. I'm asking, because I wasn't there,
5 obviously, so I need to know, you know, how this
6 document came into being. So do you remember when
7 you signed this document?

8 A No. I can't recall. It was a day or so
9 afterwards.

10 Q I'm sorry?

11 A It was a day or so -- the day that it -- I
12 can't remember all of that.

13 Q I understand. And I'm not -- I promise
14 I'm not trying to get you to --

15 A It might have been the same day. I can't
16 remember.

17 Q Okay. Do you remember where you signed
18 it? Was it at your home? Was it at Cathy's home?
19 Do you remember?

20 A It was at my home.

21 Q Okay. And other than yourself and Cathy
22 --

23 A That's all.

24 Q -- was anybody else present?

25 A No. Because I live alone.

1 Q Did Cathy explain to you why --

2 A Yes.

3 Q -- you needed to sign this document? What
4 did she say?

5 A What did she say?

6 Q Yes, ma'am.

7 A I don't remember.

8 Q Okay. But she explained to you why she
9 needed this document?

10 A Yes.

11 Q Okay. And I'm sorry. I just don't know
12 these things, and this is my one opportunity to ask
13 so -- going through this document a little, it looks
14 like you say that, I grew to know Cathy as if she
15 was my own; is that correct?

16 A That's right.

17 Q Would you consider Cathy almost like a
18 daughter to you?

19 A Uh-huh.

20 Q Okay. Do you trust her?

21 A Sure, I trust her.

22 Q Okay. When did you get to know her almost
23 like a daughter to you?

24 A Well, she was a private detective, and I
25 went with her a lot.

1 Q What -- what kind of things would you-all
2 do?

3 A We went different state -- different towns
4 and all. What did we do?

5 Q Yes, ma'am. What would --

6 A Just sit around -- sit in the car and
7 watch them -- watch them -- watch the ones that she
8 was -- I don't know what you call it, but anyway.

9 Q Investigating? That sounds like fun.

10 A It was fun.

11 Q Yeah. That does sound like fun. How many
12 times would you -- would you say you accompanied
13 Cathy to do --

14 A Oh, Lord. I don't remember. A lot.

15 Q A lot? So you grew close during those
16 times?

17 A Uh-huh.

18 Q Okay. Would you say since Cathy was like
19 a daughter to you, would you do anything for her?

20 A Sure.

21 Q And earlier, you said that Cathy was
22 always over at the house. How did you know that?

23 A Helen would call me and tell me that she
24 was there.

25 Q When -- were you ever there when Cathy was

1 there?

2 A Sure, yeah.

3 Q About how many times would you say that --

4 A I can't remember.

5 Q Okay. It also says here -- I'm just going
6 through --

7 A Okay.

8 Q -- the first page here, if you want to
9 turn to it. It says you did not know Belinda very
10 well?

11 A No. I didn't know her very well.

12 Q Okay. And why is that?

13 A She never came around.

14 Q Okay. How many times would you say that
15 you were around Belinda?

16 A Not no more than four or five times.

17 Q It also says, Glenn, I knew him to have a
18 drinking problem. Can you kind of explain that to
19 me?

20 A Well, I can't hardly -- I don't know how
21 to explain it, but he was just a different person.
22 I mean, you know, how you -- I guess voice
23 slurred -- slur in his voice.

24 Q Okay. Did you ever see him drinking?

25 A No.

1 Q Okay. And it looks like you also said
2 something, and I got a little bit confused in this
3 part about a Jeep, a vehicle. I guess my confusion
4 is it looks like -- honestly, can you just explain
5 to me what's going on, because I couldn't really
6 understand that part of it?

7 A Well, they had a -- the big Ford I think,
8 and then they traded it -- I mean then he got the
9 Jeep, and Jordan -- Arden got the Jeep, and I didn't
10 know that it was -- Arden was whatever, done the car
11 lot until Helen told me about it.

12 Q Okay. So you didn't really have any
13 interactions regarding this Jeep until Ms. Helen
14 told you about it?

15 A Until Helen told me about all of it.

16 Q Okay. Can you kind of explain, since you
17 were such good friends with Cathy, did she ever talk
18 about Glenn?

19 A Oh, yeah, a lot of times that he -- he
20 didn't -- she didn't -- was worried about him, his
21 drinking problem and all. She told me more about
22 it -- that than I knew.

23 Q Okay. Did you know Cathy and Glenn to
24 have a close personal relationship?

25 A No.

1 Q Okay. So how would Cathy know about his
2 drinking problem?

3 A Well, she was around him, I guess, a good
4 bit after she -- he moved in. I mean no -- I don't
5 remember all that.

6 Q Okay. And that's fair. I'm just asking
7 what you do remember.

8 A I don't remember all of that.

9 Q Okay. But you did say earlier you
10 remember when Arden got sick with cancer?

11 A Uh-huh. Uh-huh.

12 Q And he passed, I believe -- do you
13 remember?

14 A No. I don't. I don't even remember when
15 Helen passed way.

16 Q Okay. It looks like it was --

17 A Not even my own son. I don't remember.

18 Q I'm not good with dates either. So that's
19 why I had to write them down, but I wrote this one
20 down. It looks like June 8th, 2013. Does that
21 sound right?

22 A About, uh-huh.

23 Q Okay.

24 A I know it was in the spring some, seemed
25 like. I don't know though.

1 Q Okay. Did you attend the funeral?

2 A Yeah. I went to the funeral.

3 Q Okay. And did you see Glenn there? Did
4 you see Glenn at the funeral?

5 A Just a short time.

6 Q Okay. And did you see Cathy at the
7 funeral?

8 A Oh, yeah.

9 Q Okay. And then it says -- and this is at
10 the bottom of the first page. It says, the last few
11 months of Arden's life, Helen changed. What -- can
12 you kind of explain that to me?

13 A Well, no. Not really. She just was
14 different -- a different person.

15 Q Do you think she might have been sad
16 because her husband was passing away?

17 A I don't know. It could be.

18 Q Okay. Between the time of Mr. Arden's
19 passing and Ms. Helen -- Mr. and Mrs. Gunnells.
20 Sorry, there's just a lot of Gunnells in this case.
21 I like to go by first name. How -- about how many
22 times would you say that you visited Ms. Helen
23 Gunnells at her home?

24 A After or before?

25 Q After Arden passed away.

1 A Not many.

2 Q Okay. Would you say about five, more than
3 five?

4 A I can't recall.

5 Q Okay. But you did testify earlier that
6 you went to see her when Glenn was not there one
7 day; is that correct?

8 A Uh-huh.

9 Q Do you remember when that was?

10 A No. I don't.

11 Q Okay. When was the last time that you saw
12 her?

13 A I guess about a week before she passed
14 away.

15 Q Okay.

16 A Somewhere around there.

17 Q Okay. Was that that same time when you
18 came over and Glenn was not there?

19 A No. That was another time.

20 Q Okay. When you saw her for the last time,
21 where did you see her?

22 A At her house.

23 Q Okay. So you at least saw her two times?

24 A Yeah.

25 Q Okay. Maybe more at her home?

1 A I don't think so.

2 Q Between the -- between, let's see,
3 June 8th, 2013, and then February 7th, 2014, when
4 she passed?

5 A I probably did, but I can't recall how --
6 when and what.

7 Q Did Glenn ever tell you if you showed up
8 at the house to go away?

9 A Huh-uh, no.

10 Q Is that a no? Did you ever talk to Mrs.
11 Gunnells about any concerns you had about Glenn?

12 A No.

13 Q Why not?

14 A Well, I didn't think it was any of my
15 business.

16 Q Okay. That's fair. Did Mrs. Gunnells
17 ever talk to you about Glenn?

18 A Yes.

19 Q What did she say?

20 A I can't remember.

21 Q Okay.

22 A I'm one of them that when you talk about
23 somebody, I forget it.

24 Q That's a good way to be. So earlier,
25 Mr. Howe had to remind you about it looks like a

1 conversation you had about the will with Mrs.
2 Gunnells. Do you remember that conversation?

3 A No. I don't.

4 Q Okay. And I'll submit to you that Mrs.
5 Gunnells signed a will, the one that is in dispute
6 here, on July 3rd, 2013. Did you see her that day?
7 Do you remember?

8 A No.

9 Q Did you talk to her on the phone that day?

10 A Not that day.

11 Q Okay. Did you talk to her on the phone
12 around that day?

13 A I don't remember.

14 Q Okay. And did you go to the lawyer's
15 office with her that day?

16 A Huh-uh.

17 Q Did you ever go to any doctors'
18 appointments with Mrs. Gunnells?

19 A No.

20 Q Do you know who Mr. Terry Gunnells is?

21 A Who?

22 Q Mr. -- he's actually Dr. Terry Gunnells.
23 He's a minister.

24 A No.

25 Q You don't know him? You've never met him?

1 A I met him, but that's all.

2 Q Okay. So you do know who he is?

3 A Yeah.

4 Q Okay. Did you -- have you ever talked to
5 him about this situation that we're in right now?

6 A No.

7 Q No? Have you ever talked to anybody other
8 than Mr. Howe about this situation?

9 A No.

10 Q You haven't talked to Cathy about it?

11 A No.

12 Q When is the last time you spoke with
13 Cathy?

14 A Today.

15 Q Okay. What did you talk to her about?

16 A Just girl talk. I guess that's what you'd
17 call it.

18 Q Okay. How often do you speak with her?

19 A About every day.

20 Q Okay.

21 A Every day or every other day.

22 Q So in between the time that Mr. Gunnells
23 died and Mrs. Gunnells died, did you have the
24 opportunity to talk with Cathy?

25 A No.

1 Q You didn't talk with her during that time?

2 A No.

3 Q Why didn't you speak with her?

4 A Pardon?

5 Q Why did you not speak with her during that
6 time? Seems like you talk every day now, but that
7 was a -- that was --

8 A Well, at that time, she was working, and
9 she was -- I couldn't talk to her during the day
10 when she was working, and I didn't bother to talk to
11 her at night and -- only when she'd call me.

12 Because I knew what it was about life, what it was
13 like to work all day and then --

14 Q I'm sorry. I'm just looking over my notes
15 to make sure I don't have anything else. Were you
16 aware that Cathy brought a lawsuit against her
17 mother? Were you aware that Cathy sued her mother?

18 A Knew her?

19 Q Sued her.

20 A I don't know what you're saying.

21 Q She -- she brought a lawsuit against her.
22 Were you aware of that?

23 A No. I didn't know that.

24 Q Okay. I'll submit to you that she brought
25 a lawsuit against her to -- to recover some personal

1 items from the home on Capri Drive. You don't know
2 anything about that?

3 A No.

4 Q Okay. Cathy's never spoken to you about
5 that?

6 A Not that I recall.

7 Q Okay. Do you know anything about Ms.
8 Cathy coming to pick up items at Mrs. Gunnells'
9 house?

10 A Huh-uh.

11 Q No?

12 A No.

13 Q Okay. During the time after Mr. Gunnells
14 passed, do you think that Mrs. Gunnells still knew
15 who she was?

16 A Knew who Cathy was?

17 Q Knew who she was.

18 A Yeah. She knew who she was.

19 Q Okay. Did she still know who her children
20 were?

21 A Yeah.

22 Q Okay. Did she still have her whereabouts,
23 wherewithal about her?

24 A Uh-huh, yeah.

25 MS. WIMBERLY: Okay. That's all I have

1 for now. Thank you so much.

2 RE-EXAMINATION

3 BY MR. HOWE:

4 Q When you went by to visit, excuse me, did
5 Glenn ever mention that he wanted Cathy helping him?

6 MS. WIMBERLY: Objection.

7 A Uh-huh.

8 BY MR. HOWE:

9 Q Okay. You have to say yes or no, so --

10 A No.

11 Q Okay. And except for the one time that
12 we've talked about when Glenn was out of the house,
13 did he ever leave you alone to talk to Helen?

14 A No.

15 MR. HOWE: That's all the questions I
16 have. Thank you very much.

17 THE WITNESS: You're welcome.

18 VIDEOGRAPHER: This concludes tape number
19 1 and the deposition of Helen Carroll. We're
20 off the record at 1:49 p.m.

21 (Videotaped Deposition was concluded at
22 1:49 p.m.)

23

24

25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON)

3 I, Trisha G. Rarick, a Court Reporter and Notary
4 Public of the State of South Carolina at Large, do hereby
5 certify that the witness in the foregoing deposition was by
6 me duly sworn to testify to the truth, the whole truth and
7 nothing but the truth in the within-entitled cause; that
8 said deposition was taken at the time and location therein
9 stated; that the testimony of the witness and all objections
10 made at the time of the examination were recorded
11 stenographically by me and were thereafter transcribed by
12 computer-aided transcription; that the foregoing is a full,
13 complete and true record of the testimony of the witness and
14 of all objections made at the time of the examination; and
15 that the witness was given an opportunity to read and
16 correct said deposition and to subscribe the same.

17 Should the signature of the witness not be affixed
18 to the deposition, the witness shall not have availed
19 himself of the opportunity to sign or the signature has been
20 waived.

21 I further certify that I am neither related to nor
22 counsel for any party to the cause pending or interested in
23 the events thereof.

24 Witness my hand, I have hereunto affixed my
25 official seal on _____, 2015, at Charleston,
Charleston County, South Carolina.

Trisha G. Rarick
Court Reporter

My commission expires:
April 9, 2019

Case#: 2014 ES10-00202

File #: 2-10-14

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

LAST WILL AND TESTAMENT
OF
HELEN B. GUNNELLS

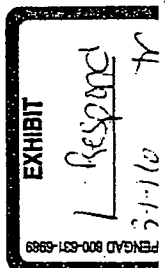
I, HELEN B. GUNNELLS, a resident of Charleston County, South Carolina, being of sound and disposing mind and memory, do hereby make, publish and declare this as my LAST WILL AND TESTAMENT, hereby revoking all Wills and Codicils heretofore made by me. I am not married and I have three children, GLENN ARDEN GUNNELLS, CATHY ANN GUNNELLS HARKNESS, and BELINDA MARIE GUNNELLS DAVIS.

ITEM I. FUNERAL AND ADMINISTRATION EXPENSES. The expenses of my last illness and funeral, including a suitable marker for my grave; legally enforceable claims against me or my estate; and all expenses relating to the administration of my estate shall be paid out of my residuary estate. My Personal Representative shall be indemnified from the estate for any damages sustained by my Personal Representative as a result of exercising, in good faith, the authority granted to my Personal Representative under this Section. The payments authorized under this Section are discretionary, and no claims or right to payment by third parties may be enforced against my Will by virtue of such discretionary authority. My Personal Representative shall have the sole authority and discretion to assess the cost and expense for the transportation and delivery of any asset directly to the beneficiary or beneficiaries receiving such asset. The decision of my Personal Representative with regard to this matter shall be final and binding on all beneficiaries.

ITEM II. DIRECTION TO PAY DEBTS WITH DISCRETIONARY REFINANCING BY PERSONAL REPRESENTATIVE. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Personal Representative may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM III. TAXES. I direct that:

- (1) Direction to Pay All Taxes from Residuary Estate. Except as provided in (2) herein, all estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will and Testament (which term wherever used herein shall include any Codicil hereto), be paid out of my residuary estate and shall not be charged to or against any recipient, beneficiary, transferee or owner of any such property or interests in property included in my estate for such tax purposes.



LAST WILL AND TESTAMENT OF
HELEN B. GUNNELLS
PAGE 1 OF 6 PAGES

000711

- (2) Apportion Taxes on Non-probate Property. All such taxes in respect to any property or interests in property included in my gross estate under Sections 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, and 2044 of the Internal Revenue Code shall be charged against and paid by the recipient or beneficiary of such property or interest in property or from the property or interest in the property, provided, however there shall be no apportionment against any donee or recipient or any such property or interest in property which is a qualified charity under Section 2055 and the property or interest in property was allowed in my federal estate tax proceedings as a charitable deduction. The amount of the tax to be charged against such donee or recipient shall be determined by multiplying a fraction (the numerator of which shall be the federal estate tax value of the property to the apportioned as finally determined in my federal estate tax proceedings and the denominator of which shall be the total value of my taxable estate for such federal estate tax purposes) times the net amount of such taxes payable by my estate after the application of all credits against such taxes.

ITEM IV. GENERAL BEQUEST OF PERSONAL AND HOUSEHOLD EFFECTS WITH A MANDATORY MEMORANDUM. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

- (1) I may leave written memoranda disposing of certain items or my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Personal Representative's qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternative provision has been made shall pass according to the provisions of the of following paragraph, and not pursuant to any anti-lapse statute.
- (2) In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath all my personal and household effects to GLENN ARDEN GUNNELLS. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM V. SPECIFIC DEVISE OF AUTOMOBILE. I give and devise to GLENN ARDEN GUNNELLS any automobile that I may own.

ITEM VI. SPECIFIC DEVISE OF RESIDENTIAL PROPERTY (NOT IDENTIFIED). I give and devise to GLENN ARDEN GUNNELLS any interest which I own at the time of my death in the house and lot which I occupy as my residence at time of my death. If this property at the time of my death is subject to any mortgage, then this devise shall be subject thereto and

the devisee shall not be entitled to have the obligation secured by such mortgage paid out of my general estate.

ITEM VII. OUTRIGHT GIFT OF ALL PROPERTY. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises) wherever situate and whether acquired before or after the execution of this Last Will and Testament, absolutely in fee simple to GLENN ARDEN GUNNELLS.

ITEM VIII. NAMING THE PERSONAL REPRESENTATIVE, PERSONAL REPRESENTATIVE SUCCESSION, PERSONAL REPRESENTATIVE'S FEES AND OTHER MATTERS. The provisions for naming the Personal Representative, Personal Representative succession, Personal Representative's fees and other matters are set forth below:

- (1) Naming an Individual Personal Representative. I hereby nominate, constitute, and appoint as Personal Representative of this my Last Will and Testament GLENN ARDEN GUNNELLS and direct that he shall serve without bond.
- (2) Naming Individual Successor or Substitute Personal Representative. If my individual Personal Representative should fail to qualify as Personal Representative hereunder, or for any reason should cease to act in such capacity, the successor or substitute Personal Representative who shall also serve without bond shall be TERRY GUNNELLS.
- (3) Final Succession If Individual or Successor Personal Representative Cannot Act. If my individual or successor Personal Representative should fail to qualify as Personal Representative hereunder or for any reason should cease to act in such capacity, then the successor or substitute Personal Representative shall be appointed by the court and shall also serve without bond.
- (4) Fee Schedule for Individual Personal Representative. For its services as Personal Representative, the individual Personal Representative shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses.
- (5) Fee Schedule for Corporate Personal Representative. For its services as Personal Representative, the corporate Personal Representative shall receive an amount determined by its Standard Fee Schedule in effect and applicable at the time of the performance of such services. If no such schedule shall be in effect at that time, it shall be entitled to reasonable compensation for the services rendered.
- (6) Change in Corporate Fiduciary. Any corporate successor to the trust business of the corporate fiduciary designated herein or at any time acting hereunder shall succeed to the capacity of its predecessor without conveyance or transfer.

ITEM IX. DEFINITION OF PERSONAL REPRESENTATIVE. Whenever the word "Personal Representative" or any modifying or substituted pronoun therefore is used in this my Last Will and Testament, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the

Handwritten signature and initials
2/28/13

Personal Representative named herein and to any successor or substitute Personal Representative acting hereunder, and such successor or substitute Personal Representative shall possess all the rights, powers and duties, authority and responsibility conferred upon the Personal Representative originally named herein.

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

ITEM XII. DISCRETION GRANTED TO PERSONAL REPRESENTATIVE IN REFERENCE TO TAX MATTERS. My Personal Representative as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Personal Representative believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Personal Representative shall not exercise its discretion in a manner as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Personal Representative shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions.

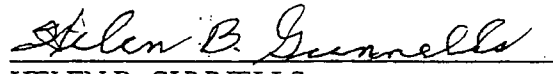
ITEM XIII. DEFINITION OF CHILDREN. For purposes of this Last Will and Testament "children" means the lawful blood descendants in the first degree of the parent designated; and "issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of such adopting parent and such adopted child and his or her issue shall be considered as issue of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or either of the adopting parents. The terms "child," "children," "issue," "descendant" and "descendants" or those terms preceded by the terms "living" or "then living" shall include the lawful blood descendant in the first degree of the parent designated even though such descendant is born after the death of such parent.

The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

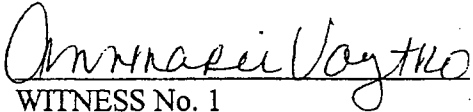
ITEM XIV. DEFINITION OF WORDS RELATING TO THE INTERNAL REVENUE CODE. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit," "state death tax credit," "pass," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Last Will and Testament, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Last Will and Testament if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to Sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

ITEM XV. SIMULTANEOUS DEATH PROVISION PRESUMING BENEFICIARY DID NOT PREDECEASE TESTATRIX. If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Last Will and Testament that the beneficiary did not predecease me.

TESTIMONIUM, ATTESTATION AND SELF-PROVING AFFIDAVIT. I, HELEN B. GUNNELLS, the Testatrix, sign my name to this instrument this 3 day July 2013, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.


HELEN B. GUNNELLS,
TESTATRIX

We, Suzanne Lafleur Klok and Annmarie Voytko, the witnesses, sign our names to this instrument consisting of six (6) pages, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix, HELEN B. GUNNELLS, signs and executes this instrument as her Last Will and Testament and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testatrix, HELEN B. GUNNELLS, and in the presence of each other, hereby signs this Will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix, HELEN B. GUNNELLS, is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

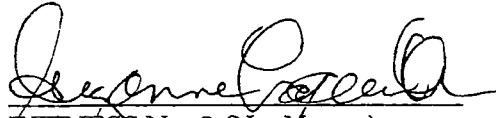


WITNESS No. 1

Annmarie Voytko

Mount Pleasant, South Carolina

Charleston County



WITNESS No. 2 (Not Notary)

Suzanne Lafleur Klok

Mount Pleasant, South Carolina

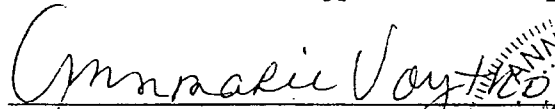
Charleston County

STATE OF SOUTH CAROLINA

s.s. PROBATE

COUNTY OF CHARLESTON

Subscribed, sworn to and acknowledged before me by HELEN B. GUNNELLS, the Testatrix, and sworn to before me by the other witness whose name appears above this 3 day of July, 2013.



NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____



Dad,

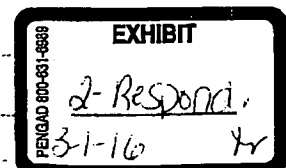
Read all of

this

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re read again

if you need
400



Dad : Mom

I still cannot believe dad that you called me a "disgrace" to you & mom and to your household -

Me! Unlike your daughter & your son, I am not an alcoholic or a drug user.

- I have never stole any checks from you. But I am a disgrace to you
- I have never forged your signature on checks stolen from you, ^{but I am a disgrace to you}
- I never stole your shotgun & sawed the barrel off, but I am a disgrace to you
- I didn't take the Cherokee Jeep you bought mom away from you, ^{But I am a disgrace to you}
- I never used your boat - but the others did, always left for you to put up, repair & clean, ^{But I am a disgrace to you}
- I have never been drunk & call your friends & relatives trying to play an electric piano with the keys lit up & still couldn't play it - But I am a disgrace to you
- I never drank enough alcohol to cause me to have fluid around my heart & caused a heart attack but I am a disgrace to you
- Never came to see you or mom

in the hospital. And what is
many times with more for surgery
But I am a disgrace to you

I have always been there
for you; mom. I always
put both of you 1st. Regardless
if I was sick, well, tired,
family problems. What ever
you + mom came 1st. All
mom had to do was hint +
I tried to make sure it happened
But I am a disgrace

Where was the other 2 for
13 yrs?

I have always tried to live
my life with your standards
of what is right + wrong. Up
until now, you were
my heroes in life.

Me? I was always there.
I always stopped what I
was doing to come help.
Regardless - But I am a disgrace

Friends (Berta + Frances) / family
etc, Aunt Evelyn, Uncle Jack etc etc

would come down - I always
came to clean house, cook &
clean up -

Me? I was always there to
help you in your fields & ve
garden - broke arm, surgery
on my knee - I was there
pulling weeds, picking &
watering without you taking
note of the pain I was in -
on crutches & cast -

Where was the other 2 -
One always laid up drunk
while the other so wrapped
up in their social life - I
Never complained -

I help Mr (name) with his
yard for weeks because he
was sick - I cut his grass.
I never said a word - that
was your friend & the man
a lot to you - So I helped

As you called me, your little
Nigger -

I am not a lesbian nor
gay - Being queer, gay +
having sex with another
man is just not right -
"Your standards". But I am your disgrace

But you dad, the mere
fact that choose to take
bad advice against your
better judgement, only a
con person with motive
could have convinced you
too:

#1. Think me, Chad or Tracy
would have taken mom's
rings - (You never thought
of Glen, Linda, English or
her children - which had
been there for the holidays)
You allowed it. You
allowed someone to
make you think of all
people me, Chad +
Tracy - (there they were right next to mom
side of the bed in a jewelry box)

And here mom wanted the
house cleared. All Tracy
+ I did was to help yall-

#2. You allowed Glenn to
sign a police report on
me, Tracy & Chad. A
drunk! Someone who
had stolen from you,
forged & stole checks
from you.

You allowed a drunk & a
queer who didn't live in
your house to file a
police report because
you couldn't.

#3. You put a drunk on
in line on your will.

~~III~~
You really need to take
a look at to whom I
the conniving, con &
one with a motive -

Who has taken advantage
of you? Who has conned
you? Who has taken &
stolen from you? Who
has given you bad advice?

It wasn't me -

Who is it dad.

#4 - Who talked you into a car lot - You had to mortgage your house + you got stuck paying that payment yourself -

+ not to forget - Don't let Cathy know anything about it - Be very quiet - (Linda, Garry, all mom's family knew about it, Belinda's kids knew) Everyone but me knew -

#5 Glenn's trailer - Again everyone knew but me -

#6 Belinda house + your credit card - Everyone knew but me -

Even when I showed you the tax papers with your name on it, you still lied to me - Black + white Charleston + N. Charleston

law papers - They couldn't
have put your name on any
property or sell without
you -

No wonder nothing is left?
No wonder you are in a
financial disaster? Look
what "your" 2 children did
to you - And you allowed
it.

Your 2 children who put you
in this mess can bail
you out -

Ric + I offered to buy your
house from you + you
could live there forever
you + mom - Never would
have to worry -

But again you choose
to look after Glenn +
Belinda - ~~there~~

their part? What did you
say 15,000 for each -

They already spent their inheritance - I do believe they owe you money.

Again you wanted us to pay them 15,000- each, we work out butts off to make a 1700⁰⁰ house pymt to a house we wouldn't live in for many many years to help you get relief.

Here Ric + I were going to buy your house + all you could think about was your daughter Belinda + your son Glenn -

They spent their inheritance?

#1. The year I lived with you - I paid rent, I lived by your rules:

rules were: You will have all respect for anyone who comes into your house - (your quote) if you can't get along with any one, go

upstairs or Leave for a while.

I was never out of line. Why
because of respect for you
& mom. Your house, your
rules-

But 12-23-2010. (if you had a hearing
aid & paid attention to Glenn)
Your son was out of line -
He provoked me, looked at
me smiling while provoking
me while saying things:

You missed it all? all of
what he said & the looks
& smiling while saying them

Glenn knew you wouldn't
be able to hear him & he
knew you could see him
because your head was
down while I was cutting
your hair-

You "NEVER" considered why
I lashed out to Glenn. You
never thought to ask me?

Again, you believe Glenn.
I was not wrong - You
just believed what you
wanted.

All these years of Glenn +
Belinda sibling rivalry watching
them + listening, I have
never been out of line or
your house -

But Glenn moves in with
you + you allow him
to disrespect others, I
don't understand -

Again, rules change for them
you only see what you
want + hear what you want -

Your question should be
what does he want now
in return -

12-24-10 - X-mas eve - I brought
over your + mom's X-mas
gifts.

You told "me" I was a
disgrace to you + mom +
to your household.

You looked right in my eyes
+ called me a "disgrace".

I asked you, did you call
Glenn a disgrace, you held
your head down, never said
a word + walked away.

I have allowed you + mom
to ~~continuous~~ continuous
hurt me, accuse me of
theft, be lied to, be put
3rd line line, be addressed as
Oh this is my other daughter, +
allow others to plot with you

The look in your eyes when
you called me a "disgrace" is
a look I will never forget. +

I do believe you need to
reevaluate who is a
disgrace.

I am not a disgrace?

I stood my ground with Glenn in
your home. I called it as it is -
You can stand it whether you want
to believe it or not - It doesn't matter
anymore -

+ another thing, the nerve of your
son to send me a letter asking for
me to help ~~him~~ financially - You
did that, not me? You, Glenn +
Linda put you in that bind. It's
their responsibility to pay back
+ help - You did it all together.

Ric + I offered to buy your house
But you choose Glenn + Linda again -

Just remember dad

I am not a disgrace
I'm not the wrong child a disgrace

Someone can't be a disgrace who tells the truth as I did & stood up for myself as you allowed Glenn to talk to me that way - Shame on you dad

You judged & took one side of the story & not the whole story & you judged & said it was a disgrace. ~~Glenn~~

You didn't even consider asking me my side. You again took Glenn's side & believed him -

Pre-judgement

You didn't take the time or be open to who was wrong. You listened to a lie or maybe 1/2 the truth & that's what you went with

Be you can bet on one thing dad

I am not a disgrace

Cathy Harkness
2255 Lamb St.
Charleston, SC 29414
843-830-5018

June 27th, 2013

Helen Gunnells
1931 Capri Dr.
Charleston, SC 29407
843-556-2837

Re: Items That Belong Too Me (list below)

Dear Helen Gunnells (Mom),

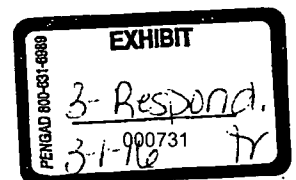
I have been advised by a Judge to send you this notice informing you that you have 10 days from the above date to respond back to me in regards to me picking up my personal things. Due date for your response is July 8th, 2013.

If I do not receive a response or my personal things, you leave me no choice but to take Legal Action against you mom. The continuous bad advice your son gives you have left me no choice too get my personal things.

My personal outside the house items listed below I want back:

#1. My green riding lawn mower. (Glenn helped load & move from my house & unload to dad's house) My lawn mower is to be in great working order with the key. No one is to damage, destroy, tamper with the wires, gas tank, motor, wheels or harm in anyway or I will request for you to buy me another one.

#2. My white washer & white dryer. (Glenn helped load & move the washer & dryer from my house & unload to dad's house) My washer & dryer are to



be in great working order. No one is to damage, destroy, tamper with wires, motor or harm in anyway or I will request for you to buy me another.

#3. My 3 stainless steel tables outside. (Glenn helped load & move them from my house & unload to dad's house) No one is to damage, destroy, tamper with them or harm in anyway or I will request for you to buy me 3 other ones.

#4. My stand up white refrigerator/freezer in the garage (Glenn helped load & move from my house & unload at dad's house) My refrigerator is to be in great working order. No one is to damage, destroy, tamper with the wires, motor, ice maker, cooling system, free-on or harm in anyway or I will request for you to buy me another one.

#5. My orange hedge clippers that I bought for my Aunt Dovie & me. My hedge clipper is to be in great working order. No one is to damage, destroy, tamper with the wires, motor or the blades or harm in anyway or I will request for you to buy me another one.

#6. 1 black firewood rack. (Glenn help move from my house & unload at dad's house).

#7. Glenn has already given Terry Gunnells dad's table saw. No other tools are to be sold or given away until I can get mine back. A blue drill, the big clear plastic covered assorted with drill bits etc. on left side of garage on wire stand, the big & little black clamps with yellow holders (approx 4 each), the big & little blue & yellow clamps (approx 4 each), the LCD light that fits around your head, an a few other tools. I will look through dad's tools and get just mine.

On June 25th, 2013 Tuesday, Terry Gunnells called me and said he spoke to your son, Glenn Gunnells and that Glenn agreed he knew of these items and acknowledge them as being mine but Glenn wanted me to leave a letter in the mail box so he can review them. I called @ 5:30 p.m. and left a message on your phone recorder that I just talked to Terry and I can pick up my refrigerator, washer & dryer, lawn mower and then you pick up the phone. You said you had company and asked for me to call back tomorrow. I said, mom I have already got people lined up to pick up my things Wednesday around 6:30 p.m. You said you have a doctor appointment and I said, mom

you should be finished by 6:30 but you said I don't know if I will, call me tomorrow. I said ok.

I called June 26th, 2013 @ 11:35 a.m. I got the recorder again. I said mom, I will be over there around 6:30 to get my washing machine & dryer, my lawn mower, refrigerator and before I could finish your son Glenn picked up the phone. Stated he just walked in. Terry doesn't tell us what we can do or don't do here. You will write me a list and leave it in the mailbox and I will look it over and let you know. I hung up!

I "do not" have to leave Glenn a letter of what is mine for him to decide or review. Glenn was there at my house & helped remove, load onto dad's truck with dad there and he helped unload my items at dad's house. Plus I have left 2 messages on your phone recorder of these items.

Legal Counsel has stated this Certified Letter and the information above and below is only required, unless "you do not respond.

I also want my personal items from inside the house. That list is as follows:

#1. DINNINGROOM:

- 2 candle holders on table with glass globes.
- 2 pictures on the wall. My name is written on the back.
- 2 vases that are tall, reddish with tan swirls.

#2. LIVINGROOM:

- My white couch

#3. MOM'S BEDROOM

- My white chair that matches the white couch.
- My tall standing oak jewelry box by the door.

#4. UPSTAIRS HEAD OF STAIRS: (Where gun case was at)

- My oak table (approx 4') with thin gold trim.

#5. KITCHEN:

- The stainless steel 3 tier cart by refrigerator on casters.

#6. OVER ATTIC:

I know I have some of my things up there as well. I need to come look.

Mom, I am so sorry you have chosen to continue take bad advise. Look what it has done to us mom and what it is boiling down to now legally.

Mom, you and Glenn need to understand what Power of Attorney means and represents. You are not incompetent! This is your decision alone to make.

Mom, legal recourses can be avoided if you choose. Please I ask of you. Do the right thing. Give me back my personal things.

"You" need to call me if you decide to give me back my personal belongings. I "will not" except a phone call from Glenn. If you chose, I would need a date and time for pick up. A weekend would be great please. "Do Not" put or leave my belongings on or by the street, up close to garage doors please, for Glenn can move one of the vehicles out of the way for a few hours. "Do Not" put my belongings out if it is raining or overnight outside please. I would not want another legal issue with you mom. I will be taking photos for any damages before anything leaves your property.

Your daughter,

Cathy

Cathy

cc/Jack Brantley
cc/Belinda Davis
cc/Terry Gunnells

*if you want you
can buy these
items that belong
to me for
\$1845.00*

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

766-6531
IN THE MAGISTRATES COURT Case # 2431
Rec #

Colleen Morris-Hutchins
843-830-5018
Phone # Plaintiff(s)

vs
Helen B. Gunnells
843-556-2837
Phone # Defendant(s)

SUMMONS
IN
CLAIM AND DELIVERY

To: Helen B. Gunnells Defendant, complaint having been made to me by
the Plaintiff in this action, that you are in the wrongful and unlawful possession of the personal property described
in the attached Complaint and Affidavit. You are therefore required to appear before me, in my office located at
1720 Sam Rittenberg Blvd., Unit 11, Charleston, SC 29407 on August 23, 2013 at 10:00 AM
Address Date Time
to answer this complaint, or judgement will be given against you by default for the possession of the said personal
property or in the event possession cannot be had for the value thereof in the amount of \$ 1845.00
together with the cost and disbursement of this action.

DATED 7-15-13

Ellen S. Steinberg
MAGISTRATE
~~Bonnie L. Koontz~~

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

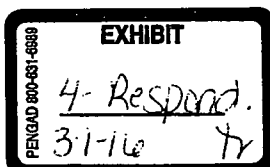
ORDER RESTRAINING DAMAGE OR CONCEALMENT OF PROPERTY

You, Helen B. Gunnells the defendant in this action, who, upon information and belief,
has possession of the personal property describe in the attached Complaint and Affidavit, are ordered to restrain
from damaging, concealing, or removing from Charleston County the described property.

This order shall remain in effect until final adjudication of this action, and violation of this order shall subject you to
a fine of \$100.00 or a term of imprisonment of thirty (30) days.

DATED 7-15-13

Ellen S. Steinberg
MAGISTRATE
Bonnie L. Koontz



2431

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE MAGISTRATES COURT

AFFIDAVIT and COMPLAINT
in
CLAIM and DELIVERY

Cathy Morris-Harkness
843-830-5018
2255 Lamb St -
Charleston, SC 29414
Plaintiff(s)

vs
Helen B Gunnells
843-556-2837
931 Capri Dr -
Charleston SC 29407
Defendant(s)

Plaintiff, Cathy Morris-Harkness, personally appearing before me, who being duly sworn, states the following:

1. The Plaintiff is the owner, or is entitled to possession, of the property described below:

My Green riding lawn mower, white washer & dryer, 3 stainless steel commercial tables, Sharp Refrigerator/Freezer, orange hedge clippers, black firewood rack, 3 small pictures, 2 vases white (burly white chair), oak jewelry box, oak table, stainless steel 3 tier cart, tools, flower pot, 10 paint

2. The property described above is being wrongfully withheld by the defendant, Helen B Gunnells

3. To the best knowledge of the plaintiff, the property is being withheld by the defendant because: her son claims it's hers since dad died

4. The property was not/was taken from the ownership or possession of the plaintiff due to any tax, fine or assessment (and if seized, it should not have been seized by virtue of its exempt status).

5. The actual value of the above described property is: (Itemize and give total if more than one item involved.)

riding lawn mower 600, washer & dryer 500, stainless steel tables 100, Refrigerator 150, clippers 25, fire rack 10, tools 100, white couch 75, white chair, 50, oak jewelry box 30, oak table, 35, stainless steel 3 tier cart 50, 3 small pictures, vases 75 (attic contents unknown)

TOTAL \$ 1845.00. This amount has been determined in the following manner, to wit: fair value price

6. That the Notice of Right to Cure as required by Section 37-5-110 and Section 37-5-111, Code of Laws of South Carolina, 1976, as amended, has been given by _____ on _____ DATE

DATE FILED: _____

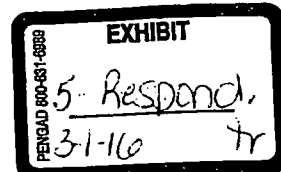
SWORN TO BEFORE ME THIS 15th DAY

OF July 2013

M. S. [Signature]
MAGISTRATE OR NOTARY

MY COMMISSION EXPIRES: 2.17.15

[Signature]
PLAINTIFF



Happy Birthday Mom!

I'm sorry about Amy and
that dad isn't there with
you on your / Yall's Birthday.

It's OK to cry & wish they
were with you, each day -

But it seems you are
happy & satisfied with your
choices you have made -

I am happy for you that you
are happy, have everything
you need and want and most
of all that you are content
and can sleep good at
night.

It's tough being isolated & told
what to say and being coached
all the time -

Choices we make in our life
(right or wrong) are ones we live
with each day - Some we can
never fix and others are a
phone call away -

Love to you on your Birthday Mom -

Mom, don't you miss just
getting out and riding around
going ^{or} threw Belks- Nothing but
being in your wheel chair and
strolling around.

My Neighbor is 86 + we go twice
a week just riding around, go
around the mall just looking,
Costco looking around, out for
just an ice cream.

It's a shame you "can" + "don't
want to be apart of that.

When did your desire in life
stop mom? There is so much
now that you could see + enjoy.

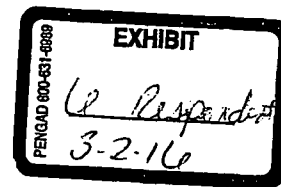
I ~~DO NOT WANT~~ to talk about
or hear about Glenn. But there
are other things in life to talk
about, laugh about + cry about.

You + me always had a great
time together.

I have "no" desire to go in your or
Glenn's house But I do have the
desire to be with the mom I
use to know - Cat

November 4, 2014

S. Leigh Wechter, PT
PO Box 610
Ravenel, SC 29470



To Whom It May Concern;

In December of 2013 and January of 2014, I worked as a Home Health Physical Therapist with my client Helen Gunnells. Her son, Glenn, lived in the home with her and was her primary caregiver. He frequently answered the door when I arrived and often walked out with me as I left, during which time we would discuss her progress or health care issues regarding her Physical Therapy. He appeared genuinely concerned about Mrs. Gunnells, and would take care to prepare her meals, fix her medications and make recommended safety changes to her home to protect her from falls. Glenn worked to ensure Mrs. Gunnells had caregivers in the home to assist her with her personal care, as well as provided her with transportation and assistance with all of her medical appointments.

Mrs. Gunnells rarely talked with me of her daughters and whenever she did, she would become emotional and she would say that she only trusted Glenn when it came to her children.

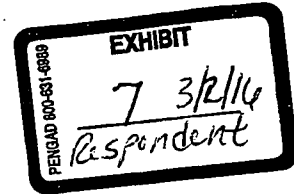
As a practicing PT of 28 years, it is my personal and professional opinion that Glenn was an exceptional caregiver for his mother.

Sincerely,

S. Leigh Wechter PT
S. Leigh Wechter, PT

November 4, 2014

Jill S. Costa, PT
2244 Ashley Crossing Drive #131
Charleston, SC 29414



To Whom it May Concern:

I first met Glenn Gunnells in the summer of 2009 when I was taking care of his mother for Home Health Physical Therapy. Glenn would usually arrive during our visits and bring groceries to cook lunch/dinner for his mother and father. When I treated Mrs. Gunnells a year later, Glenn was still assisting his parents with meals/groceries/running errands and assisting around the house.

I had the chance to work with Mrs. Gunnells again, in the summer of 2013, right after her husband passed away. At this time, Glenn had moved in to the house and was his mother's main caregiver. He made sure that she had other caregivers to assist with her bathing, and to make sure she was never alone. Every visit, I got to see how devoted he was to his mother, in which he made sure she had the best possible care. During these visits, Mrs. Gunnells shared with me how upset she was with her daughters, that they weren't there for their father as he was ill/dying. She was also concerned that they were not helping her, and that they were being mean to Glenn.

During one of my visits (6/24/2013), I had an encounter with one of Glenn's sisters, Linda. She arrived during our treatment session and Mrs. Gunnells did not want to see her, so I went to the front door to tell Linda we were in the middle of a treatment session and that her mother asked that she phone her later. Linda screamed at me, "I want to see my mother now" and then pushed the door into me and tried to shove me out of the way, at which point I screamed for Glenn and together he and I tried to keep her from getting into the house. Linda left when we threatened to call the police. Mrs. Gunnells was crying when I got back to see her, she said she couldn't believe that her daughter would act like that.

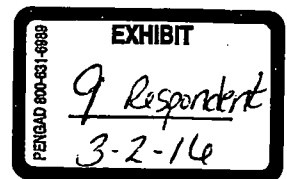
I have met many families over the years, and I can say that Glenn Gunnells is one of the best caregivers I've ever worked with. His concern was evident for his mother's health, safety and well being. He always followed and asked for recommendations to make sure his mother was as safe as possible in the house. Mrs. Gunnells was very lucky to have Glenn taking care of her.

Sincerely,

Jill S. Costa, PT
Jill S. Costa, PT

Cathy

YOU MIGHT NOT KNOW IT
BUT YOUR FATHER AND MOTHER
ARE IN A FINANCIAL BIND!
HE'S BORROWING FROM CREDIT
CARDS TO MAKE ENDS MEET EVERY
MONTH. THESE MEDICAL BILLS AND
DENTAL BILLS HAVE A CO-PAYMENT
THAT KEEPS COMING AND DOESN'T
SEEM TO STOP! THE REASON
I KNOW IS BECAUSE I TRIED TO
HELP THEM REFINANCE THE HOUSE
AND KNOW THEIR INCOME AND
OUT GOING, WHICH THE MINUS IS
MORE THAN THE PLUS! THEY WERE
DECLINED FROM THE BANKS BECAUSE
OF INCOME AND AGE! I GIVE
THEM \$200.00 A MONTH WHEN I CAN
AND LINDA GIVES THEM \$100.00 A
MONTH WHEN SHE CAN! HE'S TOO
PROUD TO ASK FOR ANYTHING BUT
I'M ASKING IF YOU COULD "HELP"
JOIN US IN GETTING THEM OUT
OF THIS "HOLE" AND MAKE THEIR
"LIVES" A LOT LESS WORRING AND
STRESSED FOR THE REMAINDER OF
THEIR YEARS LEFT ON THIS EARTH!
PLEASE GIVE THIS YOUR CONCERN
AND ATTENTION IF YOU WOULD!!



[Handwritten signature]

a letter
Glenn wrote
me
mailed
Aug. 6, 2010

CHARLESTON SC 294
05 AUG 2010 PM 1 T



Cathy Hartman
1007 Recan Rd.

Hamham SC 29445
29406-1334

Hi Cathy:

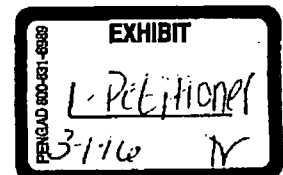
Hope all is going well with you today. It was good to hear from you, but sorry that you are having trouble getting some of your property back.

I talked to Helen and Glenn this past Monday (July 12th). Helen gave the phone to Glenn to explain to me what was going on with the property. After some discussion, he told me that he would have the property ready for you to pick up on Friday, July 12, 2013. I encourage Glenn to do just that and get this over with because it seemed so simple to do and would prevent any more controversy with him and Helen. Hopefully, this can all be resolved with no disturbance or embarrassment to Helen and in the community.

Take care and hope you can get this taken care of quickly and amicably.

As ever,
Uncle Jack

000743



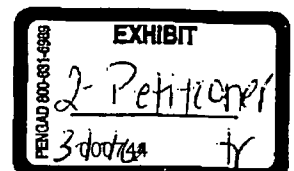
Cathy Harkness <cg.hark@yahoo.com>
Fw: Your e-mail
July 22, 2013 7:55 AM

Belinda, can you print this out for DSS visit today for us.

— Forwarded Message —

From: THOMAS BRANTLEY <thomasbrantley@bellsouth.net>
To: "cg.hark@yahoo.com" <cg.hark@yahoo.com>
Sent: Monday, July 22, 2013 7:47 AM
Subject: Your e-mail

Cathy: sent you an e-mail last night, but it would not go from my I-Pad. Guess you do not have an I-Phone or something else was wrong. It is perfectly okay for you to give my phone number to DSS. It is 706.554.7866. I was surprised again yesterday. I received another call from Helen. That was the second one on two consecutive days. She still does not talk to me about things like she did when Arden was living, but only nondescript things, e. g. the weather, how are we doing healthwise, etc. I am still concerned that you and Linda are not going over and providing some oversight on her health situation and lending some help. Glenn should be thankful for you both to help out and so should Helen. Hope things go well. and will talk later.
Jack



You're seeing Basic Mail because you're using an unsupported Internet browser. Upgrade your browser or get the mobile app for the full Yahoo experience. Don't show this again.

Cathy

Sign Out
Home

Mom

Compose

Inbox (4)

Drafts (6)

Sent

Spam (9)

Trash (13)

My Folders

documents

Jokes etc

legal k-man d...

Misc e-mail ad...

Mom

wedding pictur...

Work Informati... (5)

Contacts

Notepad

Calendar

Delete

Reply

Reply All

Forward

Actions

Apply

MUSC Health

Shorter Wait Times for Lung Transplants

Sponsored

Helen Brantley Gunnells
 Wednesday, February 26, 2014 6:45 PM
 From: "THOMAS BRANTLEY" <thomasbrantley@bellsouth.net>
 To: "cg.hark@yahoo.com" <cg.hark@yahoo.com>

[Empty]

[Empty]

Full Headers Printable View

[Edit]

TO WHOM IT MAY CONCERN:

My sister, Helen, was an independent and opinionated, but loving person. She was intelligent and at one time, owned and managed her own business.

Soon after the diagnosis of her husband's (Arden) illness, it was necessary for them to depend somewhat on the assistance of their children. At one time, Cathy was their main helper with household chores and personal requirements.

Shortly after Arden died in July 2013, their son Glenn moved into their home. After his death, I began to notice a change in Helen's communication with me. We always called each other at least once a week, but after Arden's death I called more often--2 or 3 times a week. If she didn't hear from me, she would call me. When she called, it was when Glenn was either outside or doing errands.

Some of the conversations troubled me. For instance, during the time Cathy had surgery on her leg to remove a cancer, I often suggested that she should call her daughter and ask how she was doing. Helen's response was always, "I'll ask Glenn". After I insisted, she would say, "I'll ask Glenn and think about it".

Other concerned conversations were anytime I asked about how things were going, she would give the phone to Glenn to answer any questions or comments.

For some reason, she seemed reluctant to respond to my comments or questions if Glenn were present. When she called me, (always when Glenn was not there) she would conclude the conversation when he came into the room. I commented about this to my wife and told her I thought something was not right--Helen won't talk to me as freely and warmly as she had in the past.

Helen, a formerly loving and caring sister, had suddenly become quite distant to her baby brother.

Compose

Delete

Reply

Reply All

Forward

Actions

Apply

Sponsored

ADT
FREE Installation & Activation
on ADT Pulse

[Home](#) | [Email](#) | [Voice](#) | [Address Book](#) | [Calendar](#) | [Preferences](#)

Folders

Inbox (9)
 Sent
 Drafts
 Spam
 Trash
 Audi
 Charleston Ma
 Dad Mom
 Donations
 eBayPayPal (12
 Eddie (1)
 English

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Arranged by: Date 8 messages

Re: Belinda Davis May 19
 <No Subject>

YOU
 GLENN GUNNELLS May 19

YOU
 GLENN GUNNELLS May 18

Re: Belinda Davis May 13

Re: Belinda Davis May 07

<No Subject>
 GLENN GUNNELLS May 07

YOU
 GLENN GUNNELLS May 06

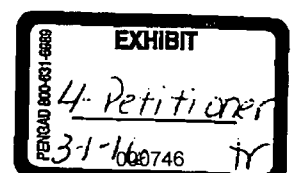
YOU

Sent By: "GLENN GUNNELLS" <caseygunn1@att.net>

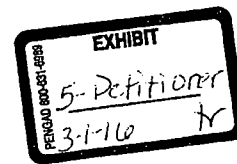
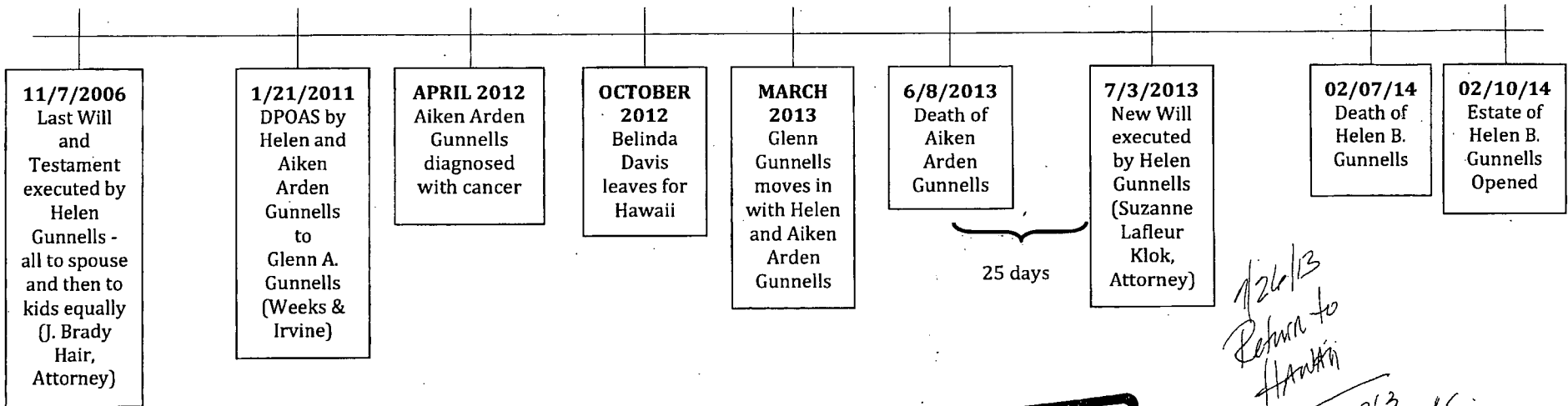
To: Belinda

LET IT BE KNOWN , NOTHING WILL BE SIGNED ARE
 INITIALIZE TILL I LOOK AT IT!!!SO LET IT BE WRITTEN SO
 LET IT BE DONE!! ALL AS BEEN NONE AND
 NOTIFIED!!!!!!!!!!!!!!

On: M
 0:
 11
 P



**TIMELINE - WILL CONTEST
ESTATE OF HELEN B. GUNNELLS
2014-ES-10-0202**



1/26/13
Return to
Hankin
Dec 2013
within 15 2 wks
Return to
CHHS - P
000747



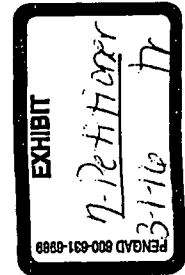
**CHARLESTON COUNTY
DEPARTMENT OF SOCIAL SERVICES**
3366 Rivers Avenue
North Charleston, SC 29405
Telephone: (843) 953-9400 Fax: (843) 953-9620

Blair James
NAME
953-0688
EXT. NUMBER



**CHARLESTON COUNTY
DEPARTMENT OF SOCIAL SERVICES**
3366 Rivers Avenue
North Charleston, SC 29405
Telephone: (843) 953-9400 Fax: (843) 953-9620

Kishia Gibbs
NAME
953-0687
EXT. NUMBER



000748

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF

CHARLESTON

IN THE MATTER OF:

HELEN B. GUNNELLS

(Decedent)

CASE NUMBER:

2014 ES 10 002
2014 FEB 25 PM 12:50

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

* _____
Petitioner(s)

vs.

* _____
Respondent(s)

APPLICATION FOR INFORMAL

(check any that apply)

- ☒ PROBATE OF WILL
☒ APPOINTMENT

*PETITION FOR FORMAL

- ☐ TESTACY
☐ APPOINTMENT

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. If this is a formal filing, please explain below or attach pleadings pursuant to *SC Rules of Civil Procedure*.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC) AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

If not a formal filing, please indicate N/A. NA

2. Decedent Information:

Full Legal Name
(including all known names):

HELEN BEATRICE GUNNELLS

Date of Birth: OCT 1, 1929

Date of Death: FEB 7, 2014

Age at date of death:

84

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

☒ Decedent was domiciled in this County at date of death:

Address: 1931 CAPRI DR.; County: CHAS.; State: South Carolina.

☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this County at date of death:

Address: _____; County: _____; State: South Carolina

☐ Decedent has a right to take legal action in this County because: _____

If the above address is the address of a nursing home, a prison, or other residential facility, please give the last address of the Decedent prior to entering the facility: _____

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent

GLENN ARDEN GUNNELLS 7-7-57 1931 CAPRI DR CHAS. S.C. 29407 (SON)

(use additional sheet if necessary)

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent

BELINDA DAVIS ADULT CHAS. S.C. DAUGHTER
CATHY HARKNESS ADULT CHAS. S.C. DAUGHTER

(use additional sheet if necessary)

4(c) Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by the Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this State or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM 111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11. The Decedent died with probate personal property having an approximate value of \$ _____ and/or probate real estate having an approximate value of \$ 544,900. (Note: A complete inventory of probate assets with fair market values to be filed after Personal Representative is appointed.)

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

☒ NO ☐ YES If yes, please explain on page 3 and then proceed to Section II.

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

1. Regarding the Decedent's Will:

- ☒ The original is attached.
☒ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☐ The Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached.

2. The execution date of the Will was: JULY 3, 2013
Codicil(s): _____

3. Does Decedent's Will refer to a Memorandum (list disposing of tangible personal property)?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (devisee, spouse of a devisee, or issue of a devisee)?

☒ NO ☐ YES If yes, please explain on page 3.

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

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

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of above Primary Personal Representative in Will
☐ nominee of above Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:

N/A

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

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

SWORN to before me this 10th day
of Feb 20 14

Notary Public for South Carolina
My Commission Expires: 11/15/11

Signature of
Applicant/Petitioner: Glenn A. Gunnells
Print Full Name: GLENN ARDEN GUNNELLS
Address: 1931 CAPRI DRIVE
CHARLESTON, S.C. 29407
Telephone (work): _____
(Home): 843-556-2837
(Cell): 843-343-3270
Email: CASEYGUNN13@COMCAST.NET
Relationship to Decedent/Estate: SON

SWORN to before me this _____ day
of _____ 20 _____

Notary Public for South Carolina
My Commission Expires: _____

Signature of Co-
Applicant/Co-Petitioner: _____
Print Full Name: _____
Address: _____
Telephone (work): _____
(Home): _____
(Cell): _____
Email: _____
Relationship to Decedent/Estate: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed

July 3, 2013

be informally ☒ GRANTED ☐ DENIED.

Executed this 25th day of Feb, 2014.

H. H. H. H. H.

, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Notice to Creditors

- ☐ Fiduciary Bond in the amount of \$ _____
- ☒ Bond waived by Will or Personal Representative nominated by Will
- ☐ Bond waived by Will or Personal Representative nominated by Will
- ☐ Bond not required as Personal Representative is sole heir or sole devisee
- ☐ Bond not required as Personal Representative is state agency, bank, or trust company
- ☐ Bond waivers filed
- ☐ See order dated _____
- ☐ Other: _____

☒ Required
☐ Not Required

Executed this 21st day of Feb, 2014.

H. H. H. H. H.
Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Glenn A. Gunnells
Print Full Name: GLENN ARDEN GUNNELLS
Address: _____

Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

Signature: _____
Print Full Name: _____
Address: _____

Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

Attorney: _____
Address: _____

Telephone: _____
Email: _____

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF:

CHARLESTON

IN THE MATTER OF:

HELEN B. GUNNELLS
(Decedent)

2014 MAR -5) AM 11:27

INFORMATION TO HEIRS AND DEVISEES

CASE NUMBER: 2014ES10-00202-2

PROBATE COURT
CHARLESTON COUNTY

On FEB. 25, 2014, Application/Petition was made to the Probate Court of
CHARLESTON County at (address), _____
for the (check all that apply):

INFORMAL

FORMAL

☐ PROBATE OF WILL
☒ APPOINTMENT

☐ TESTACY
☐ APPOINTMENT

in the above matter.

(Complete if applicable) The Decedent's Will dated JULY 3, 2013, Codicil(s) dated NONE
and Memorandum(s) dated NONE was/were presented.

Bond HAS ☐ HAS NOT ☒ been filed.

This notice is being sent to persons who have or may have some interest in the estate.

Please note: This form is required to be sent to all potential devisees and heirs of the Decedent. Receipt of this form does not mean that you will inherit from the Decedent. You may review the file in the Probate Court or see an attorney if you desire further information.

My application/petition was granted within the past thirty (30) days on FEB. 25, 2014.

Applicant/Personal Representative Name:

Address:

Telephone (Work):

(Home):

(Cell):

Email:

Co-Applicant/Co-Personal Representative Name:

Address:

Telephone (Work):

(Home):

(Cell):

Email:

Attorney:

Address:

Telephone:

Email:

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young, Sr.
Circuit Court Judge

APPELLATE CASE NO. 2017-001131

Glenn Gunnells, Individually and as the Personal Representative
of the Estate of Helen B. Gunnells.....Appellant.

v.

Cathy G. Harkness Respondent

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the *Record on Appeal* contains all material
proposed to be included by any of the parties, not any other material.



Robert B. Varnado, S.C. Bar # 0007850
Alexis Wimberly McCumber, S.C. Bar # 101611
BROWN & VARNADO, LLC
P.O. Box 1127
Mount Pleasant, South Carolina 29465
(843) 737-7300
Attorneys for Appellant

March 1, 2018

RECEIVED

MAR 02 2018

SC Court of Appeals