

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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Thomas L. Hughston, Jr., Circuit Court Judge S.C. SUPREME COURT

Case No. 2009-CP-10-3010

Ex Parte:

John Hughes Cooper,

Appellant,

In Re:

Betty Fisher and Lisa Fisher

Plaintiffs,

v.

Bessie Huckabee, Kay Passailaigue
Slade, and Sandra Boyd,

Respondents.

RECORD ON APPEAL
VOLUME III
(pp. 1001 – 1265)

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1 Q. Did you have the conversation later --

2 A. Yeah. She told me this after her dogs
3 had passed away.

4 Q. Okay. After all of them passed away?

5 A. Uh-huh.

6 Q. So this would have been in 2008 when
7 you had the last conversation about the dogs?

8 A. She mentioned it.

9 Q. And was this before elder care was
10 involved?

11 A. I don't remember.

12 Q. And when she made that statement, did
13 you tell her that you were going to buy land?

14 A. No.

15 Q. Did you tell her that you weren't going
16 to buy land?

17 A. No.

18 Q. Did you tell her you weren't going to
19 take any more animals in?

20 A. That would have been a lie. No.

21 Q. But you knew that you were getting a
22 substantially greater gift than Bessie Huckabee for
23 your prior promise to take care of her animals and
24 purchase this land?

25 A. No. Only thing I ever promised Alice,

1 if anything happened to her, her dogs could come
2 and live with me. I did not make that statement
3 for any gain. I had no idea if she would even
4 offer me money to take care of them until she died.

5 Q. And so --

6 A. That's the only thing I ever promised
7 her.

8 Q. When you made that promise, how many
9 dogs did Alice have?

10 A. Three. No, I take that back. She had
11 one. That was when she was going to retire, and we
12 took up a collection for her to buy a dog. And she
13 was afraid to get a dog because she said, what if
14 something happened to me?

15 And I told her they could come and live
16 with me.

17 Q. Okay. So she had a dog. Why did you
18 get a collection to get a new dog?

19 A. Her dog was up in age, and she had
20 indicated she would like another dog.

21 Q. But Alice generally got rescue dogs;
22 isn't that correct?

23 A. No.

24 Q. No. So where did she get her dogs?

25 A. Bessie and her went on a Saturday and

1 she bought it from a breeder, the first one.

2 Q. The first one?

3 A. Uh-huh, Precious.

4 Q. The funds that you took up, where did
5 she purchase that dog?

6 A. I have no idea.

7 Q. So she didn't have to purchase a dog.
8 She could have done anything that she wanted with
9 the money?

10 A. Correct. It was just -- it was a bunch
11 of us that worked with her.

12 Q. Okay. And did Alice ever tell you that
13 she purchased that dog because of your promise to
14 take care of the other dogs?

15 A. No.

16 Q. So did you ever tell Alice, you know,
17 I'm probably not going to purchase any land, so you
18 don't need to leave me any money?

19 A. No. It wasn't -- no, never promised.
20 Never told her that.

21 Q. Did you ever talk to Bessie about this
22 gift of the house by Alice to you?

23 A. I'm sure we did, but nothing stands out
24 in my mind about it. Bessie knew that I was going
25 to take her dogs.

1 Q. So this other requirement that Alice
2 was putting on you that you buy land --

3 A. It wasn't a requirement. It was, I
4 could do it if I wanted to.

5 Q. Tell me how you knew it was, I could do
6 it if I wanted to?

7 A. That's what she said. When I said I
8 didn't know if I could stay in your house because
9 of the limit, she said, well, you can retire, buy
10 land, and have the dogs -- all the dogs you wanted.
11 I think it was just a general statement she made.

12 Q. And did she make that statement to you
13 in 2001?

14 A. I have no idea when it was.

15 Q. Okay. You do know there was a point in
16 time where in 2001, it wasn't just that your -- it
17 wasn't that you were custodian of her pets anymore.
18 It was just your name; is that right?

19 A. I don't understand that question.

20 Q. Okay. So at some point the will --
21 okay. At some point the will was left in your name
22 and you were given a gift.

23 THE COURT: At what point are you
24 talking about? What was the date of the will?

25 MS. FISHER: I'm trying to get you the

1 right will, I apologize. So the first will --

2 THE COURT: Let's talk about the last
3 one, what date was that?

4 MS. FISHER: The last one would have
5 been May 2001.

6 THE COURT: That's what I thought. May
7 21, 2001; is that correct?

8 MS. FISHER: Yes, Your Honor, and I
9 believe it's Exhibit 2.

10 THE COURT: It's an exhibit in the jury
11 trial, I know that. Go ahead.

12 BY MS. FISHER:

13 Q. So I'm trying to clarify. The first
14 will in 1996, you were given a life estate in the
15 house. So did Alice talk to you at all about what
16 that meant?

17 A. She just told me I could live in the
18 house until me and my husband died, and then it
19 would go to the Charleston Animal Society.

20 Q. Was there a further discussion about
21 that -- the Charleston animal shelter not allowing
22 a life estate?

23 A. Later on there was, yeah.

24 Q. And do you know how Alice came to
25 learn --

1 A. I think she talked to Charlie Carrish
2 that worked there.

3 Q. And then in February 2001 -- this is
4 Exhibit 3. It states that the -- that you were
5 given all of her property, including the devise or
6 any dogs that I may own at the time of my death.

7 And was it your understanding that the
8 gift included the animals at that time?

9 A. What do you mean include the animals?

10 Q. That you were going to inherit the
11 animals?

12 A. Her dogs?

13 Q. Yes.

14 A. Oh, of course.

15 Q. Okay. And so go back to the May 2001.
16 At that point, it includes the care of your dogs --
17 to include the care of my dog except for those
18 items in a separate list. Were you aware of the
19 separate list?

20 A. No.

21 Q. Did you --

22 A. But let me rephrase that. I knew there
23 was one, but I had no idea what was in it.

24 Q. Okay. And so did you talk to Bessie
25 about that, about the separate writing?

1 A. No.

2 Q. Did you ever ask her what was in the
3 writing that you were supposed to inherit?

4 A. No.

5 Q. So did you ever talk to Bessie Huckabee
6 about exactly what you would be getting from
7 Alice's estate?

8 A. I don't recall.

9 Q. So your relationship started in 1989
10 until her death, and it was mainly focused on the
11 relationship of dogs and dog charities. Would
12 that --

13 A. I knew Alice when I started work at
14 Charleston Memorial in 1974.

15 Q. 1974. But --

16 A. We started doing dog things around
17 1989.

18 Q. And is there any question in your mind
19 that the house and the monies and life insurance
20 benefits and all of those things were to be used
21 for the benefit of animals?

22 A. She never said that, but she knew
23 that's what I did. I take care of a lot of dogs.

24 Q. What did Alice do? Did Alice live a
25 life where animals were the main focus of her life?

1 A. Same as me, yes.

2 Q. And so the fact that she left you
3 monies, did -- and told you that the monies could
4 be used for land, did that ever come to your mind
5 that was what she wanted and her intention was that
6 the monies be used for that?

7 A. It wasn't something I thought about.
8 We talked about it. Like I said, I had seven dogs,
9 and she knew that I would take in a dog. I don't
10 know what her intentions were. We didn't discuss
11 that kind of small details.

12 Q. It's not that small of a detail, is it?

13 A. I think she knew that the money would
14 go to dogs. I've got enough of them.

15 Q. So you think she knew that because you
16 represented to her that the monies would be used
17 for dogs.

18 A. No. I never represented anything.

19 Q. Only by your life?

20 A. My life is pretty expensive when it
21 comes to dogs.

22 Q. And so your life was a life of
23 intention of taking care of animals as well,
24 correct?

25 A. Yes.

1 Q. Okay. And that's what you held
2 yourself out to doing?

3 A. I don't hold myself out for anything.

4 Q. Well, if an animal charity needs help,
5 do they call you?

6 A. Sometimes.

7 Q. And do you help them?

8 A. Sometimes.

9 Q. And you certainly were doing that with
10 the Jack Russell Coastal --

11 A. Yes. Still do with Lowcountry Animal
12 Rescue.

13 Q. And so they call you and you are
14 affiliated with them?

15 A. I would say so.

16 Q. And Alice believed that you were
17 affiliated with them?

18 A. I assume so.

19 Q. Okay. You testified at your deposition
20 -- I'm going to read the question before.

21 Did you have any comments to Alice at
22 all about leaving any of her assets to you? And
23 you said no.

24 And then you said, how about -- the
25 question was: How about you never discussed that

1 with her?

2 And the answer was: We discussed the
3 house and she would make comments that, you know, I
4 had this done and so if something happens to me --
5 but, no, I didn't know what to say to that.

6 So what exactly did you not know what
7 to say to her? I mean, if the house was going to
8 you and you knew that she expected -- let's say
9 this in a different way. Did you know that she
10 expected the money to go to animals?

11 A. No.

12 Q. You didn't know that?

13 A. No.

14 THE COURT: Any other questions?

15 MS. FISHER: Yes, Your Honor.

16 BY MS. FISHER:

17 Q. While I'm getting that, at some point
18 you knew that you were beneficiary on her life
19 insurance, and you knew that you were -- at some
20 point did you know you were beneficiary on her life
21 insurance?

22 A. No.

23 Q. And at some point did you attempt to
24 collect the monies on that life insurance?

25 A. No. After she passed away, I got a

1 letter in the mail.

2 Q. And so did you at any time have to give
3 Alice your social security number or your -- your
4 address? Did she ever ask you for personal items
5 for her life insurance?

6 A. I don't -- she asked me. I'm sure I
7 must have give her my social security, but I didn't
8 know what it was for.

9 Q. She didn't tell you I need it for --

10 A. No.

11 Q. -- insurance? So what you -- did you
12 work directly with Alice?

13 A. No.

14 Q. Did you have an impression of Alice
15 where you believed that she would set -- did you
16 have an impression of Alice as being very
17 meticulous about the information that she would
18 collect for any of her business? Do you understand
19 the question?

20 A. No.

21 Q. Okay. How would you describe Alice
22 with regard to her decision making?

23 A. Alice did what Alice wanted to do. I
24 mean, Alice didn't ask people and -- Alice was a
25 very private person; her businesses were not

1 discussed. We did not discuss finances, any of
2 that.

3 Q. But she gave you advice regarding
4 deferred compensation?

5 A. Yeah, that was it.

6 Q. Was she a person that you expected to
7 make good financial decisions?

8 A. Yes.

9 Q. And so --

10 MS. FISHER: Your Honor, I believe
11 these documents have been introduced, but I may
12 have to introduce them again. These are the State
13 of South Carolina Deferred Compensation Program,
14 and I want to approach the witness and show them.
15 It's ING 10 and ING 16 on the bottom, and I know
16 that the Court has been given a copy of them.

17 Is it all right if I approach the
18 witness?

19 THE COURT: Go right ahead.

20 MS. FISHER: Thank you.

21 BY MS. FISHER:

22 Q. So I'm going to ask you to look at the
23 document entitled ING 16.

24 A. Uh-huh.

25 Q. And so -- I'm sorry, my -- I don't have

1 my glasses on. So this document, although it's
2 blacked out, there is a space for social security
3 number. Did you give Alice your social security
4 number?

5 A. I don't remember.

6 Q. So is that something that you would
7 likely give Alice?

8 A. She probably had the ability to get it,
9 but I could have. I wouldn't be opposed to giving
10 it to her.

11 Q. So if you did give it to her, would you
12 have asked what she wanted it for?

13 A. No. She might have told me for her
14 estate.

15 Q. For her --

16 A. That was for the house, for the estate
17 probably. I had no idea what all that involved.

18 Q. Okay. Thank you.

19 MS. FISHER: So, Your Honor, I need to
20 make sure that this document has been introduced
21 and is part of the record. It's dated
22 February 14th of 2001. And it says, beneficiary
23 change, at the top.

24 And so if it hasn't been introduced, I
25 want to make sure that it's introduced.

1 THE COURT: I think it's already in.

2 MR. COOPER: I believe it's in, Your
3 Honor. It's Plaintiff's Exhibit 18.

4 MS. FISHER: I want to make sure that
5 that is marked.

6 BY MS. FISHER:

7 Q. So do you have any reason to believe
8 that -- do you have any knowledge as to why Alice
9 would have listed you as custodian of pet and
10 rescue?

11 A. Other than me taking her dogs.

12 Q. And the fact that you were associated
13 with rescues?

14 A. Yes. I was a volunteer.

15 Q. And then there is another exhibit -- so
16 there is another -- I'm sorry. So in 2004, did you
17 -- were you still working with the dog rescues?

18 A. Uh-huh.

19 Q. And so if Alice had stated to someone
20 at the South Carolina retirement systems that
21 current beneficiary owns a dog rescue and money to
22 go to the dog rescue, that would not have been
23 accurate?

24 A. And I still volunteer with animal
25 rescue. You spend your own money when you do that.

1 I guess that would be accurate that I work with
2 rescues. I didn't know she had wrote that.

3 Q. I understand. My point here is that
4 Alice was under the impression that you were going
5 to use the monies for the dog rescue?

6 A. Who says I won't?

7 Q. Would that be accurate?

8 A. Who says I won't?

9 THE COURT: Good answer.

10 BY MS. FISHER:

11 Q. Okay. You represented that you weren't
12 going to use the monies for a dog rescue; isn't
13 that correct?

14 A. No.

15 Q. So as you sit here today, what dog
16 rescue are you planning on using the money for?

17 THE COURT: That's irrelevant.

18 MS. FISHER: I don't know, Your Honor.

19 THE COURT: That's irrelevant. Ask
20 another question.

21 BY MS. FISHER:

22 Q. Did you represent that you were going
23 to give it to the dog rescue that you were
24 currently working at?

25 A. No.

1 Q. You never had a conversation that you
2 were going to make sure that that rescue received
3 that money?

4 A. You do things with all sorts of rescues
5 when you volunteer. Even if you are affiliated
6 with one rescue, you still help others.

7 Q. Uh-huh. Would you say that Alice's
8 decision to give you a disproportionate amount of
9 money, rather than her best friend Bessie Huckabee,
10 was based on your involvement with dog rescues?

11 A. No. I think it was based on the fact
12 that I agreed to take her dogs.

13 Q. And so in 2008, when her last dog died,
14 isn't that the time when you contacted elder care?

15 A. That was the time I realized that Alice
16 had some issues, and I contacted them to find out
17 what I could do. I would not even tell them who
18 she was because I was worried about her. I was
19 worried about some of her actions and things that
20 just weren't right. I wasn't sure what to do.

21 Q. Did you tell Elizabeth Spencer that you
22 were the beneficiary of the will?

23 A. I do not recall.

24 Q. And did you tell Pete Kouten that you
25 were the beneficiary of her will?

1 A. At that time, no. I didn't see Peter
2 Kouten until at the hospital the last day that
3 Alice was alive.

4 Q. And it's your understanding that Bessie
5 Huckabee called him that day regarding Alice's
6 death?

7 A. I'm not sure who called him. I wasn't
8 there. Oh, I might have been there, but the last I
9 recall, Bessie's phone wasn't even working. But
10 I'm not sure who called him.

11 Q. So the last time that you saw Alice
12 before her death, do you recall when that was?

13 A. I don't recall the exact date, but I
14 know we had gone on a Saturday to see her.

15 Q. And you saw her at her house?

16 A. No. I saw her in the hospital.

17 Q. Okay. The last time you saw her before
18 that, was it at her home?

19 A. I went to the hospital a couple of
20 times and saw her. But, yeah, we went to her
21 house, but I couldn't tell you when. I talked to
22 her on the phone.

23 Q. You testified in your deposition that
24 Alice would tell you the house is going to be yours
25 and that's it. And did you ever tell her that the

1 intention -- that you weren't going to necessarily
2 use the money for animals?

3 A. Never discussed what my intention was.

4 Q. In fact, what you would say instead is
5 that I told her I never wanted to have any of that
6 to come true because that would mean I had lost
7 her?

8 A. That's correct.

9 Q. And yet you weren't willing to take on
10 the responsibility of her -- as agent under the
11 power of attorney?

12 A. I couldn't.

13 Q. Why not?

14 A. I worked full-time and my husband was
15 just diagnosed with melanoma. He was given four to
16 five years to live. I did not feel like I could
17 spread myself that thin.

18 Q. By reporting her to elder care, rather
19 than seeking other family members or talking to
20 anybody else, you insured that Alice didn't have an
21 opportunity to change her will; was that your
22 intention?

23 A. Not at all. I didn't know she had any
24 family.

25 Q. You didn't know she had any family?

1 A. No.

2 Q. But you knew --

3 A. I knew she talked to you, but she
4 didn't consider you her close family.

5 Q. But you -- she considered you her close
6 family?

7 A. I don't know what she considered me. I
8 was a good friend.

9 Q. A good friend who is now willing to
10 take her money but was unwilling to take care of
11 her --

12 A. As I said, I was not available to be
13 able to do that. I didn't know what I could do
14 under the circumstances. It wasn't like she was
15 incapacitated. She had some mental challenge. I
16 had no idea what was wrong with Alice. Alice was
17 very private and would not let us go to the doctor
18 or do anything for her.

19 Q. You knew you were named on the power of
20 attorney?

21 A. No, I did not at that time.

22 Q. I thought Bessie Huckabee testified
23 that you had the --

24 A. I did, but I didn't read it.

25 Q. So you just took these documents for

1 Alice but didn't read them?

2 A. Sometimes, uh-huh.

3 Q. Well, if you had read them it meant
4 that you would have had authority to assist her.
5 It never came into your mind that some of the
6 documents you had would be --

7 A. As I said, I had a lot going on in my
8 life at that time. There was no way I could spread
9 myself that thin.

10 MS. FISHER: Nothing further.

11 THE COURT: Any questions?

12 MR. WILLS: No questions.

13 THE COURT: I have a couple.

14 EXAMINATION

15 BY THE COURT:

16 Q. Tell us what was not right about Alice
17 Shaw Baker when you contacted -- I'm not sure who
18 it was -- someone with the elder care --

19 A. Elder care --

20 Q. -- about helping her?

21 A. The fact that she was telling us people
22 was coming into her home, but she couldn't really
23 tell us who. We took her to the ER vet, and while
24 we were there it just wasn't Alice. I mean, it was
25 like Alice could not comprehend what was going on.

1 And the ER clerk told us that -- she
2 goes, I know you, you call here. And, evidently,
3 Alice was calling them all the time, but she could
4 not comprehend anything to do with the care of her
5 last dog. It just -- she got very, very angry,
6 threw the chart. I mean, it just wasn't Alice.

7 And she just couldn't -- she couldn't
8 remember anybody that came to her home or -- it was
9 just kind of crazy. That's one reason Bessie and I
10 would always go together was because of -- Thomas
11 went to fix some things one time, Sandra Byrd's
12 husband. And she was like -- he was doing the
13 cable. And she said he blew up the refrigerator.

14 It was just worrisome things, her
15 appearance. Just different things.

16 Q. Were you trying to do anything other
17 than help her?

18 A. No, sir. In fact, I wouldn't tell
19 Elizabeth Spencer who I was talking about. And she
20 talked to me for a while and said, we just don't
21 know what we can do. And she said who it was and
22 then she said she knew her. She said, I'll just go
23 by and talk to her and I'll get back with you.

24 And it was probably six months later
25 that -- that she called me back. She didn't --

1 Alice didn't always come across as she was having a
2 problem, but there was a lot of little things that
3 we picked up on.

4 THE COURT: All right. Thank you very
5 much. You can return to your place in the
6 courtroom.

7 Any other witnesses for the plaintiffs?

8 MR. COOPER: Your Honor, we have
9 Dr. Waid coming in at 9:30 in the morning, but we
10 have no more for today.

11 THE COURT: Okay. Well, I have a
12 couple of assignments for you over the evening
13 recess. And you're probably going to need to give
14 some information to this young man right here who
15 is my on-loan law clerk.

16 Actually, he's Judge Nicholson's law
17 clerk, but I'm getting to use him this week, and
18 I've enjoyed meeting him and working with him.

19 And the reason I say that you need to
20 give him your e-mail addresses, you know, because I
21 want you to fill out a current financial statement
22 showing all of your assets, liabilities, and net
23 worth. I need that to deal with issues that I have
24 to deal with at the conclusion of this case.

25 So that's the first thing I want you to

1 Randolph Waid, and Waid is W-A-I-D.

2 DIRECT EXAMINATION

3 BY MR. COOPER:

4 Q. Thank you, Dr. Waid. Appreciate you
5 coming. You are here today under subpoena?

6 A. Yes, sir.

7 Q. Okay. And I'll show you first
8 Plaintiffs' Exhibit Number 21. Ask you to take a
9 quick look at that. Is that a reasonably updated
10 copy of your CV or resume?

11 A. Yes, it is.

12 Q. Okay. I think it looks like it was
13 dated August 7th of 2017. Any significant
14 additions to it since that time?

15 A. No. Just a change in my office
16 address, only because I'm slowing down and thinking
17 about retiring, but other than that I'm still in
18 Mt. Pleasant.

19 Q. A lot of us are slowing down. Let me
20 ask you to take a look at Plaintiff's Exhibit
21 Number 22.

22 A. Yes, sir.

23 Q. Is that a copy of your report in the
24 matter of Alice Shaw Baker?

25 A. Yes, it is.

1 Q. And it does include on the back of it
2 in addition to the report some testing materials?

3 A. Yes, sir, it does.

4 Q. So that is a complete copy of your file
5 on Alice Shaw Baker's evaluation?

6 A. Yes, it is.

7 Q. Tell us, the -- the report does
8 indicate, I think on it's the last page that -- I
9 would also add that is a part of the independent
10 living assessment. This is on Waid page 6?

11 A. Yes.

12 Q. Bottom of the first paragraph there, I
13 would also add that as part of the independent
14 living scale assessment, Ms. Shaw Baker was able to
15 correctly identify the purpose of a will.

16 A. Yes. That was one of the questions on
17 the independent living skills that had to do with
18 her understanding of the purpose of a will. And
19 she answered that particular item correctly.

20 Q. And just summarize for the Court, if
21 you would, what your findings were when you
22 evaluated her.

23 A. Ms. Baker was referred to me by probate
24 court Judge Curry and, ultimately, was to provide a
25 neuropsychological evaluation and to respond to

1 specific questions about the mental condition, the
2 diagnosis, treatment options, prognosis, and
3 whether Ms. Baker has a dementing disorder or one
4 or more other conditions which might affect her
5 cognitive functioning.

6 It was requested, like I said, for
7 potential treatment intervention that may be
8 helpful. There was a question of whether she
9 should be able to drive an automobile and whether
10 she requires 24-hour daily care supervision or some
11 type of less care supervision than the 24 hours.

12 And so those were the specific referral
13 questions and based on the evaluation that I was
14 requested to do.

15 Q. Okay. And were you able to determine
16 during that evaluation whether Ms. Alice Shaw Baker
17 knew the general nature and extent of her bounty?

18 A. Basically, in the will -- we didn't
19 specifically address all of that, but, basically,
20 she understood the purpose of the will and the
21 objects of her affections that she would be leaving
22 her sources of income or money or things to people
23 she desired. We got that far.

24 I did not specifically ask her about
25 whether she knew her accounts or the value of

1 things that she had. That did not get done in this
2 evaluation.

3 Q. Was there any discussion at all whether
4 she owned her own home or lived in her home?

5 A. To my knowledge, there was not a
6 specific questioning about that.

7 Q. Just a minute. Dr. Waid, was there a
8 final determination of her capacity, or did you
9 recommend further medical review and then possible
10 further evaluation?

11 A. I definitely recommended the potential
12 for improvement because the evaluation, while I did
13 believe it revealed brain behavior impairments, it
14 was very difficult to know at where and what level
15 those impairments were because Ms. Baker clearly
16 had some psychiatric overlay behaviors that got in
17 the way of testing.

18 So that may have made it difficult to
19 fully ascertain the level of impairment solely to
20 the brain disease, if that was such, versus the
21 interfering effects of her behaviors. She was
22 rather agitated. Ms. Fisher, who brought her
23 there, who was her conservator and serving in that
24 capacity, said she often is in the morning, smoked
25 incessantly, and some other behaviors.

1 She was fairly negative about having to
2 do the testing, but to a certain extent we see
3 that, particularly when people have difficulty
4 meeting the demands of testing. So we didn't think
5 she was lacking brain behavior impairments. We
6 just didn't know exactly what the level was
7 relative to the dementia versus the interfering
8 behaviors.

9 Q. Was there a concern of possible
10 diabetes or -- and diet?

11 A. Clearly, there was concern regarding
12 Ms. Baker's ability to even manage her medications
13 and so forth. She really couldn't tell us what she
14 was on personally. She was under care of a good
15 colleague and friend Dr. McGuire.

16 She does have diabetes, something that
17 you need to stay on top of. So we were concerned
18 about some vascular issues that could be
19 contributing to her decline and her brain behavior
20 functioning and the need for that to be closely
21 monitored and managed.

22 Q. Okay. And you didn't evaluate Ms. Shaw
23 Baker after this first evaluation, which by your
24 report was November 20, 2008?

25 A. I did not evaluate her after that date.

1 I had correspondence from Lisa Fisher following
2 that regarding some of the things that she was
3 looking into to provide the -- what Ms. Baker needs
4 while allowing her to be as independent as
5 possible, and so we certainly reviewed those, but I
6 had no other contact with Ms. Baker or Ms. Fisher
7 after November 21st.

8 Q. Okay. And you did in your report
9 recommend that she be seen potentially by a
10 geriatric psychiatrist?

11 A. Yes. I thought there was definitely
12 some psychiatric overlay that could be managed with
13 geriatric psychiatry, in general, because they're
14 more well-educated about using medication in
15 elderly individuals.

16 And I thought that with some
17 improvements that would certainly change the
18 recommendations in terms of level of care and so
19 forth. I also recommended that there could be a
20 MRI study of the brain which might elaborate on
21 understanding the amount of the behavior problems
22 related to the brain versus psychiatric overlay.

23 The psychiatric overlay technically
24 could be improved via treatment, yes.

25 Q. Okay. So -- and potentially had

1 additional evaluation been done after that, it
2 would have been more complete?

3 A. Yes. I think, obviously, if some
4 interventions were pursued and, certainly, she
5 showed an ability to profit from those
6 interventions, then you would do another evaluation
7 so you would have a more valid assessment solely of
8 the brain-based impairment versus any interference
9 due to her behaviors that were fairly extreme and
10 she easily got agitated.

11 Q. And at one point during the testing
12 when Ms. Fisher had to leave for a period of time,
13 Ms. Shaw Baker actually refused to continue the
14 testing?

15 A. Yes. She basically wasn't too pleased
16 and balked at testing at that point. Certainly,
17 she re-engaged when Ms. Fisher returned and served
18 to comfort her some.

19 MR. COOPER: Okay. Thank you very
20 much.

21 Your Honor, might --

22 BY MR. COOPER:

23 Q. Dr. Waid, just a few more questions I
24 got from my co-counsel here. Is what she had, best
25 you can determine, a vascular dementia?

1 A. I would definitely lean toward the
2 course of her difficulties, the diabetes and that
3 that really is -- would have been a primary
4 consideration. Again, the MRI might have told us
5 more because I would have expected for her to
6 likely have very significant microangiopathic
7 changes to the brain, which is what the vascular
8 component is about.

9 Again, you can clarify that by scans,
10 but also repeat testing because the clinical course
11 of the dementia is quite different from
12 Alzheimer's.

13 Q. And you have done studies and seen many
14 of these agitated patients that have this vascular
15 dementia?

16 A. Yes. Again, there is often aberrant
17 behaviors in Alzheimer's as well as vascular, and
18 in the -- that's what a geriatric psychiatrist is
19 good at in terms of trying to manage some of those
20 behaviors so the person functions at a better
21 level. Not necessarily a better cognitive level,
22 but able to use their brain better.

23 Q. You have seen times when the cognitive
24 behavior improved?

25 A. Absolutely. And, obviously, you would

1 want to -- anything that's reversible you want to
2 reverse it. To the extent there is a psychiatric
3 overlay, you certainly would want to treat it and
4 modify it so the person would function in an
5 improved manner.

6 Q. Right. And in your report you really
7 didn't think she needed 24-hour care. You
8 recommended at least 12-hour care, I believe?

9 A. I did. And the fact there was report
10 that she slept through the night and wouldn't
11 necessarily need 24 hours, but I did recommend --
12 basically have her covered throughout the 12-hour
13 period, 8 to 8, all the meals so we know she's
14 getting adequate food intake, as well as somebody
15 overseeing her usage of medication. So 12 to 12
16 versus 24 on that given occasion.

17 MR. COOPER: Thank you. No further
18 questions from the plaintiff.

19 THE COURT: Any cross-examination?

20 MR. WILLS: Your Honor, we have a few
21 questions.

22 THE COURT: Go ahead.

23 MR. WILLS: I'm going to beg the
24 Court's indulgence. We're just looking at this
25 report and just got to find this one passage on it.

Dr. Randolph Waid - Cross Examination by Mr. Wills

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1 THE COURT: Take your time.

2 CROSS-EXAMINATION

3 BY MR. WILLS:

4 Q. Dr. Waid, thank you.

5 A. Sure.

6 Q. I want to ask you a couple of questions
7 about your report here.

8 A. Yes.

9 Q. First off, you are a PhD; is that
10 correct?

11 A. That's correct.

12 Q. Not a medical doctor?

13 A. That's correct.

14 Q. Okay. Were you paid to make this
15 report?

16 A. Yes, I'm sure I was.

17 Q. Do you recall who it was that paid you?

18 A. I think Ms. Fisher was responsible for
19 payment since she was serving in the guardian and
20 conservator role.

21 Q. Okay. And do you recall what the
22 purpose of this evaluation was?

23 A. The purpose was, specifically, the
24 order from Judge Curry to undergo this type of
25 evaluation. Again, respond to the specific

1 questions that I addressed from page 5 on,
2 diagnosis, potential treatment, should she be
3 driving and so forth. Those questions I responded
4 to, all of them.

5 Q. And but your evaluation, your -- the
6 diagnoses that you have set out are medical
7 diagnoses; are they not?

8 A. They're psychiatric diagnoses out of
9 our diagnostic statistical manual and, certainly,
10 psychologists use those diagnoses.

11 Q. I understand, but when you say that
12 there was a component of diabetes that you figured
13 was more responsible for Ms. Alice Shaw Baker's
14 cognitive deficiencies than was any type of
15 dementia, that would be a medical diagnosis,
16 wouldn't it?

17 A. Well, no, not necessarily. And I do
18 want to correct that statement because that's not
19 what I said. What I said is she has diabetes and
20 that puts her at risk for a vascular dementia.
21 Further exploration and studies would have
22 clarified that, and also, vascular dementia like
23 other dementia can come with psychiatric overlays.

24 So my concern was she couldn't tell me
25 her medicines, much less be compliant with them.

1 So that needed to come in order. If you get
2 compliance and good management of diabetes, then
3 you will be less concerned. Though with advancing
4 age, diabetes is a risk factor for vascular
5 dementia in all individuals, quite frankly.

6 My point is, I didn't absolutely say
7 that was it. I said that's one of the etiologies
8 that one would really be concerned about with her
9 versus Alzheimer's versus psychiatric.

10 Q. And you have just mentioned she wasn't
11 able to remember the names of the medication. Did
12 you find her to be incapacitated?

13 A. Yes. In my opinion, to be
14 incapacitated and need protection, I don't have to
15 break down the causal factors, the overlay. I
16 mean, psychiatric alone can do that. This
17 individual, who I evaluated that day from a
18 cognitive and emotional/behavioral point of view,
19 clearly needed protection.

20 I'm only talking about the possibility
21 of reversing some of those problems if they were
22 psychiatric via the appropriate psychiatric
23 medication, but I have -- very clear to me that she
24 at that level lacked the competency to manage her
25 personal and financial affairs.

1 MR. WILLS: Okay. Thank you very much.

2 THE WITNESS: You bet.

3 THE COURT: Thank you very much. You
4 may return or be excused. Appreciate you coming.

5 Anything else from the plaintiff?

6 MR. COOPER: Not from this witness,
7 Your Honor.

8 THE COURT: Anything else from the
9 plaintiff?

10 MR. COOPER: No further witnesses.
11 Ms. Fisher has something.

12 THE COURT: Go right ahead.

13 MS. FISHER: Your Honor, I want to make
14 -- and ask this Court to take judicial notice of
15 certain documents that are in the conservatorship
16 estate to make sure -- I believe that you already
17 have these documents because the Court has
18 indicated that it has reviewed the entire file;
19 however, in reviewing the entire file, there were
20 objections and there were things that I don't know
21 if this Court considered that may or may not have
22 been things that were helpful to our case.

23 So I do want to present to the Court
24 the order appointing Lisa Fisher as guardian and
25 conservator of Alice Shaw Baker. Would the Court

1 like me to approach and give you a copy of it?

2 THE COURT: You can do whatever you
3 want to do.

4 MS. FISHER: Okay.

5 THE COURT: You have no objection to
6 that being put in the record, do you?

7 MR. WILLS: No, Your Honor.

8 THE COURT: Okay.

9 (PLAINTIFFS' EXH. 24, Order, was marked
10 for identification.)

11 MS. FISHER: I would like to bring to
12 the Court's attention on the order appointing. On
13 page 2, there is reference to Peter Kouten being
14 appointed as counsel. Based on his testimony the
15 other day, I wanted to make clear that the Court is
16 aware that he was both guardian ad litem and
17 counsel and, actually, he was also visitor.

18 I would like the Court to look at --
19 there has been argument I was not allowed to take
20 her out of the state. And pursuant to this order,
21 the only thing that it says is I'm not allowed to
22 change her placement. And --

23 THE COURT: Change her placement, did
24 you say?

25 MS. FISHER: Yes, sir. And I will get

1 that. I thought it was marked here.

2 THE COURT: That's all right. If
3 that's what it says, that's what it says. I will
4 take your word for it. And what do you mean by
5 placement?

6 MS. FISHER: Well, it was the Court's
7 order. That's why I really need to read it to the
8 Court so there is no misunderstanding as there was
9 testimony it wasn't a permanent move.

10 Yes, it's on page 9, Your Honor. And
11 it's one, two, three paragraphs from the top. I
12 did mark the copy because the Court indicated it
13 has the original record, and I'm asking the Court
14 to look at it.

15 THE COURT: I'm looking at it.

16 MS. FISHER: I further order that Alice
17 Shaw Baker shall not be removed from her home for
18 placement elsewhere without further order of this
19 Court.

20 So for clarity, she was being removed
21 for a vacation and also to see other doctors as
22 available. And so I would ask --

23 THE COURT: That kind of argument is
24 consistent, I will say.

25 MS. FISHER: Okay. Yes, Your Honor.

1 So -- excuse me. Okay. So I'm asking the Court to
2 take judicial notice of that document.

3 THE COURT: We put it in the record of
4 the case.

5 MS. FISHER: Okay.

6 THE COURT: The whole thing.

7 MR. COOPER: Yes, Your Honor. It's
8 been marked as Plaintiff's 24.

9 THE COURT: You have it, right.

10 THE COURT REPORTER: Yes, sir.

11 THE COURT: I can give this back.

12 MS. FISHER: I would also bring the
13 Court's attention to the same case, the
14 conservatorship case, order granting fees by --

15 THE COURT: Hold on just a second.

16 MR. COOPER: Let's get it marked first.

17 (PLAINTIFFS' EXH. 25, Order appointing
18 fees, was marked for identification.)

19 MS. FISHER: So this is an order
20 granting fees, and I would ask that the Court --
21 the Court has already marked it as Number 25.
22 Court appointed guardian ad litem as stated
23 January 1st to February 25, 2009.

24 And if the Court -- I will tell the
25 Court and counsel that the numbers on the bottom of

1 Baker's intent at those times.

2 Now, she does -- she does execute
3 actually two more wills after that, but the last
4 will and testament, which is Exhibit 4, Your Honor,
5 it does say in item five, she gives all the rest --
6 again, to Kay Passailaigue, all the rest of the
7 remainder of my estate, real and personal and mix,
8 or whatever kind and nature, wherever the same may
9 be situated to be heard in fee simple absolute, to
10 include the care of my dogs.

11 Since she didn't have any dogs when she
12 died, that brings up the question of -- is this --
13 is this an ambiguity because she didn't have to
14 care for any dogs? The law in South Carolina is
15 where there is a latent ambiguity in the will, of
16 course that's one that's not necessarily apparent
17 when it's made or when it's read, but appears by
18 the circumstances -- the surrounding circumstances,
19 Your Honor, where there is a latent ambiguity in a
20 will, extrinsic evidence is admissible to determine
21 the testator's intent.

22 What I'm asking Your Honor to do is to
23 consider what Alice Shaw Baker's intent really was.
24 Was it to give the money totally unrestricted to
25 Kay Passailaigue or was she --

1 THE COURT: Or whether she trusted her
2 to do something with it.

3 MR. COOPER: Well, I don't know.
4 That's a trust.

5 THE COURT: It's not a legal trust.
6 It's a trust that she had.

7 MR. COOPER: And we're asking this
8 Court to impose a constructive trust --

9 THE COURT: I understand that.

10 MR. COOPER: -- based on Alice Shaw
11 Baker's, what I believe, is her expressed intent in
12 her own handwriting. Extrinsic evidence is
13 admissible to determine the testator's intent,
14 where there's a latent ambiguity in the will; Colin
15 Grant Home v. Medlock, 292 S.C. 466. That's a 1986
16 case that's cited in the trial brief.

17 I'm not going to go through all of
18 these, but the gist of our view is that Alice Shaw
19 Baker always intended for all of her property,
20 house, property of every description, other than
21 the bequest to Mrs. Byrd, to go to animal
22 charities.

23 And her way of doing that, when she got
24 mad with the SPCA, was to change and put Kay
25 Passailaigue as --

1 THE COURT: Don't you think animal
2 charities is even more ambiguous?

3 MR. COOPER: Your Honor, that's a
4 question that I'm not sure I should be answering
5 because I just don't know.

6 THE COURT: That's a good answer. You
7 know --

8 MR. COOPER: Well, I think we all know
9 what Alice Shaw Baker wanted. She wanted the
10 monies to be used to benefit animals and not
11 particular people.

12 THE COURT: What animal? She didn't
13 have any when she died. Whose animals is she going
14 to look after?

15 MR. COOPER: The ones that are
16 connected with animal rescue; in other words,
17 homeless dogs, dogs that needed help, pets that
18 needed spay, neuter, you know, rehoming. That sort
19 of a thing. I'm --

20 THE COURT: Just put all the names in a
21 hat and pick them out?

22 MR. COOPER: Well, Your Honor, there
23 are charities that do that sort of thing, and this
24 Court could and does have the power to impose a
25 constructive trust and to direct the monies in that

1 way.

2 Look at the will, Sandra Byrd was a
3 friend, but not the best friend. Bessie Huckabee
4 was the best friend. And both of those got
5 considerably less than Kay Passailaigue, and the
6 reason is because Kay Passailaigue held herself out
7 as the owner, operator, volunteer of a Jack Russell
8 dog rescue and many other animal rescue operations
9 and --

10 THE COURT: So you think it's your
11 client's duty to come in and make that happen.

12 MR. COOPER: Your Honor --

13 THE COURT: What standing did they have
14 to do that?

15 MR. COOPER: Well, first of all, Your
16 Honor, there has been no final ruling --

17 THE COURT: Answer that. What standard
18 do they have to do that?

19 MR. COOPER: One of my clients is an
20 heir in the law --

21 THE COURT: What makes her have any
22 standing to do that?

23 MR. COOPER: Well --

24 THE COURT: As it stands, she's the one
25 that is going to get the money.

1 MR. COOPER: I'm not sure she's going
2 to get the money. I mean, certainly --

3 THE COURT: I don't see anything in the
4 record that indicates otherwise.

5 MR. COOPER: Well, in her testimony
6 yesterday she didn't expect to get anything --

7 THE COURT: Yeah, but she doesn't know
8 what the law is.

9 MR. COOPER: Well, that's true in a
10 certain sense, but -- because she's not an attorney
11 and certainly she's not even from South Carolina,
12 but her testimony made it clear yesterday, she
13 wanted the money, thought the money should go to
14 animal charities --

15 THE COURT: After her niece gets
16 \$160,000; is that right? 60,000, \$70,000. How
17 much is it in attorney's fees for the two of you?

18 MS. FISHER: Excuse me, Your Honor --

19 THE COURT: I'm asking him.

20 MS. FISHER: Except that's not my
21 attorney's fees.

22 THE COURT: How much is it?

23 MR. COOPER: Your Honor --

24 THE COURT: How much is it?

25 MR. COOPER: I submitted my bills.

1 THE COURT: I haven't gotten hers yet?

2 MR. COOPER: No, Your Honor.

3 THE COURT: Ooooooooooh.

4 MR. COOPER: I don't keep records of
5 hers.

6 THE COURT: I hate to hear that.

7 MR. COOPER: The attorney's fees that
8 -- the invoices and the summary that I handed up
9 are a summary of the attorney's fees that I have.

10 THE COURT: Do you think they should
11 get attorney's fees?

12 MR. COOPER: No, Your Honor, I don't;
13 but, you know, I think it's in the Court's
14 discretion to grant attorney's fees to the
15 Plaintiffs, but based on -- well, let me just say
16 that's our attorneys' fees because Your Honor
17 ordered us to put it up. It is --

18 THE COURT: Well, you asked for
19 attorney's fees.

20 MR. COOPER: In the Complaint we did.
21 And in the trial brief and at the beginning of this
22 trial, I suggested that we wait until the Court
23 ruled on the entitlement to attorney's fees and
24 then we'd do the quantum. You know, if any fees
25 are awarded.

1 THE COURT: I'm sorry, I interrupted.
2 Go ahead.

3 MR. COOPER: All right. Yes, Your
4 Honor.

5 At any rate, in my view, whether or not
6 -- there's two main points. I think Alice Shaw
7 Baker's intention is what the Court is -- is
8 required under the law to look for. And if it
9 determines that Alice Shaw Baker's intention was to
10 benefit animals primarily, then the Court has the
11 power to impose a constructive trust.

12 Also, Your Honor, I believe that even
13 though the jury determines that the will, Exhibit
14 Number 4, was Alice Shaw Baker's last will and
15 testament, I think that her tearing up a copy of it
16 indicates her intention at that time, because there
17 is testimony that she discovered then and only then
18 that Kay Passailaigue was no longer involved with
19 the Jack Russell rescue operation.

20 Now, Your Honor has to wrestle with
21 this to determine what Alice Shaw Baker's true
22 intention was. And, you know, we -- our position
23 -- you know what our position is, and we would urge
24 you to look fairly at the evidence. And there is
25 no evidence more clear than the handwritten

1 indications that Alice Shaw Baker made.

2 Thank you.

3 THE COURT: I appreciate your position.

4 MS. FISHER: Your Honor, you did
5 indicate we could both argue. If I could have --

6 THE COURT: Sure. Glad to hear from
7 you.

8 MS. FISHER: Thank you, Your Honor, for
9 the opportunity to speak to you on this issue.

10 So in light of the testimony and in
11 light of some inferences that I think have been
12 made with regard to my intent in bringing this
13 action and my mother bringing this action, this
14 Court has come to what apparently is a conclusion
15 that doing it to recover monies and attorney's
16 fees.

17 The reason there was no submission of
18 attorney's fees was because I do not expect to be
19 reimbursed for my attorney's fees on the case. I
20 have paid all of the attorney's fees, and although
21 that wasn't included in the testimony because the
22 Court hasn't inquired --

23 THE COURT: You put it in the
24 pleadings.

25 MS. FISHER: Right. The request for

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON) CASE NO. 2009-CP-10-3010

3

4 ALICE SHAW BAKER, ET.)
AL.,)
5) Transcript of Record
Plaintiffs,)
6)
vs.)
7) Date: May 12, 2018
BESSIE HUCKABEE, ET.)
8 AL,)
9 Defendants.

10 * * * * *

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12 B E F O R E:

13 The Honorable Thomas L. Hughston

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23 Denise J. Lauder, RPR

24 Ninth Judicial Circuit

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1 couple of things in regard to that that I would
2 like to clear up, and I'd like to ask you some
3 questions.

4 MS. FISHER: Then, Your Honor, I would
5 ask that I be allowed to call any witnesses after
6 that occurs.

7 THE COURT: Okay. Why don't you come
8 forward and let me ask you some questions.

9 LISA FISHER,
10 being first duly sworn, testified as follows:

11 THE WITNESS: Yes.

12 THE COURT: Have a seat.

13 THE WITNESS: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY THE COURT:

16 Q. Let's start with some general
17 background questions as far as what this is really
18 a matter since I've read the record of this case
19 twice, you know, and one time since these latest
20 evident motions were filed and everything. It's
21 hard to remember everything that's in the record at
22 this point. The record being over a foot high --

23 THE WITNESS: Your Honor, I'm sorry. I
24 did notice there are other people in the
25 audience --

1 THE COURT: I don't know who they are,
2 but this is a public courtroom. Anybody that wants
3 to be here can be here unless there's some reason
4 for them not to be.

5 THE WITNESS: I'm asking if they're
6 going to be called as witnesses.

7 THE COURT: I don't see anybody out
8 there that I recognize. Do you?

9 THE WITNESS: Yes. Those people --
10 all I'm asking is, if Mr. Wills intends to call
11 them -- if he intends to call them, I would ask
12 that they be excluded.

13 THE COURT: Who is out there that you
14 might call? Anybody? At this point, do you know
15 of anybody?

16 MR. WILLS: I don't --

17 THE COURT: Let's identify who is out
18 there.

19 MS. SEYMOUR: Your Honor, I'm Barbara
20 Seymour. I represent John Hughes Cooper.

21 THE COURT: Okay. Good.

22 MS. SEYMOUR: I will not be testifying.

23 MS. FERGUSON: I'm Denise Ferguson. I
24 was a caregiver for Alice Shaw Baker.

25 THE COURT: All right.

1 MS. MAGWOOD: I'm Katherine Magwood. I
2 was also a caregiver.

3 MS. ZELGIS: Renee Zelgis, also a
4 caregiver.

5 MR. THOMSON: Good morning, Your Honor.
6 Neil Thomson. I'm the attorney for Candace
7 Rickborn on an associated matter.

8 MR. HUCKABEE: Jerry Huckbaee.

9 THE COURT: The three ladies that are
10 back there on the rear seats, and everything, just
11 out of an abundance of caution, I'm going to ask
12 you-all to go out into the hallway, and everything,
13 but everyone else I think can stay.

14 MS. FISHER: Thank you, Your Honor.

15 BY THE COURT:

16 Q. Easy question to start with: When did
17 you graduate from law school?

18 A. 19 -- sorry. I'm sorry. I took the
19 bar in 1997 and I passed.

20 Q. 1997. I think you made reference to
21 perhaps having a master's degree at some point
22 during some of the proceedings; is that correct?

23 A. Yes, Your Honor. I have a master's in
24 political science and I have an LLM in criminal
25 law.

1 Q. And so you've been in practice since
2 1997 or so?

3 A. Yes.

4 Q. Okay. And has your practice been with
5 a firm or a solo practice or what?

6 A. I have a solo practice.

7 Q. Okay. How would you describe your
8 practice as far as what -- has it been a general
9 practice of law or has it been concentrated in one
10 area? How would you describe it? Can you describe
11 it for me?

12 A. My practice is generally representing
13 conservatees in probate matters, helping them
14 defend against conservatorships. And I have a
15 small occasional case in civil and I have cases in
16 probate litigation.

17 Q. Conservatorship in probate court?

18 A. Yes.

19 Q. I don't know how it is in California,
20 whether that's one in the same or a separate
21 division or how that goes, but the main part of
22 your practice has been in the area of the law that
23 this case is concerned with; is that fair or --

24 A. Yes.

25 Q. Okay. And how do you get involved in

1 those cases? Is there a pro bono list of lawyers,
2 lawyers who volunteer their service who want to be
3 appointed to represent people --

4 A. Yes.

5 Q. -- or what?

6 A. That's how it's done generally.

7 Q. So by appointment of the court is how
8 you get involved in most of your cases; is that
9 correct?

10 A. About 75 percent of the cases, yes.

11 Q. And the other 25 percent would be where
12 you're retained privately; is that correct?

13 A. Yes.

14 Q. And how many cases would you have
15 active at the present time?

16 A. I don't know. I think it would be
17 approximately ten.

18 Q. And would those be in the area that you
19 just mentioned, probate, conservatorship?

20 A. Yes.

21 Q. All right. And so you've been in the
22 practice -- solo practice since 1997, and all. Do
23 you have an office independent of your home?

24 A. No.

25 Q. There's nothing wrong with that.

1 A. I understand.

2 Q. I admire people who are able to pull
3 that off, so to speak, and all, and everything.
4 And I admire people who do pro bono work and
5 volunteer their services. I admire people who do
6 that, and all.

7 I don't know whether the California bar
8 has any kind of a mentoring program or not. Do you
9 have -- do you consider that you've ever had a
10 mentor in the practice of law? Anybody that you
11 particularly look up to and that you call on for
12 advice or anything like that? Where you have a
13 difficult situation or a difficult case, or
14 whatever, have you ever had somebody that you
15 considered your mentor that you would go to and ask
16 for advice?

17 A. No. In California, it's not a
18 requirement. I mean, there are certainly people
19 that I know and certain people that I trust. I
20 would not consider it a mentor relationship.

21 Q. Have you ever been associated with
22 other lawyers in any of the cases that you have
23 dealt with?

24 A. Sure. I've been on other cases where
25 there are other attorneys.

1 Q. How many?

2 A. Representing the same parties or on
3 related, you know, for instance, on certain cases
4 where there is a -- there might be a case for a
5 husband and a wife, or something of that nature,
6 there will be other attorneys on the case. And in
7 some cases that are larger, cases are done together
8 with other attorneys.

9 Q. I'm not sure I understand your response
10 to that.

11 A. Okay. Well, I've had -- for instance,
12 I've had elder abuse cases.

13 Q. I'm sorry.

14 A. I've had elder abuse cases. That's
15 what they're called in California. And those cases
16 I have done with other attorneys because they are
17 larger cases than I necessarily want to do on my
18 own. And so another attorney may be on the case
19 with me. Does that clear it up for Your Honor?

20 Q. Representing the same parties or
21 different parties in regard to whatever it is
22 that's in dispute?

23 A. Well, if it would be a case where I am
24 -- generally, it's the same party. If it's a case
25 that's larger than I would normally take on my own.

1 Q. So would it be fair to say that the
2 majority of your income, whatever that is, comes
3 through court-appointed cases?

4 A. Well, I would say that's probably
5 accurate. I mean, I'm certainly not just doing
6 solely court-appointed cases.

7 Q. Okay. And, again, I'm not -- I'm not
8 rendering anything wrong with that, or anything.
9 Let me ask you this now: Go back to this, did you
10 understand why I asked that you give me your net
11 worth and your net income figures?

12 A. I do, Your Honor. I understand that as
13 is in many punitive damage cases certain
14 documentation of your income is considered. I
15 understand why the analysis behind what you have
16 done. And, of course, I have disputed that.

17 Q. I'm sorry.

18 A. I have disputed that --

19 Q. You have disputed that sanctions should
20 be imposed, but it's one of the things that's
21 necessary for whoever is making the decision about
22 how much sanction, how many dollars and cents, you
23 know, would have an impact. Do you understand
24 that?

25 A. I understand.

1 Q. That's why I'm asking that. And you
2 refused to give it to me.

3 A. Okay. So, again, it's not about
4 refusal to give it to you. I believe I have a
5 legal obligation to myself, and my mother has
6 privacy and those things I believe are private.
7 Now, with regard to the statute, and this is
8 argument, not fact, but with regard to the statute
9 I don't believe that the Court considers that
10 sanction or is to consider that sanction in its
11 reward.

12 You have granted them as my paper
13 indicated over a 150 percent of the estate value at
14 the beginning. I mean, I could have stole the
15 estate and not been in this much trouble. I spent
16 \$58,000 of my own money to maintain that house over
17 the years.

18 Q. And you've gotten credit for that --

19 A. I did get credit.

20 Q. -- and the figures that I used in
21 arriving at what I arrived at.

22 A. You did not.

23 Q. I did. I'll set it out more fully in
24 my order then.

25 A. I didn't get credit for that. I didn't

1 credit for the time that I spent actively working
2 with Alice and being her conservator. I'm the only
3 person, the only person, who did not get paid.
4 These people chose not to help Alice after they
5 promised to help her.

6 And I took on the role because I loved
7 Alice, and I'm being penalized. My mother is being
8 penalized. I no longer have an attorney because
9 what attorney with a brain in their head would
10 represent somebody or could represent them with an
11 adverse case like this. This is a terrible
12 hardship, you know, but this -- this motion for a
13 new trial, although, certainly, has an impact on
14 the sanction award.

15 But the real problem here, Your Honor,
16 is that this Court -- there is no evidence that the
17 Court considered any of the legal arguments related
18 to equitable -- the equitable causes of action that
19 were charged here. I mean, I don't know how the
20 Court, looking at the law, looking at the
21 relationship, looking at the judicial admission of
22 Ms. Passailaigue could come to any other
23 determination.

24 Looking at the documents from the --
25 from the insurance and the other documentation

1 where it says the property is to go to the estate
2 could not -- and doesn't have an obligation to look
3 at Alice Shaw Baker's intent.

4 And I mean no disrespect, but the Court
5 may have looked at those things, but it certainly
6 was not evident in your rule.

7 Q. I will try to spell that out for you
8 better then. I appreciate that. I will try to
9 spell that out better in the order I intend to do.

10 Okay. Let me -- let's move on to
11 another subject then unless you want to say
12 something else there. I would be glad -- I don't
13 want to cut you off.

14 A. I understand.

15 Q. Okay. Let me ask you now. Okay. I
16 understand -- well, I don't understand for sure.
17 That's why I wanted to ask you about this. Prior
18 to, I believe it was the 1st of September or
19 thereabouts of 2008, when was the last time that
20 you had laid eyes on Alice Shaw Baker?

21 A. Oh, I didn't -- I had only spoken to
22 Alice on the phone. My mother had a relationship
23 with her and I had spoken with her and we had a
24 close relationship.

25 Q. Sorry?

1 A. We had a close relationship. You know,
2 we had been talking very frequently.

3 Q. From when? When did that start?

4 A. It was before my great uncle John died,
5 which I think was in 2005, but that may not be
6 correct. I'm not sure about the date.

7 Q. When John died or about that time was
8 when you started talking with Alice on the
9 telephone?

10 A. It was before then. But at that time
11 -- at that time, I think I was in -- I was either
12 starting my practice or I -- I was pretty busy so I
13 would only talk to her once in awhile.

14 Q. Okay.

15 A. My mother talked to her more frequently
16 because my mother had had a relationship with her
17 that -- there was my aunt -- it was my aunts and my
18 mother and, you know, I was just a daughter.

19 Q. That reminds me of something I wanted
20 to ask you about. At the time when we were trying
21 the will contest case, first jury trial, I was
22 about to submit the case to the jury and I'd
23 written out the verdict forms, and on that verdict
24 form I had -- that I showed to you before I gave it
25 to the jury, before I charged the jury and gave it

1 to the jury, I had indicated, and I don't remember
2 my exact language, but that your mother Betty
3 Fisher was the heir. If the will was invalidated
4 that she was the heir and would inherit the estate.

5 And Mr. Hughes came up and told me, no,
6 Your Honor, that's not right. There are other
7 heirs. And I didn't go into it with him at that
8 time because I just took him at his word, you know,
9 as far as if there were other people that would
10 inherit besides your mother, and all, but I have
11 never seen any listing or reference to who the
12 other heirs are.

13 Would you mind telling me who the other
14 heirs are besides your mother?

15 A. Well, there are other children of other
16 family members, my mother's sisters and brothers.

17 Q. Let's -- okay. So -- so we have Alice
18 Shaw Baker, and how many brothers and sisters did
19 she have? One brother, I believe somebody said?

20 A. Right.

21 Q. One brother, John. And then how many
22 sisters?

23 A. She had my grandmother, and there are
24 two other sisters, but I don't think that they
25 were --

1 Q. Who would be the other heirs?

2 A. Their children.

3 Q. So there are other people who have a
4 legal interest in this estate that were never
5 involved in this?

6 A. That's correct. We're -- at one point
7 they were contacted, I believe, but I don't think
8 they ever were contacted --

9 Q. Did you contact them? Who contacted
10 them?

11 A. That would have been through my
12 attorney, Mr. Cooper.

13 Q. Okay. So you're saying he contacted
14 them, but they never did anything. They never
15 said, we agree with this, we want to be part of
16 this. They chose not to be involved in this
17 action?

18 A. Correct. But, certainly, if -- well,
19 let me just say this: Pursuant to the original
20 complaint and as our belief was, is that the money
21 would go to animal charities. So that's where the
22 money would have gone if my mother had gotten it.
23 And I don't know if the other heirs would have
24 honored Alice --

25 Q. Well, your mother never disclaimed any

1 interest in this estate.

2 A. She couldn't disclaim the interest, but

3 --

4 Q. Why not?

5 A. Because then she would not be a party.

6 Q. She wouldn't have a standing, right?

7 A. I will say this, Your Honor, that as
8 the will was drafted, and as my duties as the
9 conservator in holding the property, I had a duty
10 to make sure that the property went to the correct
11 person.

12 Q. Went to who?

13 A. The correct person.

14 Q. And under the will that's the personal
15 representative of the estate, right?

16 A. Well, no. I had personal knowledge
17 that Alice, one, believed that her property was
18 going to a rescue --

19 Q. Okay. I understand that.

20 A. -- that it was -- that the will was
21 revoke --

22 Q. Let me ask you this: Did you ever have
23 a face-to-face meeting with Alice prior to
24 September of 2008?

25 A. No.

1 Q. Everything that you learned in so far
2 as this case is concerned, you learned after that;
3 isn't that correct?

4 A. No. I told you I spoke to her on the
5 phone. I had money conversations with her about
6 herself and many conversations about her estate.
7 And she was a private person, but she was a person
8 who --

9 Q. When did the conversations begin?

10 A. Okay. So as I indicated, I believe
11 that in 2005 would have been approximately when I
12 talked to her regular, but later in her life I was
13 talking to her probably every week or so, maybe
14 every two weeks. And that would have been
15 starting, I believe, in -- it was probably 2006,
16 because she sent me a gift when I graduated, and I
17 think it was 2006 when I got my LLM.

18 So that's when I started contacting her
19 because, you know, she was all alone and I wanted
20 to make sure that she had, you know, someone to
21 talk to. And we had a lot of similar life -- life
22 experiences, so -- but as I indicated, my mother
23 spoke to her more frequently.

24 Q. Okay. And when you came for John's
25 funeral, you know, Alice Shaw Baker knew you were

1 coming, right?

2 A. We didn't come for John's funeral. In
3 fact, I tried to find out what happened to John.
4 She got angry with John because he allegedly kicked
5 her dog. So she got mad with him, and I tried to
6 find out where his -- he had -- I found out he was
7 cremated, but I didn't know where -- I didn't know
8 what happened to his ashes. And I wanted to see if
9 there was a --

10 Q. So I was mistaken then. There wasn't a
11 funeral. It was just you and your mother came in
12 at some point?

13 A. There was a court hearing because --

14 Q. A court hearing in regard to his
15 estate. When was that?

16 A. I won't -- it's not going to be an
17 accurate time. I would have to see papers.

18 Q. So it was sometime six months, a year
19 later?

20 A. No. No. It was -- he died and there
21 was some statement in the record, and it was
22 settled at the hearing. And there were other
23 heirs, and I don't know, I think it was \$1500,
24 because Alice disclaimed her interest in that
25 property.

1 Q. She disclaimed her interest in the
2 property?

3 A. Right. She was mad at him because he
4 kicked her dog.

5 Q. So when you came in connection with
6 that, and all, she knew you were coming? Or did
7 you call her and say, Aunt Alice, we are coming to
8 Charleston, we would love to come by and see you?

9 A. We called her and -- when we were here.
10 I know there was conversation before because the
11 reason it settled the way it settled was Alice was
12 upset with my mom for -- they made some false
13 statements about a family member and we objected --
14 my mother, to the order.

15 And so Alice was upset about it. She
16 didn't want the attorney who was involved to be mad
17 at her. And so at the hearing my mother settled
18 the matter without getting attorney's fees or
19 anything.

20 Q. So you-all came to see about John's
21 estate and Alice knew you were coming for that?

22 A. Yes.

23 Q. She didn't come to see you, you didn't
24 go to see her?

25 A. We called her to see her that day, yes.

1 Q. But you didn't?

2 A. She wasn't -- she wasn't able to see us
3 that day. I don't -- there was some problem about
4 getting over there. But, no. But we did call her.

5 Q. Okay. And talking about heirs, any
6 unnamed heirs, people who have as much interest in
7 this as your mother does, you know, there was a --
8 in this list of -- or this notebook that Mr. Hughes
9 and you gave me at the last trial -- see if I can
10 find it, it may take a minute to find it.

11 And there was a question asked about
12 something to do with this kind of -- in some of the
13 discovery that took place.

14 Well, I can't find it. It's in here
15 somewhere in one of these exhibits, but, anyway,
16 maybe I can -- I think you know what I'm talking
17 about, you know, when I ask you about it, but there
18 was a will that was -- what purports to be a will
19 that was prepared for Alice Shaw Baker, and all,
20 that talks about a daughter, her daughter, and
21 named her daughter and grandchildren and
22 great-grandchildren. Do you know what I'm talking
23 about?

24 A. No, Your Honor. She didn't have a
25 daughter.

1 Q. I will have to find it then. This was
2 in what you gave me.

3 A. I don't know. Maybe -- I don't know.
4 I'm sorry, Your Honor.

5 THE COURT: Do you have reference to
6 that? Which one of these exhibits?

7 MS. CROWLEY: I don't know which
8 exhibit. I do know that they did submit a draft
9 will that's -- I believe --

10 THE COURT: That's the one I'm talking
11 about.

12 MS. CROWLEY: -- had been begun for
13 Alice Shaw Baker, but it looked like they were
14 using a go buy from another will for another person
15 which might be the reference you're talking about.

16 THE COURT: Maybe it's inaccurate.
17 That's what I was trying to clear up.

18 MS. ELLIOTT: I believe it's -- it
19 looks like one must be done using another will as
20 sort of a template for it and it was never
21 completed. I believe it was subpoenaed from the
22 attorney who drafted it.

23 THE COURT: That's what I'm talking
24 about, but nobody has ever explained that in any
25 way.

1 MS. CROWLEY: I believe it was an
2 incomplete will.

3 BY THE COURT:

4 Q. Well, I know, but was it actually --
5 did she have a daughter?

6 A. No.

7 Q. Children and grandchildren?

8 A. She had no children.

9 Q. Well, I understand that's what it was
10 and everything, I mean, that's what you say, but
11 that's what it clearly said in the documents.
12 Maybe it was a mistake. Maybe what you're saying
13 is correct; I don't know.

14 MS. CROWLEY: I don't believe that the
15 names involved were Alice Shaw Baker's names. They
16 were another person.

17 THE COURT: Somehow or another, they
18 got transposed over into a draft of a will --

19 MS. CROWLEY: I think they probably
20 just used a template from another will that they
21 had, and they had -- the plaintiffs had subpoenaed
22 any documents and that's how that ended up.

23 THE COURT: If you're comfortable with
24 that, I'll be comfortable with that then, you know,
25 because it was -- clearly, that's what it said.

1 THE WITNESS: Okay. There were
2 documents that weren't signed. If that's what the
3 Court is talking about.

4 THE COURT: That's what it was.

5 THE WITNESS: Okay.

6 THE COURT: Let me look over my list of
7 things that I had. All right. I think that covers
8 about everything that I thought about as far as
9 this is concerned.

10 Any questions that either one of you
11 want to ask her?

12 MR. WILLS: Yes, Your Honor, just one
13 question.

14 CROSS-EXAMINATION

15 BY MR. WILLS:

16 Q. Ms. Fisher, did you act in a
17 representative capacity with regard to your
18 mother's involvement with John, the brother's
19 estate?

20 A. No.

21 Q. Okay. Do you remember the attorney who
22 was involved with regard to the estate?

23 A. Okay. I'm sorry. You aren't talking
24 about the attorney who represented my mother?

25 Q. Correct.

1 A. You're talking about the other attorney
2 who represented the estate.

3 Q. Correct.

4 A. Yeah. So that attorney's name was
5 Michael Mitchum. He was a long time -- he was the
6 son of a long-time friend of Alice's. And he was
7 also an attorney that Peter Kouten got some
8 court-appointed jobs for.

9 Q. Did you have an occasion to deal with
10 Mr. Mitchum, you and your mother, with regard to
11 John's estate?

12 A. I don't think I ever spoke to him. I
13 think Mr. Cooper may have. I think an employee of
14 his office contacted my mother because -- and this
15 was part of the problem. They kept trying to say
16 that my aunt was named this other name than her
17 real name. And it became a big problem because my
18 mom said, it's not her name.

19 And then they spoke to Alice who told
20 me they were asking her those names and they were
21 trying to find other people who were part of the
22 estate.

23 Q. You filed a grievance with the South
24 Carolina Bar against Mr. Mitchum, didn't you?

25 A. Against Mr. Mitchum? I don't think so.

1 Q. Any disciplinary action that you tried
2 to bring against Mr. Mitchum?

3 A. I don't think so.

4 Q. What was the result of the estate --
5 how was the estate disposed of, John's estate,
6 ultimately?

7 A. It was a small estate. I think maybe
8 it was -- I don't know. Maybe it was \$25,000.
9 It's been a long time and I don't know, but it was
10 a very small estate. The attorneys got, I think,
11 half of it ultimately after the costs and sales and
12 everything.

13 And then there was a portion that went
14 to my mother and her sister and some other people.
15 But I know that the share for my mother was I think
16 \$1,500.

17 Q. Did you receive any of that money?

18 A. My mother attempted to give it to her
19 sister who had MS, and she died. And so they
20 refunded the money -- they gave it back to my
21 mother because her sister died. And I don't -- I
22 don't remember what happened to the money.

23 It was \$1,500. So it wasn't -- you
24 know.

25 Q. Did you receive any of the money?

1 A. I don't recall. My mother may have
2 given it to me for helping her, but I don't recall.

3 MR. WILLS: That's all the questions I
4 have.

5 THE COURT: All right. Thank you very
6 much. You can return to your place in the
7 courtroom.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Now, Ms. Huckabee, I would
10 like to ask you some additional questions. If you
11 would please come on up, please.

12 BESSIE HUCKABEE,
13 being first duly sworn, testified as follows:

14 THE COURT: Have a seat. Let me go
15 back to you, Ms. Fisher, because there is one other
16 area that I wanted to ask you about, you know. You
17 can just answer it there and stay at your place
18 there where you're seated there.

19 DIRECT EXAMINATION

20 BY THE COURT:

21 Q. The home of Alice Shaw Baker, you know,
22 you've had complete control of that ever since she
23 died, right?

24 A. Yes.

25 Q. And who has been occupying it? Have

1 you been occupying it at any time?

2 A. No.

3 Q. Who has?

4 A. I put -- I had a caregiver stay there.
5 I had a caregiver stay there.

6 Q. Who is that? Is that the lady who
7 testified?

8 A. Candace Rickborn, yes.

9 Q. And that's the lady who testified?

10 A. Yes.

11 Q. And she's been staying there ever since
12 Alice died?

13 A. Yes.

14 Q. And she hasn't been paying any rent?

15 A. She has not because it was my
16 understanding that the estate -- the house could
17 not be left open and if -- I had to make sure that
18 the house looked presentable or it could be deemed
19 an abandoned property.

20 Until the resolution of the case, I
21 asked her to stay there because she had been
22 trustworthy, and I didn't want to sell any of the
23 property because if any of that property was going
24 to go to animal charities, as I believe Alice
25 intended, those people should be the ones that goes

1 through the property.

2 The house is maintained exactly as it
3 was, you know. When there was a -- when the water
4 heater broke, I got it fixed. The property hasn't
5 changed. I mean, it doesn't have anything of
6 immense value in the house. It only has some
7 furniture and all of her animals, you know, the
8 things that she loved. But there is nothing --
9 there's not a lot of expensive furniture.

10 She has a washer and she has an older
11 refrigerator and an older --

12 Q. Let me ask you this: Why do you think
13 you've been entitled to it for nine years?

14 A. Well, it's not about nine years. It's
15 about until there's a final determination.

16 Q. Since she died?

17 A. Yeah. But it's until there is a final
18 determination.

19 Q. Your conservatorship was terminated by
20 Judge Curry in the spring of '09, right?

21 A. I understand that, Your Honor.

22 Q. That's been nine years, right?

23 A. I understand that.

24 Q. What was your duty? To turn it over to
25 the estate, right?

1 A. The duty was to turn it over to the
2 appropriate person. If you look at the statute,
3 the statute isn't just about giving it to the
4 personal representative.

5 As long as there is a dispute about the
6 will and whether or not Bessie Huckabee is the
7 appropriate person, I believe that it's my duty to
8 maintain the property; therefore, I also tried to
9 ensure that there was no excessive cost to the
10 estate, and that's why I paid for all of the things
11 over these years.

12 It's not about me trying to hold on to
13 the property. I haven't changed it. It's as if
14 she had never died.

15 Q. Do you have any recollection -- did it
16 ever cross your mind that it would be a good idea
17 to rent this property out and put some money coming
18 into the estate instead of everything going out?
19 Did you ever think about that?

20 A. No, because there's no way I could rent
21 it.

22 Q. Unless you gave it to the personal
23 representative?

24 A. The only thing they would have been
25 able to do is sell it. And the property -- you

1 know, if you sell that property and -- it's
2 intended for animal charities.

3 You know, this is a disputed issue,
4 Your Honor, and I understand the Court may not
5 think it was right, but under the law and the trust
6 law and under the law as the statute -- as I read
7 the statute, and I think it's a correct reading of
8 the statute, that there is nothing that should be
9 done.

10 In fact, if you look at the code which
11 is set forth, I think it's in my motion about the
12 relief sought, everything is supposed to be stayed
13 pending the determination of this hearing anyway.

14 Q. You and I have a different opinion
15 about that.

16 A. Well, Your Honor, if you look at the
17 code --

18 Q. I've looked at the code.

19 A. Okay. Well, that one code where you
20 apologized for placing an injunction on this case,
21 which --

22 Q. I didn't apologize for placing -- I
23 apologized for placing a mutual restraining order.
24 That's the only thing that I have done that I would
25 apologize for insofar as anything is concerned. A

1 mutual restraining order that you appealed to the
2 Supreme Court. I can't imagine doing that.

3 A. Well, Your Honor, the problem is they
4 didn't care about that mutual restraining order.
5 They sought a modification of that restraining
6 order and, yet, they didn't get the bond. They
7 testified they couldn't get the bond. And when you
8 look at the relief --

9 Q. Did they have any money from the estate
10 at that time?

11 A. That doesn't matter.

12 Q. You paid the money for a bond from the
13 estate, right?

14 A. It doesn't matter.

15 Q. It does.

16 A. No, it doesn't. Listen --

17 Q. I'm not going to argue with you.
18 That's all I want to hear from you.

19 A. Well, Your Honor, you asked that -- you
20 wanted information on that matter. And if you only
21 want information --

22 Q. Did you pay for it with your money --
23 back then, did you pay for it with your money or
24 money from the estate?

25 A. At that time I paid with money from the

1 estate for that short period of time.

2 Q. They didn't have any money from the
3 estate at that time.

4 A. I don't know what that has to do with
5 the relief you gave. If the Court looks at the
6 code, the relief that you gave was nothing more
7 than is already applicable under the code. So
8 nothing was supposed to be -- take place.

9 So I'm not sure why the Court is angry
10 with me. If it had gotten to a special --

11 Q. I'm not angry with you at all. The
12 only thing I looked at is what has happened over
13 the last nine years. All right.

14 DIRECT EXAMINATION

15 BY THE COURT:

16 Q. Okay. Ms. Huckabee, I want to ask you
17 some questions now. Tell me about your
18 relationship with Alice Shaw Baker. How did you
19 come to know her?

20 A. Alice was my boss at Charleston
21 Memorial Hospital.

22 Q. When did you -- when did she become
23 your boss?

24 A. In -- before 1970.

25 Q. Okay. So 30, 40 years that you and she

1 had worked together or been friends; is that right?

2 A. Yes, sir. She was in our home.

3 Q. Okay. Do you know anybody that was a
4 better friend of hers than you and
5 Ms. Passailaigue?

6 A. Not that I know of out of that. I know
7 that she had some friends that she -- some ladies
8 at church, but I did not know them.

9 Q. Okay. Prior to your -- her giving you
10 or making you her personal representative under the
11 will, did she ask you would you do that?

12 A. Yes, sir; she asked me if I would be
13 the administrator.

14 Q. And you agreed to?

15 A. I said I would do it.

16 Q. Did you promise her anything?

17 A. I did not. She told me that everything
18 was taken care of, that there would be no problems,
19 and that -- cut clear, and so I made no promises to
20 her.

21 Q. And she had a lawyer help her draw up
22 her wills -- that she had made a series of wills
23 and, apparently, she had a lawyer that did that
24 with her; is that right?

25 A. Yes, sir.

1 Q. You made a statement at the last
2 hearing that she didn't want any lawyers involved
3 in it?

4 A. That's right.

5 Q. Did she tell you that?

6 A. Oh, yes, sir, several times. It was
7 cut -- the will was clear cut and she wanted -- she
8 did not want lawyers involved.

9 Q. Did she ever talk about Betty Fisher or
10 Lisa Fisher when she was talking with you?

11 A. No, sir, not until after John died did
12 she say that -- I knew she had relatives in
13 California and somebody in Maryland, I think,
14 somebody else in maybe Colorado. Never personally
15 talked about them or the relationship that she had
16 with them.

17 Q. How would you describe her personality?

18 A. Alice was very private. You only found
19 out what she wanted you to know, and once she made
20 up her mind, there was no changing it. Once you
21 got to know Alice, she was a very likable woman.
22 In fact, she was a lot of fun.

23 We did several things together as far
24 as camping and bowling, movies, you know. She
25 would be at our house, that and the other.

1 She was a nice person. She really was,
2 but she was private. Hard worker, you did it her
3 way.

4 Q. When did I start noticing a decline in
5 Alice?

6 A. Alice got to the point that she
7 wouldn't let us into her home because of the dogs.
8 It would upset the dogs. I can't remember the time
9 -- it was probably 2007, somewhere in there, I
10 noticed that she was letting herself go, in her
11 appearance and everything.

12 And she was talking -- she was
13 repeating herself a lot, and that's when Kay and I
14 got concerned about her. And we neither one knew
15 anything or who to contact or what. And that's
16 when Kay and I, or Kay mostly, started asking some
17 questions from Elizabeth Spencer who was with the
18 police department for elders.

19 Q. When there was -- was there a neighbor
20 who actually contacted the elder line or whatever?

21 A. Kay contacted, asked for some
22 information. You would have to ask Kay.

23 Q. Kay did. Okay. And I can't remember
24 now, you know, were you named as her attorney in
25 fact or with a healthcare power of attorney or was

1 that Kay?

2 A. I didn't have anything to do with an
3 attorney with her.

4 Q. Okay. But she executed a healthcare
5 power of attorney or durable power of attorney and
6 a power of attorney, you know. And I don't
7 remember if that was you or whether that was Kay.

8 A. Me.

9 Q. You?

10 A. She asked me if I would be it, and that
11 was it.

12 Q. And that was -- did you have any other
13 conversation with her about that?

14 A. No, sir.

15 Q. Did she ever give it to you?

16 A. I think she got confused because she
17 would -- every time she had a will drawn up, she
18 would give me a copy and Kay a copy.

19 I did not get that copy. I think Kay
20 got it. In fact, I think I got a copy of it from
21 Kay. It was after she got sick, and everything,
22 and before she died was when I got a copy of it. I
23 did not know anything about it.

24 THE COURT: Okay. All right. I think
25 that's all I wanted to ask her. Any questions that

1 you want to ask her, Ms. Fisher?

2 MS. FISHER: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. FISHER:

5 Q. You said Alice was a hard worker, and
6 when she said to do it a certain way, you did it
7 her way; is that right?

8 A. Yes, ma'am. In her office she was the
9 boss.

10 Q. And I think at one point you testified
11 that Alice started to treat you like an employee?

12 A. After she got sick.

13 Q. Okay. So that would be approximately
14 2007?

15 A. 2007.

16 Q. So what did that mean, she started
17 treating you like an employee?

18 A. I would say, Alice, let's do this, or
19 no. If she didn't like it, she would say, no. She
20 would tell me, no, this is not going to work. You
21 need to do so-and-so. She started kind of bossing
22 me around.

23 Q. And during that period of time, Alice
24 was not coming to your home anymore?

25 A. No, she had not.

1 Q. And so she hadn't been to your home
2 since prior to 2007; is that correct?

3 A. Yes.

4 Q. Okay. Do you remember approximately
5 when she stopped visiting you at your home?

6 A. When John come to town.

7 Q. Okay. And at some point -- so let's go
8 back for a second. You knew that Alice intended
9 for her property -- all of her property to go to
10 animal charities. This is prior to the will for --
11 for Kay Passailaigue; is that correct?

12 A. No.

13 Q. Okay. So at some point you had no
14 knowledge that Alice was leaving everything to
15 animal charities?

16 A. No. It wasn't my understanding that
17 she was leaving everything to animal charity.

18 Q. Okay. Well, I think at the last trial
19 you testified that there was -- Alice got upset
20 because the charities wouldn't accept her house;
21 isn't that correct?

22 A. I don't think I said that. I think
23 that may have come from Kay.

24 Q. Okay. That may be correct. So was
25 there a time when you knew that Alice was upset

1 that the animal charities weren't accepting her
2 house the way she had originally anticipated?

3 A. Oh, yeah. I knew they wasn't, yes.

4 Q. And it upset Alice, correct?

5 A. Well, it teed her off, if you want to
6 know the truth. She didn't like it.

7 Q. And that was because Alice wanted her
8 property to benefit charities?

9 A. I don't know how -- what kind of
10 arrangement she had with the charity or anything.
11 I knew that something with the house or something
12 was supposed to go to them. The other things, no.

13 Q. So I think at the last trial you
14 testified that her dogs were her life?

15 A. Yes.

16 Q. And in every conversation you had with
17 Alice there was a discussion about her animals?

18 A. No, not every conversation. We
19 discussed other things besides that.

20 Q. I'm not saying --

21 A. I'm not the dog person, so, no.

22 Q. But you were her best friend?

23 A. I was.

24 Q. And you would admit that she was under
25 the impression that Kay Passailaigue worked at a

1 dog charity.

2 A. She knew that Kay took in rescue dogs.
3 How much she knew about what she'd done or
4 anything, I don't know.

5 Q. So there was never a time when Alice
6 talked to you about Alice -- about Kay working with
7 animal charities?

8 A. No, not -- not in any depth or anything
9 that I could remember. I knew Kay took in rescues;
10 I knew that Kay had dogs. I mean --

11 Q. So since Alice was so impeccable about
12 giving directions, are you stating that you weren't
13 aware that Alice wanted her monies to be used for
14 charitable purposes?

15 A. Not her entire estate, no.

16 Q. Okay. So why would she leave her
17 estate to Kay when you were her best friend?

18 A. That's her wish. That wasn't mine. I
19 didn't have dogs.

20 Q. So Alice never told you -- never told
21 you under any circumstance, I'm giving this to Kay
22 and not to you because?

23 A. With what I would get from what she
24 willed me and from what I would get for processing
25 her -- being the administrator of her estate, our

1 chair -- our share would equal is what she told me.

2 Q. So you were under the impression you
3 were going to get the same amount as Kay?

4 A. I never questioned it. It's her money.

5 Q. I'm asking you what your impression of
6 what Alice told you. Did Alice tell you you were
7 going to split the estate with Kay?

8 A. No.

9 Q. Did she tell you that you would be
10 getting the same amount of money as Kay?

11 A. I would get money equal as to what Kay
12 would get.

13 Q. As you sit here today, that's still
14 what you believe you will get?

15 A. Yes, I believe it.

16 Q. Okay. So -- so, have you seen the
17 will?

18 A. Yeah, every time she made a copy, I got
19 a copy of it. I didn't read it because nobody
20 figured she was in good health -- we were in good
21 health. I'd just put it in a lock box and that's
22 where it stayed.

23 I did not flip them open and say, how
24 much am I getting or anything.

25 Q. Okay. At one point Alice showed a very

1 detailed letter about how she wanted -- who she
2 wanted as her pallbearers; is that correct?

3 A. Yes, she did.

4 Q. In that letter did you see any
5 reference to a plaque for her animals with the
6 charities?

7 A. It's not a letter. It's a list of
8 things she wanted. Yes, there was a plaque.

9 Q. Okay. And did she tell you why she
10 wanted that?

11 A. Not really. She just -- she drew a
12 little picture or a diagram, just kind of sketched
13 it, of what she wanted put out there where her dogs
14 were buried.

15 Q. Did you ever talk to her about which
16 organization she wanted the plaque to be arranged
17 with?

18 A. No.

19 Q. Okay. And in your conversations with
20 Alice, did you have the impression that she
21 believed her monies were going to be used for the
22 benefit of animals?

23 A. Not the entire estate, no.

24 Q. So what part of the estate was supposed
25 to go to animals? What part was supposed to be

1 used for animals?

2 A. I have -- there was no specific amount.
3 There was no money number in there. I have -- you
4 know, I have not -- and I haven't read the will in
5 a long time, so...

6 Q. But you knew --

7 A. That was --

8 Q. That she intended some of the money to
9 be used for animal charities?

10 A. She intended for Kay to use the money
11 as what she saw fit as far as I know. I don't know
12 --

13 Q. That's not what I'm asking you.

14 A. I don't know what kind of conversation
15 Kay and Alice had about the money.

16 Q. But now you've testified that not only
17 did you know that you were going to split the
18 estate, you were going to split the estate with
19 Kay, but also that you knew that some of those
20 monies were going to be used for animal charities?

21 A. You have to ask Kay about those. I
22 didn't discuss what was going to animal charities
23 or anything else with her.

24 Q. Isn't it true that the reason that
25 Alice chose you to be her personal representative,

1 she treated you like an employee and she knew that
2 you would follow her instructions?

3 A. She treated me like a friend too. And
4 that's what I was to her for 30 years most
5 probably.

6 Q. Thirty years she expected you to take
7 action to help her when she didn't want to go to a
8 nursing home; is that correct?

9 A. I don't think I ever discussed a
10 nursing home with her.

11 Q. Okay.

12 A. I didn't promise Alice if -- she said
13 everything was taken care of. I didn't promise
14 Alice that I was going to stop my life and come
15 spend seven days a week, 24 hours a day with her to
16 take care of her.

17 I had gone through that with my mother,
18 with my grandmother, with my aunt. So, no. I have
19 a family. We did not discuss that.

20 Q. I think you testified at the last trial
21 that Alice specifically stated she did not want to
22 go to a nursing home; is that correct?

23 A. I'm sure -- no, she wanted to stay in
24 her home.

25 Q. So you did have conversations about

1 whether or not she was going to -- that she would
2 need help to help her from going into a nursing
3 home?

4 A. The only thing, like I just told you,
5 she did want -- she wanted to stay in her home as
6 long as she could and as long as she lived.

7 Q. And she was a private person you
8 testified?

9 A. Yes, she was.

10 Q. Okay. So the problem is, why would she
11 tell you that if she didn't expect you to help her
12 make sure she didn't go to a nursing home?

13 A. I don't know.

14 Q. So at the time of the conservatorship,
15 the time of the conservatorship, did Alice ask you
16 to help her?

17 A. No.

18 Q. She didn't ask you to assist her when
19 the estate was coming against her and trying to
20 have her conserved?

21 A. No. No, I didn't talk to her about
22 that. She didn't talk --

23 Q. Did you have a conversation with me
24 about becoming her conservator?

25 A. There were two calls at my home from

1 California, at that point. And I told you, or
2 whoever, your mother, that I could not do that.
3 That was the only time it was talked about.

4 THE COURT: To do what?

5 THE WITNESS: To do the
6 conservatorship, Your Honor.

7 THE COURT: Okay.

8 BY MS. FISHER:

9 Q. So Alice never called you crying
10 because you weren't helping her?

11 A. No. Alice called me plenty of times,
12 like 3:00 in the morning, 12:00 at night. She
13 called my phone; one thing she never forgot was my
14 telephone number.

15 Q. That didn't answer my question. So
16 step back a second. During the period of her
17 illness from 2008, 2009, before the conservatorship
18 started, did she call you crying about the
19 conservatorship?

20 A. No, she did not call me. She cried
21 sometimes when she was on the telephone, but, no,
22 she did not call me and talk about that.

23 Q. Did she ever talk to you about the
24 estate wanting Elizabeth -- Elizabeth Spencer
25 starting conservatorship proceedings?

1 A. No. She talked about some lady coming
2 to her house. She didn't know who she was. She
3 didn't talk to me directly about Elizabeth Spencer.

4 Q. So tell me, how would Alice have
5 reacted had she known that you turned her in to
6 Elizabeth Spencer?

7 A. I didn't turn her in to Elizabeth
8 Spencer.

9 Q. Talk to Elizabeth Spencer?

10 A. Elizabeth Spencer called me and talked
11 to me about Alice. I didn't call her.

12 Q. So how would Alice have felt if she had
13 known that Kay had spoken to Elizabeth Spencer?

14 A. I'm sure she would have been upset if
15 she understood what was going on.

16 Q. And she would have revoked immediately
17 any gift to you; isn't that correct?

18 A. I don't know that.

19 MR. WILLS: Do I need to be objecting
20 here to this?

21 THE COURT: No.

22 MR. WILLS: Let me object just in case.

23 MS. FISHER: Your Honor --

24 THE COURT: Ask another question.

25 BY MS. FISHER:

1 Q. Okay. So when Alice gave you those
2 important documents related to the power of
3 attorney, she didn't give you any direction about
4 what was supposed to happen or what those documents
5 were for?

6 A. No, she didn't.

7 Q. And you asked no questions about what
8 the documents were for?

9 A. I just knew that it was her will and
10 her papers.

11 Q. And did you ever have a mutual power of
12 attorney where you asked her to be her agent?

13 A. No, I did not.

14 Q. So you knew that Alice asked you
15 because she trusted you?

16 A. I would hope so, yes, I do.

17 Q. And you knew that Alice's whole life
18 was -- beginning in 2007 and until the end of her
19 life was about her dogs? Would you say that was a
20 correct assessment?

21 A. She talked about them dying and about
22 when they were deceased. I took Alice to the vet
23 many times. But, yes, her dogs, as long as she had
24 them, she talked about them.

25 Q. From 2007 until her death, most of your

1 contact with Alice was about her animals, her dogs,
2 correct?

3 A. No. Sometimes she talked about the
4 ladies that was taking care of her.

5 Q. Okay. So before the ladies started
6 taking care of her, was it mostly about the dogs?

7 A. I'm sure it was.

8 Q. Okay. So, again, when you talk about
9 Alice's expectations at that time, is there any
10 doubt in your mind that she expected her monies to
11 be used for animal charities?

12 A. No. She did not expect -- I didn't
13 know that she expected her money to go all to
14 animal charities.

15 Q. So what discussion did you have with
16 her about them?

17 A. About her dogs?

18 Q. About what her monies were to be used
19 for?

20 A. I never discussed her money with her as
21 long as she was able to discuss it. That was her
22 money.

23 Q. But you're willing to take it now,
24 right?

25 A. You know what? I didn't go out and buy

1 anything when I knew anything happened, because I
2 didn't know what was going to happen. But you know
3 what? I was a friend of hers, a good friend.

4 Q. But you knew that if she knew that you
5 had turned her in or Kay turned her in she would
6 have revoked the will?

7 A. I don't know that.

8 Q. You suspected that --

9 A. Huh?

10 Q. You suspected that based on her past --

11 A. No.

12 Q. -- discussions with you?

13 A. No.

14 Q. Okay. So at the time of her death, the
15 last day of her death, prior to her dying -- let's
16 rephrase that. The day of her death, were you at
17 the hospital?

18 A. Yes, I was.

19 Q. And the day of her death, were you
20 calling -- did you call Peter Kouten arranging to
21 start to act as personal representative?

22 A. No, I did not.

23 Q. Did you talk to him before that time
24 asking him about what was necessary for you to
25 become personal representative?

1 A. No, I did not.

2 Q. So if I represented to you that he told
3 me on the day of her death that he had already
4 spoken to you and set up an appointment to meet
5 with you to set up -- to start the probate, would
6 that be a surprise to you?

7 MR. WILLS: Objection. That calls for
8 all kinds of privilege --

9 THE COURT: Ask another question.

10 THE WITNESS: Yeah, because I hadn't
11 spoken to him about those kind of things at that
12 point.

13 BY MS. FISHER:

14 Q. So with regard to the day of her death,
15 isn't it true that you told Alice in her state of
16 mind -- in her somewhat unconscious state that she
17 should go to her dogs? It was all right to go to
18 the dogs?

19 A. I don't think I said that.

20 Q. Do you remember me asking you and Kay
21 to leave?

22 A. Yes, you did. But Kay wasn't there
23 when you asked me to leave.

24 Q. I asked you earlier in the day to let
25 me see Alice alone because you were talking about

1 personal things. Do you recall that?

2 A. No, not really. You may have.

3 Q. And you, in fact, acted to get the keys
4 to the house before -- before there were any
5 proceedings filed?

6 A. I did not ask for the keys to the
7 house.

8 Q. But you intended to get the keys to the
9 house?

10 A. There was four or five of us in the
11 cafeteria when they called May Day and we found
12 that Alice had died. Somebody said, does that now
13 make you in charge?

14 I said, legally, all of this stuff, I
15 don't know. Candy wanted to get rid of the keys.
16 She said, I need to get my personal stuff out of
17 there and I want somebody to get --

18 THE COURT: Who is Candy?

19 THE WITNESS: Candy is the lady who
20 lived in the house for nine years.

21 I said, I'm not going across the river
22 because I live in the north area. I've been here a
23 long time. I didn't follow her over there. One of
24 the workers followed her over there, to my
25 knowledge, got the keys to the house, and I picked

1 the keys up off a gas station on Clements Ferry
2 Road off of 526 three or four days later.

3 BY MS. FISHER:

4 Q. Why were you given the keys?

5 A. They wanted to get rid of them, I
6 guess. But that doesn't matter, I've had keys to
7 Alice's house for years.

8 Q. Did you ever ask me for the keys?

9 A. No, I didn't ask you for the keys.

10 Q. Did you ever speak to me at all about
11 anything related to the estate?

12 A. No.

13 Q. And isn't that because I got angry with
14 you for talking to Alice about going to her dogs?

15 A. I guess. I don't know why you got
16 angry with me.

17 Q. Isn't it true that Alice relied on you
18 to make sure that those monies were used for
19 charitable purposes?

20 A. Like I told you before, not all of the
21 estate. I was supposed to go by what the will
22 said.

23 Q. Okay. But the will didn't say anything
24 about charitable purposes. So you testified today
25 that Alice communicated to you that the monies were

1 to be used for charitable purposes?

2 A. Not all of it.

3 Q. So what monies were supposed to be used
4 for --

5 A. I don't know.

6 Q. When did you have the conversation with
7 Alice about the charitable purposes?

8 A. I didn't -- she just -- I didn't have a
9 conversation with Alice about what this is supposed
10 to go to and that's supposed to go to. I knew she
11 had given money to animal charities, helped out
12 with this and that and the other for years, but
13 does all of her estate -- like I said, no, it
14 wasn't.

15 That wasn't in the will. I was
16 supposed to go by that. How much she talked to
17 Kay, I don't know.

18 Q. But you do know that she intended for
19 at least a portion of it to be used for charitable
20 purposes?

21 A. How much, I don't know.

22 MR. WILLS: Objection. She's already
23 stated she was going to execute what was in the
24 will.

25 MS. FISHER: She testified to more than

1 that.

2 THE COURT: That's what she's supposed
3 to do. That's what she's going to do.

4 Any other questions?

5 MS. FISHER: No, Your Honor.

6 THE COURT: Okay. Anything else you
7 want to ask?

8 CROSS-EXAMINATION

9 BY MR. WILLS:

10 Q. Ms. Huckabee, you stated earlier that
11 you were Alice's power of attorney?

12 A. Yes.

13 Q. Did you ever act under that power in
14 any way?

15 A. No, sir, I did not.

16 MR. WILLS: Okay. Thank you.

17 THE COURT: Thank you. You can return
18 to the place in the courtroom.

19 MS. FISHER: Your Honor, may I be heard
20 for a moment?

21 THE COURT: I'm sorry?

22 MS. FISHER: Can I be heard for a
23 moment?

24 THE COURT: Sure.

25 MS. FISHER: It appears to me that you

1 have already determined how you're going to resolve
2 this motion, so I don't want to --

3 THE COURT: No motion has been decided
4 until I have signed off or said what I'm going to
5 do. So you can put that back into your pocket.
6 It's never over until it's over.

7 Anything else you want to state?

8 MS. FISHER: Well, you did state a
9 moment ago that's what she's going to do. So if
10 you have already resolved this --

11 THE COURT: No. No.

12 MS. FISHER: -- it I don't want to
13 waste the Court's time.

14 THE COURT: You don't have to say
15 anything more about that, Ms. Fisher.

16 MS. FISHER: Okay. Thank you, Your
17 Honor.

18 THE COURT: Nothing has been decided
19 until I have signed an order.

20 MS. FISHER: Thank you, Your Honor.

21 THE COURT: Ms. Passailaigue, would you
22 like to come up, please? Briefly.

23 KAY PASSAILAIGUE,
24 being first duly sworn, testified as follows:

25 THE COURT: All right. Have a seat.

1 DIRECT EXAMINATION

2 BY THE COURT:

3 Q. Tell me about your relationship. I
4 want to make sure that the record is clear that
5 your relationship with Ms. Alice Shaw Baker. How
6 did you know her?

7 A. We both worked at Charleston Memorial
8 Hospital.

9 Q. How long ago was that? How long have
10 you known her?

11 A. I started there in 1974, and she was
12 there.

13 Q. Okay.

14 A. I did not work for her. She was in
15 another department.

16 Q. How did you and she become friends?

17 A. Just from working, and we would go out
18 and have Christmas parties. And it was mainly --
19 when she retired, we had both got puppies. And we
20 -- I mean, we were friends with -- way before that,
21 but just different things we liked.

22 Q. But you-all did have this commonality,
23 if you want to call it that, or interest in dogs?

24 A. Correct.

25 Q. Okay.

1 A. And so we started doing dog things,
2 going to obedience. And we talked on the phone
3 mainly most of the time.

4 Q. Okay. And so how did it come -- did
5 she ever discuss with you putting you in her will?

6 A. She did. She knew at the time, and
7 still to this day, I do a lot with animal
8 charities. I do a lot of fostering and that sort
9 of thing.

10 And she had left her estate to
11 Charleston Animal Society, but she wanted me and my
12 husband to be able to live in the house until we
13 died and then it would go to Charleston Animal
14 Society.

15 Q. That was back in the past sometime; is
16 that correct?

17 A. Yes.

18 Q. The last will she did, did she discuss
19 that with you in any way?

20 A. Well, that was the will before -- she
21 had another will that gave me the house because
22 Charleston Animal Society didn't want to be the
23 renter.

24 Q. And the last will that she made, the
25 one --

1 A. We discussed it because she, I think,
2 wanted her dogs to stay in her house. And the only
3 thing I ever promised Alice was if anything
4 happened I would take her dogs.

5 Q. And she didn't have any dogs when she
6 died?

7 A. No. They had all passed away by then.

8 Q. Okay. And the money that came from her
9 life insurance and retirement and that sort of
10 thing, did she ever ask you or tell you what she
11 wanted anything to do?

12 A. No.

13 Q. Or how you came about getting that?

14 A. No, sir. I had no idea what her estate
15 was even worth. She was not the type of woman that
16 would discuss that.

17 Q. So when she would leave the life
18 insurance and retirement and the deferred comp and
19 all of that stuff and name you to get that, did she
20 ever discuss with you why she was doing that?

21 A. No, sir.

22 Q. Did that come as a surprise to you?

23 A. It did. I knew deferred comp, but I
24 had no idea what kind of money was in it. I did
25 not know about the life insurance or the

1 retirement.

2 THE COURT: I think that's all I have
3 to ask you.

4 MS. FISHER: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. FISHER:

7 Q. So you testified today that you are
8 known to be involved with animal charities?

9 A. That's correct.

10 Q. And in 2007, were you known to Alice to
11 be involved with animal charities?

12 A. Yes.

13 Q. In 2007, was she under the impression
14 that you were involved with animal charities?

15 A. I'm bad about dates, but probably.

16 Q. And at the time of her death, you knew
17 that she knew you were involved in animal
18 charities?

19 A. Correct.

20 Q. Okay. When I spoke with you at the
21 conservatorship hearing, you indicated to me that
22 you were no longer involved with any --

23 A. I do not recall that. That would have
24 been a lie.

25 Q. Okay. You didn't retire from working

1 with the charities?

2 A. Nope. I may have stopped working with
3 a certain charity, but I continued in other -- with
4 other people.

5 Q. So earlier Ms. Huckabee testified that
6 she was under the impression that she will get half
7 of the estate. Did you have a private agreement
8 with Ms. Huckabee to share the estate with her?

9 A. No.

10 Q. Was it your understanding that she
11 would get the same amount of money as you did?

12 A. No.

13 Q. You were not Alice's best friend,
14 correct?

15 A. I was a good friend. I wouldn't say
16 best friend, but I talked to Alice quite a bit,
17 about every day.

18 Q. But that stopped approximately 2007?

19 A. It never stopped.

20 Q. Okay. Well, you weren't calling her
21 everyday when the conservatorship started?

22 A. I called her several times a day. I
23 talked to a lot of the sitters and she talked to
24 me.

25 Q. Okay. Did you ever -- strike that.

1 So at some point she wanted you to live
2 in the house and that was made part of her estate
3 plan. You knew about that, correct?

4 A. Correct.

5 Q. And that was mostly because she wanted
6 her animals taken care of?

7 A. I don't know exactly if that's the only
8 reason. She knew I didn't have a house.

9 Q. Okay. Does Ms. Huckabee have a house?

10 A. No. She lives with her brother.

11 Q. Okay. Other than -- beginning -- when
12 was the last time that you visited Alice in her
13 house?

14 A. I believe she was going to get a CAT
15 scan that day. Katherine was with her, but I don't
16 remember the exact dates.

17 Q. Okay. Thank you. Prior to the
18 beginning of the conservatorship proceedings, how
19 many times did you see Alice since 2007?

20 A. I can't tell you. We were not the kind
21 of people that went to each other's house.

22 Q. You didn't visit her regularly at
23 her --

24 A. No. She didn't visit me regularly. We
25 talked on the phone every day.

1 Q. Okay. And so you did have
2 conversations with Alice about the charitable
3 purposes of the use of her monies?

4 A. We talked about dogs, my latest rescue,
5 and things like that. We didn't talk about her
6 money.

7 Q. So Alice did at some point tell you how
8 she wanted her money to be used?

9 A. No, she did not.

10 Q. You testified at the last trial that
11 she stated that you could sell the property and --

12 A. Buy land and have all the dogs I wanted
13 to keep. I had seven. I couldn't live in her
14 house with that many, but she knew I would take a
15 dog for her.

16 Q. And did you tell her that you were
17 going to purchase the property?

18 A. No.

19 Q. Did you tell her you weren't going to
20 purchase the property?

21 A. No.

22 Q. In fact, you never told her you weren't
23 going to abide by her --

24 A. I never knew what I was going to do.

25 Q. When she made that representation to

1 you about buying property, you never told her,
2 Alice, I'm not going to buy property?

3 A. I don't know that I won't buy property
4 to this day.

5 Q. Okay. But you never told Alice --

6 A. She wanted me to buy land so I could
7 have dogs and keep them. Not necessarily rescue.
8 Alice knew more about me and rescue than anybody in
9 this room. She understood it all. I have six dogs
10 now. That's quite a feat to have.

11 Q. Right.

12 A. It's quite an expense to have. She
13 knew that. She knew I would have taken hers in,
14 and I'm very good to my dogs. That's what she
15 wanted. She knew I would never run a rescue.

16 Q. How do you know that?

17 A. She knew me well enough to know that.

18 Q. Did you tell her that?

19 A. I made that quite clear. Yes, ma'am.

20 Q. So when did you tell her that you would
21 never --

22 A. All along.

23 Q. So what specific conversations --

24 A. We talked all the time. There was no
25 specific -- she knew what I did from our

1 friendship.

2 Q. But when you testified at the previous
3 trial, you stated that when Alice ever talked about
4 that, that you told her that you didn't want to
5 think about that --

6 A. That's exactly right. We talked about
7 what I did day-to-day with dogs.

8 Q. And she was under the impression that
9 her monies would be used for day-to-day protection,
10 rescue of dogs?

11 A. I don't know what her impression was.

12 Q. So this woman who was very specific
13 about everything in her life did not specify to
14 you --

15 A. No.

16 Q. -- any further about her monies?

17 A. No, ma'am.

18 Q. Ms. Huckabee testified that she knew
19 that a portion of the monies were to be used for
20 animal charities. What did she -- what did Alice
21 tell you about a portion of the monies to be
22 used --

23 A. We didn't discuss it, but in my own
24 way, I -- like I said, I take in dogs. They're
25 quite expensive, but Alice didn't tell me what I

1 had to do with it.

2 Q. Then why did she leave the money to
3 you?

4 A. I don't know. I guess because she knew
5 my money would go to dogs because they do now. I
6 spend quite a bit of money to the dogs. I spend a
7 lot of work with dogs. I've raised a lot of money
8 to benefit dogs.

9 Q. Are you going to use \$500,000 of her
10 estate on dogs?

11 A. I do not know how much I would give to
12 do -- and help dogs.

13 Q. And it's your belief that Alice wanted
14 you to have that money, despite the fact that her
15 whole life was surrounded with dogs?

16 A. Her life was not always surrounded by
17 dogs.

18 Q. So in every conversation that you had
19 with Alice, there was a discussion about dogs?

20 A. Not necessarily. We had a lot of stuff
21 in common.

22 Q. What other things did you have in
23 common?

24 A. Oh, we liked the same books and same
25 shows, all sorts of things. We talked about things

1 happening in Charleston, people we worked with.

2 Q. So in the last two years of her life,
3 how many other discussions, other than about her
4 dogs, did you have?

5 A. Plenty.

6 Q. Okay. And --

7 A. It wasn't all dogs.

8 Q. No?

9 A. No.

10 Q. You have been in her house, right?

11 A. Oh, yeah.

12 Q. And have you seen her pictures of
13 her -- photo albums?

14 A. I have seen it and we bought a lot of
15 that stuff. A lot of her stuff was given to her by
16 us. We did a lot of different things with dogs,
17 knew a lot of dog people together.

18 Q. So you felt no obligation to tell Alice
19 that you would not use her monies solely for
20 charitable purposes?

21 A. That never came up.

22 THE COURT: Did she ever ask you to use
23 it for charitable purposes?

24 THE WITNESS: No. But she knew I spent
25 a fortune on dogs.

1 BY MS. FISHER:

2 Q. But you said that she did ask you to
3 purchase land?

4 A. She said I could if I wanted. If
5 that's what I wanted, I could buy land and have all
6 the dogs that I wanted. I'm lucky to live in North
7 Charleston that allows me to have all the dogs I
8 want. Well, not really, because I would have more.

9 Q. So if Alice had known that you turned
10 her in to Elizabeth Spencer, would she have been
11 angry?

12 A. Alice at that point did not know from
13 day to day what was happening to her. I'm sure in
14 her right mind she would have been upset. But at
15 that point, everything was upsetting Alice. She
16 was telling us about people coming into the house.
17 She had no idea who they were. She couldn't find
18 bills. We would offer to help her. She didn't
19 want that. There was no pleasing her.

20 And I was concerned for her. The
21 neighbor had had some issues, so, yes, I'm sure she
22 would be upset, but Alice didn't remember from day
23 to day what was going on with her during the
24 conservatorship.

25 Q. How do you know that?

1 A. From talking to her.

2 Q. You didn't go see her on a regular
3 basis during the conservatorship?

4 A. I have mentioned before, Alice would
5 not let us come into her house. We were not those
6 kind of friends.

7 MS. FISHER: Okay. Nothing further.

8 THE COURT: Any questions you want to
9 ask her?

10 CROSS-EXAMINATION

11 BY MR. WILLS:

12 Q. Do you have any knowledge about whether
13 Alice wanted any of her money to go to Betty
14 Fisher?

15 A. I know she didn't.

16 Q. Did she tell you that?

17 A. She was not -- she had a -- I call it a
18 love-hate relationship with them.

19 MR. WILLS: Thank you.

20 THE COURT: Thank you. You can return
21 to your place in the courtroom.

22 Anybody want to do anything else? Have
23 any other witnesses? Present anything?

24 MS. FISHER: No, Your Honor.

25 THE COURT: All right.

1 MR. WILLS: Your Honor, we may call
2 Denise Richardson.

3 THE COURT: Go ahead.

4 MR. WILLS: Ferguson.

5 THE COURT: Go ahead if you want to.

6 MR. WILLS: I believe she's in the
7 hall.

8 THE COURT: Go get her.

9 MS. FISHER: I'm sorry, Your Honor,
10 could we take a five-minute break?

11 THE COURT: Sure. Go right ahead.

12 (A recess transpired.)

13 THE COURT: Did you want to call
14 someone?

15 MR. WILLS: The defense would call to
16 the stand Denise Ferguson.

17 THE COURT: Come on up.

18 DENISE FERGUSON,
19 being first duly sworn, testified as follows:

20 THE COURT: State your full name and
21 spell your last.

22 THE WITNESS: Denise Ferguson,
23 F-E-R-G-U-S-O-N.

24 THE COURT: Thank you. Go ahead.

25 DIRECT EXAMINATION

1 BY MR. WILLIS:

2 Q. Can you tell the Court how it is that
3 you had -- have relation with Alice?

4 A. I was one of her caregivers. In fact,
5 I was the first one to ever meet her when we
6 started caring for her.

7 Q. When was it that you first met her?

8 A. It was sometime in September. It's
9 been so long ago I don't know the specific date.
10 The day that I came, John Cooper was there and
11 Mr. Denny, or Mr. Caine, another attorney, and they
12 were trying to clean her house for her.

13 Q. When you say September, do you mean
14 September of 2008?

15 A. Yes, sir.

16 Q. Okay. How did you become involved
17 initially?

18 A. At the time, I was working in a
19 landscape company, and Katherine Magwood also
20 worked there with me. And someone that knew her
21 mother called her and said they needed some help
22 caring for this woman.

23 So Katherine asked me if I would like
24 to do it. And I said yes. I had never met Alice
25 and didn't know anything about her before then.

1 Q. What did you understand your role would
2 be with regard to caring for her?

3 A. The first day I was there we were
4 trying to clean the house, but we couldn't do it.
5 She wouldn't let us. She didn't want anybody
6 touching any of her things. That was very hard for
7 her to watch a stranger going through her things.

8 We stayed until 9:00 that night to make
9 sure that she ate supper. She started fixing her
10 supper at 6:00, and it literally took her two hours
11 to prepare because she kept getting confused. And
12 she would, you know, eat peanuts and she kept
13 counting them.

14 So I stayed that very first day until
15 9:00 that night after she ate dinner and then I
16 left.

17 Q. When you say John, you mean --

18 A. Mr. Cooper.

19 Q. Eventually, you become engaged as a
20 caretaker?

21 A. Yes, sir.

22 Q. Who is it that engaged you?

23 A. John Cooper.

24 Q. Okay. Before you became -- before your
25 engagement as a caretaker for Alice Shaw Baker, did

1 you know Bessie and Kay?

2 A. No, I had never met them.

3 Q. Have you come to know them?

4 A. Yes, sir.

5 Q. Over the course of your caregiving?

6 A. Yes, sir.

7 Q. How -- in the course of your
8 caregiving, how often would you have occasion to be
9 with Alice?

10 A. I probably sat with her three to
11 four days a week. And most of the time I did not
12 do nights because I actually worked the other job
13 at the landscape company.

14 So sometimes I would go from 5:00 to
15 11:00, or 5:00 until 9:00 at night and then -- at
16 the time I was only working four days a week at the
17 landscape company, so I would try to do a day
18 during the week and a day on the weekend.

19 Q. Were there other caregivers?

20 A. Yes, sir. There were six or seven of
21 us all at one time.

22 Q. Okay. Were their roles any different
23 than yours?

24 A. No.

25 Q. Did you have occasion to stay overnight

1 with Alice?

2 A. Yes, sir.

3 Q. During your time as caregiver, would
4 you say that you had occasion to speak with Alice
5 about her life?

6 A. All the time. And when we first
7 started sitting with Alice, she wasn't allowed to
8 smoke inside her home. We literally sat on her
9 patio with two chairs facing each other.

10 So there was no TV or anything. We
11 talked. Every time we were there, we talked to her
12 the whole time we were there.

13 Q. Okay. You mentioned that the
14 caregivers were there 24/7?

15 A. Yes, sir.

16 Q. What was Alice's condition, to your
17 knowledge, at that time that required her to have
18 24-hour care?

19 A. At the time, it was due to her
20 diabetes. Alice would not know when to check her
21 blood sugar or when to take her medicine. Also it
22 was about her meals. She wouldn't -- I don't know
23 that she would have eaten because it took her so
24 long to prepare them. And even with my help,
25 sometime it would take two hours to prepare because

1 she would get confused.

2 And, also, she did not sleep normally.

3 In a 24-hour period she might sleep two hours. So

4 I worried about that a lot, about her being over

5 tired. She did not bathe. We had to coerce her

6 into bathing. And I would have never let her go

7 out on her own because I think she would have

8 gotten lost.

9 Q. So if -- you say you started in
10 September of 2008?

11 A. Yes, sir.

12 Q. Were you able to notice, and I don't
13 mean from a medical -- I know you're not a doctor.
14 Did you notice a progression in Alice's mental
15 state --

16 MS. FISHER: Objection; calls for
17 expert testimony.

18 THE COURT: This is a lay person. I
19 will allow her to testify to that.

20 THE WITNESS: Yes, sir. Her memory got
21 worse; she got more confused. You know, when we
22 first started staying with her, every once in
23 awhile we could get her to go out of the house, and
24 then that became just too much for her to handle.

25 And, in fact, I remember one time she

1 was supposed to go to the psychiatrist and John --
2 Mr. John Cooper and Denny and Lisa all had to come
3 over to try to coerce her to go to the
4 psychiatrist. My sister Renee and I were there. I
5 spent the night to help my sister.

6 And Alice wouldn't go unless I went
7 with them. I had to ride in the back seat with her
8 in the car because she didn't trust anybody at that
9 point.

10 BY MR. WILLS:

11 Q. I see. And as things moved along, were
12 there particular instances of -- were there
13 peculiar things that Alice would do that gave you
14 the impression, not from a medical standpoint, but
15 just generally that she was not -- her cognition
16 was diminished?

17 A. Yes. She would smoke in her house
18 eventually as long as -- in the kitchen, and she
19 had a white ashtray. And a lot of times she would
20 think that was food and you would walk in the room
21 and she would be eating cigarette butts.

22 There was a time when I was there one
23 day, and she came in the den with coffee cups on
24 her feet and wanted to know why her shoes didn't
25 fit.

1 And she would get very angry. It was
2 very frustrating for her to be this confused and
3 not know what was going on. And then the pain
4 started taking over.

5 Q. Did you have any idea about any of the
6 medical diagnoses with regard to Alice?

7 A. We were never told anything. And when
8 we would ask, we were told that it wasn't our
9 concern and it wasn't our business. And that's how
10 I got to know --

11 THE COURT: Who told you that?

12 THE WITNESS: Ms. Fisher and
13 Mr. Cooper.

14 BY MR. WILLS:

15 Q. Did you specifically ask about Alice's
16 pain?

17 A. Yes, I did. Oh, all the time. It was
18 constant.

19 Q. And when you were going to ask about
20 it, who did you ask?

21 A. I originally asked Mr. Cooper, and he
22 said he couldn't tell me anything. So I knew that
23 Bessie and Kay were her friends because Alice
24 talked about them all the time. So I started
25 calling them because Alice -- when I first started

1 sitting with her, she constantly complained of her
2 hip hurting all the time.

3 So I called Bessie and Bessie had told
4 me that, yes, Alice had fallen years ago and hurt
5 her hip on the sidewalk. And she said, that may be
6 why she's hurting. So they sort of would tell us
7 the history of Alice because nobody really knew
8 besides them.

9 Q. When you say, they, you mean --

10 A. Kay and Bessie.

11 Q. Did you have the impression that they
12 knew anything about any medical diagnoses, other
13 than she was confused?

14 A. The only thing that Kay ever told me
15 was that Alice had had a mammogram one time and
16 that she had thought -- Kay had thought they had
17 found something, but Alice wouldn't get treatment
18 even if they had.

19 Q. Okay. Did you communicate with Lisa
20 Fisher about these conditions?

21 A. Yes, all the time. Every time she
22 called.

23 Q. And what did Ms. Fisher tell you
24 about --

25 A. Give her Tylenol.

1 Q. In your opinion, not a medical opinion,
2 again, but as a layperson who was taking care of
3 Alice Shaw Baker, was the pain that you perceived
4 Alice Shaw Baker to be in something that could be
5 remedied by Tylenol?

6 A. No, absolutely not.

7 Q. Did you ever inquire of Ms. Fisher
8 about taking her to the doctor or hospital?

9 A. Yes. And, in fact, at one point
10 Katherine, one of the other caregivers, took her to
11 get a CAT scan, I believe, of her lungs. So we
12 were all sort of assuming that she might have lung
13 cancer or something. She complained of her chest
14 and her head hurting all the time.

15 And after she got the CAT scan done, my
16 aunt Shirley, who was a caregiver, was sitting with
17 her, and she had called Lisa and asked her what the
18 CAT scan showed. And Lisa said she couldn't tell
19 us.

20 Q. When you asked Lisa Fisher about taking
21 Alice Shaw Baker to the doctor about her pain, what
22 did Lisa Fisher tell you?

23 A. She would say that she would talk to
24 the doctor. We were not allowed to communicate
25 with the doctors, nurses or the pharmacists. Or

1 anyone, actually, except for Ms. Fisher.

2 Q. Did Ms. Fisher specifically tell you
3 not to speak with anybody about what you perceived
4 Alice's condition was?

5 A. Yes.

6 Q. When it came to any kind of
7 medications, did you have the occasion to
8 administer medications for Alice Shaw Baker?

9 A. Yes. And Alice did not like to take
10 medicine. A lot of times I would have to pretend
11 like I was calling the doctor, calling another
12 caregiver, and they would know what was going on,
13 and just say, this is Denise, Dr. McGuire. Can
14 Alice take a Tylenol? Which is what she thought we
15 were giving.

16 Every once in awhile we would give her
17 Lortab if we could get it in her, and Ativan to
18 help her sleep at night, but it really didn't help
19 her sleep.

20 Q. Okay. So you never took Alice Shaw
21 Baker to the doctor or a hospital?

22 A. The only time I ever went was when I
23 rode in the back seat to go to the psychiatrist,
24 but Lisa drove the car.

25 Q. Was there -- were you allowed to

1 take --

2 A. No.

3 Q. -- Alice to the doctor?

4 A. No, sir.

5 Q. Did anyone tell you who was
6 responsible for taking Alice to the doctor?

7 A. Just Ms. Fisher. We weren't allowed to
8 tell Bessie and Kay what was going on anymore. And
9 actually Alice had a good friend named Ellen that
10 she met in the military. And she called one day to
11 speak to Alice, and Alice had a terrible coughing
12 attack at the time.

13 So she gave me the phone and Ellen was
14 asking, and she was in tears, what is wrong with
15 her? And I said, I don't know. You will have to
16 call Ms. Fisher. We weren't allowed to know.

17 Q. When you say you weren't allowed to
18 talk to Bessie and Kay about Alice --

19 A. Correct.

20 Q. -- who forbade you to do that?

21 A. Lisa.

22 Q. Specifically?

23 A. Yes.

24 Q. And you didn't know Bessie and Kay
25 before that?

1 A. No, sir.

2 Q. Did you have any knowledge about why it
3 was that Lisa Fisher forbade you to talk to Bessie
4 and Kay about Alice?

5 A. I don't know. I mean, I would have
6 thought she would want us to get information from
7 her friends since they knew her background. I
8 didn't know Alice had cancer until the day they
9 took her by EMS.

10 And I went to the hospital at 5:00 in
11 the morning because I knew she would be out of her
12 wits and out of her element. And I happened to see
13 the chart laying there, and that's when I saw
14 metastasized, and I knew that she had cancer.

15 I never knew before that point that she
16 was that sick.

17 Q. Once you learned that, do you believe
18 that -- that some of the pain you saw Alice
19 experiencing was due to the cancer?

20 A. It had to be. I mean, she was in
21 pain --

22 MS. FISHER: Objection.

23 THE COURT: Ask another question.

24 BY MR. WILLS:

25 Q. What kind of pain did you experience

1 Alice having?

2 A. Alice's head would hurt so badly that
3 she had lay her head down like this (indicating)
4 and say, my head is killing me. And then she would
5 start crying. Her chest hurt all the time, and she
6 had a cough all the time.

7 She had the pain in her leg, and we
8 were allowed to administer lidocaine pain for that,
9 patches. They were just to numb it. And we could
10 never really tell the area of it.

11 Q. Did you have the occasion to speak --
12 or did you have an occasion to know about what
13 Alice Shaw Baker's relationship was with Lisa and
14 Betty Fisher?

15 A. I knew that Alice had distanced herself
16 from her family and didn't want anything to do with
17 them anymore due to a situation that happened with
18 her sister. And -- and, in fact, the very first
19 time Alice ever saw Ms. Fisher was in this
20 courthouse when I brought her and I had to point
21 her out to Alice. Alice didn't know who they were.
22 And the last time she had seen Betty was when Betty
23 was a little girl.

24 Q. Did she ever express to you any -- any
25 -- anything that would indicate the Fishers'

1 motivation for being involved with her life?

2 A. Did Alice tell me?

3 Q. Yes.

4 A. All the time. She would say that her
5 will wasn't worth the paper it was written on.
6 Lisa was going to come and take all of her money.
7 She would tell Lisa that on the phone. She would
8 get angry with Lisa about her money because Alice
9 didn't have any control over her money.

10 And John Cooper would bring money over,
11 cash, so she would have money in her wallet. So
12 when Alice's money ran out and she didn't have any,
13 she would get angry, and she would call Lisa and
14 would want to know -- or I would call Lisa because
15 she couldn't manage a phone and give the phone to
16 Alice.

17 And she would want to know where her
18 money was. And she told Lisa, she said, you know,
19 the will's not written -- how would she -- the will
20 is not worth the paper that it's written on. And
21 she would say, I know what's going to happen.
22 Attorneys are going to get all of my money and it's
23 not going to go to who I want it to go to.

24 Q. Did you ever have an idea from these
25 conversations who she wanted her money to go to?

1 A. It was always Sandra, Kay, and Bessie.
2 And she told me they were like her family; and
3 during the hurricanes she would stay with them,
4 holidays she spent with them.

5 Q. Did you ever know -- did you ever have
6 an occasion to know that -- whether or not there
7 were any promises involved with whether or not
8 Bessie and Kay and Sandra were to have any money?
9 You may not.

10 A. No. No, sir.

11 Q. Okay.

12 THE COURT: Did you ever discuss any of
13 that with them, with Kay and Ms. Huckabee?

14 THE WITNESS: No, sir. I wasn't really
15 allowed to talk to them.

16 THE COURT: Why not?

17 THE WITNESS: Because Ms. Fisher said
18 we weren't allowed to.

19

20

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25

1 BY MR. WILLS:

2 Q. Was that the case as well -- excuse me.
3 Was that also the case, to your knowledge, with the
4 other caregivers?

5 A. Yes, sir; no one was allowed to talk to
6 them.

7 Q. Was there a different relationship with
8 Ms. Fisher and one of the caregivers, Candy?

9 A. You know, I didn't think there was, but
10 obviously there was. I mean, Candy was just as
11 upset with Lisa as any of us were. You know, she
12 would get so angry with her when Alice was in pain
13 and she didn't do anything to help her.

14 Lisa's fix was, take her out, take her
15 to get ice cream. She would not go out. You
16 couldn't get Alice to leave. The one time my
17 sister did take her out, she ended up throwing up
18 in the car because she was so upset.

19 And she would also get -- when you did
20 have her in the car with you, I remember one time I
21 took her to Burger King. She rolled the window
22 down and started yelling at people. She was
23 yelling at the person I was talking to on the
24 speaker.

25 MS. FISHER: Objection; nonresponsive.

1 THE WITNESS: It was --

2 THE COURT: I'm going to allow it. Go
3 ahead.

4 THE WITNESS: It was so hard to watch
5 this woman. I mean, everything about her life was
6 confusing.

7 BY MR. WILLIS:

8 Q. I imagine.

9 During your time giving care to Alice,
10 I take it you gave care -- you said you were there
11 when Alice died?

12 A. Well, we were fired when they put her
13 in the hospital.

14 THE COURT: Sorry?

15 THE WITNESS: We were told we were no
16 longer needed because Alice would need -- if Alice
17 came home, she would need more advanced care than
18 we could give. And I totally agreed. I said, yes,
19 she needs a nurse with her. We cannot handle her
20 anymore. We can't handle her pain or any of it.

21 BY MR. WILLIS:

22 Q. Who told you that, that you were --

23 A. Lisa.

24 Q. Okay.

25 A. We were not fired. We were told that

1 we weren't needed anymore because she would be in
2 the hospital and then they would get someone more
3 qualified when she came in.

4 Q. Got you. While you were giving care,
5 did ever know Bessie and Kay to call the caregivers
6 and inquire about --

7 A. They would call the home all the time
8 and ask how she was and want to speak to her. And
9 a lot of times Alice wanted to speak to them. She
10 would say, get them on the phone. I want to talk
11 to them.

12 Q. With regard to Lisa Fisher or Betty
13 Fisher, did they come to the house?

14 A. Lisa would come into town for doctors'
15 appointments. And she would literally come to the
16 house and pick Alice up or get her in the car, take
17 her to the doctors' appointments, and then she
18 would leave.

19 The only time I know of that Betty came
20 was for Christmas. I spent Thanksgiving with
21 Alice, and Alice didn't even know it was
22 Thanksgiving. So I told Lisa, I said, since I did
23 Thanksgiving, I don't want to do Christmas. You
24 know, if Alice had known it was Thanksgiving, I
25 would have taken her home with me.

1 So Lisa ended up coming. Betty had
2 called me and asked me about her coming. And she
3 said, I'm not going to come if Alice is going to be
4 mean to me and treats me the way she treats Lisa.
5 I'm not going to come there so that Alice can
6 berate me the whole time I'm there.

7 And Betty wanted to know my opinion --
8 MS. FISHER: Objection; hearsay.

9 THE COURT: I'll allow it. Go ahead.

10 THE WITNESS: Betty wanted to know my
11 opinion of how Alice would treat her. And I said I
12 don't know. I don't know how Alice is going to
13 treat you. After they came, I asked Lisa how the
14 visit was, and Lisa said that everything went well
15 until they were eating and Alice started talking
16 negatively about Betty's mother and Betty got
17 upset.

18 BY MR. WILLS:

19 Q. Okay. When you say negatively, do you
20 have any idea about what the --

21 A. Alice told me that Marion, who was
22 Betty's mother --

23 MS. FISHER: Objection; relevance.

24 THE COURT: Not necessarily for the
25 truth of the matter asserted what she said. Go

1 ahead. I will allow you to testify to that.

2 THE WITNESS: She told me that Marion,
3 her sister, had had an affair with her husband.

4 THE COURT: Okay. That's not for the
5 truth of the matter asserted. It's just what she
6 said. Go ahead. That's fine.

7 THE WITNESS: That they would meet
8 after work every day or when they had their affair.
9 When Alice found out about it, she -- that's why
10 she disowned her family. She didn't want to have
11 anything else to do with her family except for her
12 mother.

13 BY MR. WILLS:

14 Q. And who was Marion?

15 A. Marion would be Betty's mother and
16 Lisa's grandmother.

17 Q. Okay. Did you have an idea -- a
18 personal idea of how Alice Shaw Baker felt about
19 Lisa Fisher?

20 A. She didn't like her. She thought she
21 was here to take her money, and that's what she
22 told us all the time. She would pull the will out
23 and would ask me to read it to her. I would read
24 it to her over and over and over again. And she
25 would say, they're going to change my will.

1 They're not going to follow my wishes. The
2 attorneys are going to get all of my money.

3 In fact, the day when Lisa was given
4 conservatorship, we all went back to the house
5 because Alice really didn't understand what was
6 going on, but we were trying to let her know she
7 would be allowed to stay in her home. That's all
8 she cared about.

9 And she asked during that time, and I
10 was there and Katherine was there and Lisa was
11 there, if her will was going to be changed. And
12 Lisa promised her the will would not be changed,
13 that it could not be changed.

14 THE COURT: You heard her say that?

15 THE WITNESS: Yes, sir.

16 BY MR. WILLIS:

17 Q. Did you become familiar with some of
18 the items that were in Alice Shaw Baker's house?

19 A. Yes, sir.

20 Q. Did you have any knowledge -- and you
21 may not. Do you have any knowledge of any of the
22 items that were contained in Alice Shaw Baker's
23 safety deposit box?

24 A. I don't know about her safety deposit
25 box. The only thing I knew was in the house was a

1 bag of coins. And my sister found them in one of
2 the drawers and called me and told me.

3 She said, you need to call the
4 attorneys because, you know, with all the
5 caregivers coming in and out, I don't feel safe
6 with these coins being here. So I called and Cain
7 Denny came and picked them up one Sunday and took
8 them.

9 Q. And Cain Denny --

10 A. He worked for John Cooper.

11 Q. When you say coins, what kind of coins
12 are we talking about?

13 A. I didn't look in the bag. It was a
14 purple liquor bag. I don't drink so -- I know it
15 -- it was filled all the way with coins. My sister
16 Renee looked in it, and she said there were silver
17 dollars and things like that in there.

18 THE COURT: When you were gesturing,
19 you had your hands about a foot apart, and
20 everything, tall. From the bottom to the top, it
21 was about a foot worth of coins?

22 THE WITNESS: What are those purple --
23 it's a purple bag that liquor comes in.

24 THE COURT: Crown Royal bag.

25 THE WITNESS: That's what --

1 THE COURT: Crown Royal bag, that's
2 what it was in? I don't know. I'm not speaking as
3 an expert either, but I've heard of such things.

4 THE WITNESS: That's what the coins
5 were in.

6 BY MR. WILLS:

7 Q. Would you say there were a lot of
8 coins?

9 A. It was filled, yes.

10 THE COURT: Did you pick it up?

11 THE WITNESS: I did. I picked it up.

12 THE COURT: How much --

13 THE WITNESS: It was heavy, and he put
14 it behind his back because he didn't want Alice to
15 see it because she would be like, what are you
16 doing with my stuff, why are you taking it out of
17 my house.

18 BY MR. WILLS:

19 Q. Right. Sure. Did Cain Denny or John
20 Hughes Cooper or Lisa Fisher, to your knowledge,
21 take any other items out of the house?

22 A. No. The only thing I knew of -- that I
23 didn't know what happened to it was Alice's
24 jewelry, and that was taken off of her when she
25 went into the hospital. I was told by the hospital

1 staff said that it was locked in the safe.

2 I was worried about her taking them up
3 to a room and she wouldn't remember what to do with
4 her jewelry or what to do with it.

5 Q. (So this is jewelry that Alice was
6 wearing?

7 A. Yes.

8 Q. Do you recall what those pieces of
9 jewelry was?

10 A. I know one of them was a silver
11 chihuahua because I have chihuahuas. And I
12 remember her always talking about her -- you know,
13 she would talk about her chihuahua ring and how she
14 had it made. And I know that she did have some
15 other jewelry on, but I'll be honest with you, I
16 don't wear jewelry so I don't really pay attention.

17 Q. And you don't know what became of those
18 pieces of jewelry?

19 A. No, sir.

20 Q. Did you have an occasion to know about
21 arrangements -- at the time Alice was in the
22 hospital and just prior to her death, did you have
23 occasion to know about any arrangements that were
24 made to take her to California?

25 A. Yes, sir. Katherine and I visited

1 Alice in the hospital almost every day. And, first
2 of all, I was worried because the one day I went,
3 there was a caregiver there I guess Lisa had hired.

4 And she got mad because Alice and I
5 were talking and she couldn't hear the TV. And
6 I'm --

7 THE COURT: Who got mad?

8 THE WITNESS: The caregiver. And I'm
9 very particular about caregiver and who cares for
10 people. So, anyways, I would go almost every day.
11 Katherine and I went that day, and when we got
12 there we noticed that Lisa was in there talking to
13 a doctor. We didn't go in but stood outside of the
14 doorway.

15 And she was telling him she was going
16 to have Alice medevaced, or whatever you call it,
17 in the helicopter or something. And the doctor was
18 telling her that Alice wouldn't make it. She would
19 not make the trip.

20 And so they went back and forth for
21 quite awhile arguing, or talking about it, and then
22 the doctor left. And Katherine and I went in and
23 talked to Lisa for a few minutes.

24 The only thing Lisa asked me was, did
25 you call Kay to tell her Alice was in the hospital?

1 Because she was mad. And I said, no, I did not.
2 And I didn't. Another caregiver called her. We
3 talked for a second about that and then I went over
4 to Alice and held her hand for a few minutes and
5 then she died.

6 THE COURT: Was that the day she was
7 talking to the doctor about flying her to
8 California?

9 THE WITNESS: Yes, sir. It was that
10 day.

11 BY MR. WILLS:

12 Q. Did you have the impression -- from
13 your conversation with Lisa, did you have the
14 impression that she didn't want Bessie and Kay to
15 know that Alice was going to die?

16 A. I just knew she didn't want them to
17 know she was in the hospital. I had called the
18 other caregivers to let them know Alice was in the
19 hospital. Jean, one of those -- Jean -- I can't
20 remember her last name -- Steel called them to let
21 them know.

22 Because she said I'm calling them,
23 they're her friends. Alice would want them there.
24 So she called them to let them know. And then I
25 had called my sister to let her know that Lisa was

1 trying to get her airlifted, and Renee called Peter
2 Kouten to let him know what was going on.

3 At the time, he was still checking in
4 on that, to see how she was doing.

5 Q. When Lisa would come to the house -- I
6 think you testified that she came occasionally?

7 A. Yes, sir.

8 Q. Did she bring anything with her?

9 A. On occasion she would bring big
10 Tupperware, I mean, big containers from the grocery
11 store of cookies that weren't sugar-free so Alice
12 couldn't eat them. On one occasion she brought
13 Alice a card. In Alice's kitchen, her table was
14 about the size of this. (Indicating)

15 I was standing at the table, and Alice
16 was sitting here and Lisa was sitting here. And
17 she handed Alice the envelope, and Alice was trying
18 to open it. And, at that time, Alice probably
19 didn't know how to open an envelope anymore.

20 And Lisa grabbed it out of her hand and
21 said, I'm tired of watching you do this. Just let
22 me do it.

23 Q. Did you have the impression that Lisa
24 cared about Alice?

25 A. At first I did. I did. I thought this

1 woman is coming in to help her aunt. I even
2 testified at the hearing saying that I thought Lisa
3 should be her guardian because I knew that Alice,
4 if she was going into a nursing home, she would be
5 dead within a month.

6 So I was glad that Lisa came in and
7 gave her the chance to stay in her home. As time
8 went on, all of us started realizing that Alice was
9 sick and no one was doing -- she wasn't doing
10 anything to help us. Our hands were tied.

11 I mean, day after day we would call and
12 tell her about the pain and she wouldn't do
13 anything to help us.

14 Q. And you believe Alice suffered because
15 of that?

16 A. Oh, yes, definitely.

17 MR. WILLS: Thank you very much,
18 Ms. Ferguson.

19 THE COURT: Any questions?

20 MS. FISHER: I'm just emotional. If I
21 could have five minutes?

22 THE COURT: Sure. You can leave the
23 courtroom. We'll wait for you.

24 (A recess transpired.)

25 MS. FISHER: Your Honor.

1 THE COURT: Go right ahead.

2 MS. FISHER: Thank you.

3 CROSS-EXAMINATION

4 BY MS. FISHER:

5 Q. So, Ms. Ferguson, you were, in fact,
6 fired because you and the other caregivers refused
7 to get medication for Alice; is that correct?

8 A. No. I was not fired; I even got a
9 bonus from you. After our last day, you had us
10 come over to the house and get a bonus.

11 Q. I gave bonuses to everyone for helping;
12 is that right?

13 A. Except for Katherine because she quit
14 when you sent the letter to us about talking to
15 people concerning Alice.

16 Q. I sent the letter because she didn't
17 get the medication for Alice when I arranged to
18 have a taxi take her to go get the medication;
19 isn't that right?

20 A. That's correct. I was not working that
21 day, but I normally went and got her groceries and
22 medication on my own time.

23 Q. In any event, you asked to take over
24 the job of Katherine; is that right?

25 A. What job of Katherine?

1 Q. You wanted to be in charge of all the
2 caregivers as you indicated that Katherine was in
3 charge?

4 A. I never said Katherine was in charge.
5 John Cooper was the one that was in charge of us.

6 Q. And you asked me for that position?

7 A. I do not ever recall asking you for
8 that position.

9 Q. And, in fact, I told you that I would
10 take care of the scheduling. Do you remember that
11 conversation?

12 A. I remember you saying you were going to
13 take care of the scheduling, which was fine.

14 Q. Alice was aware of her property during
15 the time that you were caring for her; isn't that
16 right?

17 A. Her home? I don't know what you're
18 talking about.

19 Q. Any of her property. Did she know her
20 property?

21 A. Her home and car, yes.

22 Q. And she knew that she had money?

23 A. Yes. I don't know how much. She told
24 me she invested in the stock market and she had
25 some money set aside. I had no idea how much she

1 had. The only way -- the only time anybody ever
2 mentioned Alice's money to me was the first day
3 when I was there and John Cooper was there.

4 And I said, it's going to cost a lot of
5 money to clean out the house. And he said, well,
6 she's got it so don't worry about it. And that's
7 the only time I was ever told about her money.

8 Q. So you don't know who paid for having
9 the house cleaned out originally, do you?

10 A. No. No, ma'am.)

11 Q. And I requested that you not give
12 information out to anyone; is that right?

13 A. Yes, to anyone. Yes. We weren't
14 allowed to tell her best friends or anyone
15 anything.

16 Q. No one else was supposed to get
17 information about privacy because I was her
18 conservator, right?

19 A. Not at the very beginning she didn't
20 tell us. That happened later on.

21 Q. No. That happened once I discovered
22 that you were giving information of a private
23 nature out to strangers, correct?

24 A. I wasn't giving information out to
25 strangers. I don't know if you recall this, but at

1 one point Alice had someone come into the house to
2 interview her.

3 I don't know if it was a psychiatrist
4 or someone from social work or what it was, but she
5 was coming over, and you told us to make sure that
6 Alice knew what day it was and who the president
7 was because you wanted the people to think she was
8 in her right mind. And I told you at the time --

9 MS. FISHER: Object to the
10 nonresponsive --

11 THE COURT: No. No. Go ahead with
12 what you want to say.

13 THE WITNESS: So I did after that lady
14 left because when -- Alice could have you fooled
15 for a few minutes and you would think everything
16 was okay.

17 MS. FISHER: Objection.

18 THE COURT: No. Go ahead.

19 THE WITNESS: Alice told her that she
20 cleaned her own house, took her own bath, washed
21 her own clothes and made all her meals. So when
22 the lady left I called her and I said, I don't know
23 if you know this, but everything that she told you
24 was untrue. I don't want this lady to stay by
25 herself and something happen to her.

1 So that was my concern. It was always
2 about Alice's wellbeing.

3 BY MS. FISHER:

4 Q. And you were hired by me to take care
5 of Alice?

6 A. No, I was hired by John Cooper.

7 Q. Who was acting on behalf of me?

8 A. Not in the beginning, no, ma'am.

9 Q. Well, in any event, ultimately, the
10 monies that were paid to you and the direction that
11 you received were from me, correct?

12 A. About halfway through, yes, ma'am.

13 Q. So do you remember testifying on behalf
14 of me for Alice?

15 A. I said I did.

16 Q. Okay. In fact, you testified that we
17 had a good relationship at that time, correct?

18 A. At that time, you did.

19 Q. And when I gave gifts to you and I gave
20 gifts to Alice, I gave her more than just a card.
21 Do you recall that?

22 A. I don't know.

23 Q. How about flowers for the holidays?
24 And gifts at Christmas? Do you remember any of
25 those things, Ms. Ferguson?

1 A. If you will remember, I didn't stay --
2 I stayed with her Christmas Eve until you-all got
3 there, until about 9:00.

4 Q. You were aware that she was given gifts
5 by me?

6 A. I don't remember any of them.

7 Q. Oh, that you don't remember.

8 A. I don't.

9 Q. In any event, why was -- I did take her
10 to the doctor regularly, correct?

11 A. You took her to the doctor when she had
12 an appointment, you did. You would come in and
13 take her to the doctor.

14 Q. And I didn't just run in and out. I
15 stayed in a motel, but I stayed -- I would come and
16 see her several times during my visits?

17 A. Not when I was there.

18 Q. Well, you weren't there all the time,
19 correct?

20 A. No. I probably worked three days a
21 week.

22 Q. But you didn't work all the hours. You
23 didn't know when I was coming in to see her.

24 A. No, I do not work --

25 Q. Correct.

1 A. -- every time you came to get her, no,
2 ma'am.

3 Q. And I, in fact, told you that you
4 couldn't give information out of privacy for Alice;
5 do you recall?

6 A. You said you didn't like -- I think the
7 letter said gossip and innuendo was being spread.
8 That's what you said. And we were not allowed to
9 talk to anyone about Alice.

10 Q. Yes, because you were saying things
11 that you didn't have information about, correct?

12 A. Not that I know of, no, ma'am.

13 Q. Well, you didn't know her medical
14 condition?

15 A. No, I didn't.

16 Q. And I was taking her to the doctors?

17 A. You did.

18 Q. And you were not the conservator?

19 A. No, ma'am.

20 Q. And I asked you to take her out on
21 daily trips and you refused?

22 A. I never refused.

23 Q. You did.

24 A. I could not take her out. You have no
25 idea how hard it is for someone in her shape with

1 dementia or Alzheimer's or whatever she had,
2 because -- I don't know if you remember, but the
3 time you came to take her to the doctor and it took
4 all of us to get her in the car.

5 At that time, she actually hit John
6 Cooper on his back side because she was so mad at
7 him; she threw a lit cigarette at the two of us.
8 You got so angry you went out in the backyard and
9 you were out there on the phone.

10 I went out there to console you and you
11 said, I'm not doing this anymore if this is how
12 she's going to treat me.

13 Q. I didn't say that. In any event, do
14 you recall that I ever missed an appointment to
15 take her to the doctor?

16 A. Well, I don't know if she had
17 appointments that I didn't know of, but, no, ma'am,
18 you didn't. You didn't.

19 Q. And I always made sure there was food
20 for her?

21 A. No, actually, that's not true. There
22 were times we didn't have money to go buy groceries
23 because John Cooper hadn't dropped any money off.
24 So I would spend my own money or one of the other
25 caregivers would spend their own money and then we

1 would get reimbursed and then we would send you
2 faxes. But, no, she didn't always have money and
3 that would upset her.

4 Q. Right. There were several people in
5 the house, and you didn't want Candy or Barbara Ann
6 to be able to handle any of the money, so you hid
7 the money. Do you recall that?

8 A. I didn't hide the money, but when
9 Barbara Ann first started working there, the first
10 thing that went missing was Alice's alcohol, which,
11 she didn't drink, but it was stored. The next
12 thing that went missing was all of Alice's Ativan.
13 So, yes, I was concerned that Barbara Ann was
14 stealing from her.

15 Q. But you didn't know that, did you?

16 A. No. I called you to tell you because I
17 didn't want Alice's stuff to be taken.

18 Q. And I took action to protect her
19 property?

20 A. No. You told me it was none of my
21 business.

22 Q. That's not what I told you. You know
23 that I would arrange to have food delivered for
24 her?

25 A. You did. You would have nice meals

1 delivered, but she did not eat them. And we tried
2 to explain to you that Alice -- when Alice first
3 got diabetes, she went to --

4 MS. FISHER: Objection. This is beyond
5 the scope of her knowledge.

6 THE COURT: Ask another question.

7 MS. FISHER: Okay.

8 BY MS. FISHER:

9 Q. This occasion where you said that I
10 told her her will would never be changed, what day
11 was that supposed to happen?

12 A. It was the day that the conservators --
13 we went to court. You had called us and asked us,
14 Katherine and me, if we would bring Alice to court.
15 And our reply was, only if she did not go in the
16 courtroom. I didn't want Alice to go into the
17 courtroom; it would have been too stressful for
18 her.

19 Katherine and I finally convinced her
20 to come to court. It took a good two hours to
21 convince her to get in the car and come here. We
22 came into this hallway. She didn't know who you
23 and Betty were; I pointed you-all out because I
24 assumed it was you-all. You were standing there
25 talking to John Cooper. She had no idea who you

1 were.

2 Katherine and I sat in the hallway with
3 her while you went into the courtroom. And then
4 Betty came out and got Alice. And I asked her, I
5 said, what are you doing? Don't take her in there.
6 And she said, no, she was going to get her a snack.
7 And then she proceeded to bring her into the
8 courtroom and listen to all these terrible things
9 that people were saying about her.

10 That was the day that you were listed
11 as the conservator. I was happy. I didn't know
12 you from the man on the moon, but in my eyes it
13 was, oh, here's her great-niece that's going to
14 come in and help her out. I was happy for that.

15 Q. And at all times, I did help her out.

16 A. Not with her pain, no. That was
17 neglectful on your part. I'm sorry, you knew that
18 she was in terrible pain and you knew that the
19 caregivers would call you begging you to help us
20 and you did nothing.

21 Q. I took her to the doctor, didn't I?

22 A. Yes. You never gave.

23 Q. But you don't know if the doctor
24 indicated that there was any pain medicine to give
25 her?

1 A. Well, we didn't have it. How would we
2 give it to her? The only thing you ever did, you
3 took her to the doctor and you came home with
4 Aricept. I will never forget this. We were never
5 told Alice had Alzheimer's. We didn't know what
6 was wrong with her.

7 And I asked you, what is this for?
8 What is this for? And you said, it's Aricept.
9 It's for Alzheimer's, but don't give it to her.
10 I'm going to take it home and research it and then
11 I will let you know whether or not I want her to
12 have it.

13 Q. I didn't say that. In any event, I had
14 a nurse come to the house to help train Alice and
15 help her get additional services. Do you recall
16 the nurse coming to the house?

17 A. I don't ever remember a nurse coming to
18 the house. Maybe I wasn't there that day.

19 Q. Okay. Do you recall that Alice -- that
20 on Thanksgiving that I planned to go and visit her
21 and you guys promised to have a party for her.

22 A. I never promised to have a party for
23 Alice for Thanksgiving. What I did tell you was we
24 were going to do something dinner wise. Renee was
25 going to bring dinner over to us or I was going to

1 take her to my house.

2 Well, I knew she wasn't going to go
3 out. I kept explaining to Alice that it was
4 Thanksgiving. At one point she ripped the wall
5 calendar off the wall and threw it at me and told
6 me it wasn't Thanksgiving.

7 For someone -- you had to be around her
8 for hours at a time to know and understand how hard
9 Alice's life was at that point.

10 Q. But, in fact, you didn't prepare a
11 plate for her at Thanksgiving. The nuns from the
12 church brought her that plate.

13 A. She did come, uh-huh.

14 Q. I told you that if you weren't going to
15 have a house party for her that I would go there at
16 Thanksgiving. And you always led me to believe
17 that she was going to have a party?

18 A. No, ma'am. And Alice wouldn't have
19 wanted a party.

20 Q. You didn't know what Alice wanted.

21 A. I did because I cared for her all the
22 time.

23 Q. At Christmas my mother and I did come
24 and visit and spent the day with her?

25 A. You-all came in -- Christmas Eve. I

1 was there.

2 Q. Okay. That's the only question.

3 A. Yes. You did come on Christmas Day.

4 There wasn't anyone that wanted to stay with her on
5 that day. Even Candy didn't want to.

6 Q. And on New Year's no one wanted to
7 work, right?

8 A. No.

9 Q. And so I came and visited her on that
10 day?

11 A. I think you did come that day.

12 Q. And I took her out and took her to have
13 dinner and everything until the next day. Do you
14 recall that?

15 A. I don't know what you did.

16 Q. You didn't ask Alice about those
17 things, right?

18 A. She wouldn't have remembered.

19 Q. Right. I never told you that Kay and
20 Bessie couldn't talk to Alice, did I?

21 A. You told us you did not want them
22 knowing anything about Alice's condition or what
23 was going on.

24 Q. Right. They could talk to me. I told
25 you you couldn't tell them anything?

1 A. No. You also said you didn't want
2 Alice talking to them because you were worried she
3 was going to tell them things.

4 Q. I never stopped Alice from having
5 conversation with them.

6 A. Well, she didn't have conversation with
7 them.

8 Q. She did?

9 A. No.

10 Q. Well, they testified that they called
11 and had conversation with her.

12 A. Not until -- not -- at the very end
13 Alice no longer -- before that, they called all the
14 time, and you told us we weren't allowed to let her
15 to talk them.

16 Q. I didn't tell you that. I told you you
17 weren't allowed to talk to them about her private
18 information.

19 A. You told me that --

20 Q. That you were not allowed to talk to
21 anyone about her private information.

22 A. No, ma'am. You told me you didn't want
23 Bessie -- you told me you didn't even want them
24 there. You also told me that if anyone came in,
25 came to the house to visit, before they came in, I

1 was to call you to get permission for them to come
2 in.

3 Q. Yeah. You were opposed to keep me
4 informed. That was your job. To keep me informed
5 of who was visiting and who was coming to the
6 house. Wasn't that your job, to tell me what was
7 going on with Alice? You weren't supposed to make
8 medical decisions for her, were you?

9 A. I would never want to make medical
10 decisions.

11 Q. You would try to get information and
12 try and interfere with nurses that I sent in to
13 have -- to help Alice?

14 A. I never saw a nurse.

15 Q. Well --

16 A. I did not interfere with any type of --
17 if you had told me, oh, my gosh, we're taking Alice
18 to the hospital to help her, I would have done
19 cheers. We called you over and over.

20 I even kept a journal of the days we
21 called you and told you that Alice was in pain.
22 Even Candy got mad at you because you wouldn't do
23 anything about it.

24 MS. FISHER: Objection; hearsay.

25 THE WITNESS: It's in the journal.

1 BY MS. FISHER:

2 Q. Do you have the journal?

3 A. I don't have it on me.

4 Q. Oh, you kept a journal that you didn't
5 give to me and you didn't tell me about --

6 A. What happened was, when you took over
7 you asked us to keep a journal --

8 THE COURT: Do you still have the
9 journal?

10 THE WITNESS: Yes, sir.

11 THE COURT: How about giving it to us?
12 We'll make it a part of the record as soon as we
13 can.

14 THE WITNESS: Okay.

15 You asked us to keep a journal. And
16 when you would come into town, I would ask you if
17 you wanted to see it and you never had time.

18 Well, I came to the house that day to
19 get all of my stuff after Alice had passed away, or
20 when you had let us go, I took the journal. You
21 had never wanted to see it, so I took it.

22 THE COURT: Where is it now?

23 THE WITNESS: The attorneys have it.

24 MR. WILLS: We have it, Your Honor.

25 THE COURT: Okay. Well, you can give

1 it to her then.

2 MR. WILLIS: We don't have it here.

3 THE COURT: Where is it?

4 MR. WILLIS: At my office.

5 THE COURT: So you can get it and get
6 it back here this afternoon?

7 MR. WILLIS: I can.

8 BY MS. FISHER:

9 Q. So when did you -- when did you give
10 them that journal?

11 A. I have never met him before. I gave it
12 to Peter.

13 Q. When did you give him that journal?

14 A. When Peter called me and asked me if I
15 would be willing to testify. And I said, yes. And
16 he asked me to turn over anything I had, so I
17 turned it over.

18 Q. When would that have been?

19 A. I don't know. It's been nine years.
20 It was probably when we first all started coming to
21 court over this.

22 MS. FISHER: I'm going to object to the
23 introduction of that. It was never introduced for
24 discovery.

25 THE COURT: I don't know that you

1 requested it, but anyway --

2 MS. FISHER: I requested -- well, they
3 have the discovery request.

4 THE COURT: Okay. You will have an
5 opportunity to look at it and see what it says.
6 Okay.

7 Any other questions?

8 MS. FISHER: Yes.

9 BY MS. FISHER:

10 Q. So during the period of time when -- at
11 the end of Alice's life, you had asked for
12 permission to go and visit her?

13 A. Yes, ma'am.

14 Q. And I granted you that permission?

15 A. You told me I could.

16 Q. And I didn't prevent anybody from
17 visiting her at the hospital; did I?

18 A. I don't know.

19 Q. You talked to the caregivers, they were
20 all visiting her, right?

21 A. I think Candy and Barbara Ann were
22 still working there. I don't know if -- were still
23 working for you. I don't know if Jean went to
24 visit her or --

25 Q. But I didn't stop you or them from

1 visiting --

2 A. No, ma'am, you did not.

3 Q. And you know that other caregivers were
4 visiting her.

5 A. I know Katherine and Renee did.

6 Q. And on the last day of her life, there
7 was -- were you present when I told Bessie and Kay
8 to leave because they were upsetting Alice?

9 A. No.

10 Q. Okay. And at her funeral, all of you
11 were saying statements about her going to the dogs,
12 right? Do you remember saying that?

13 A. At her funeral?

14 Q. Yeah.

15 A. I don't know, because if you'll
16 remember, at her funeral I got out of my car and
17 walked up to where the funeral was going to happen,
18 and your mother --

19 Q. I'm asking you the question if you
20 remember saying about the dogs?

21 A. No.

22 Q. Okay.

23 A. I don't remember anything about that.

24 Q. Do you remember when you visited her
25 telling her that it was okay for her to go to the

1 dogs?

2 A. No, ma'am.

3 Q. And you do know that Alice's whole life
4 was about her dogs?

5 A. Oh, yes. Yes, ma'am.

6 Q. Did you know that she had photo albums
7 all filled up with pictures of her dogs?

8 A. Yes, ma'am.

9 Q. And do you know approximately how many
10 photo albums she had?

11 A. In her office, there was a wall and it
12 was filled with photo albums. And we would take
13 them out and look at them.

14 Q. And you know that Alice expected her
15 monies to be used for annual charities, right?

16 A. What Alice told me about her money was
17 that she left it to Kay and Bessie and Sandra
18 because they were like family to her, and through
19 the years they had become her family.

20 She spent holidays with them, and she
21 told me that Kay's husband at the time, Jim, stayed
22 home and handled their dogs and they would take in
23 dogs and helped rescues.

24 And so she wanted it to go to them
25 because they had done so much for dogs, and she

1 didn't want Kay to have to worry about money when
2 it came to dogs.

3 Q. When it came to dogs, she expected the
4 money to be used for the care of dogs?

5 A. No, she never said that to me.

6 Q. So when I came to visit I would bring
7 you and all the caregivers little gifts?

8 A. You would.

9 Q. And I would bring Alice gifts. I
10 brought -- I sent her non -- sugar-free cookies,
11 sugar-free candy and other items on many occasions.
12 Do you recall that?

13 A. You did send her gifts.

14 Q. Okay. And so there was an occasion you
15 were concerned about the sugar-free items because
16 it was affecting her balance?

17 A. Your mother called us and said she had
18 read an article -- because Peter was bringing her
19 sugar-free Klondike bars and Alice loved them. And
20 I was telling your mom about it one day on the
21 phone that Alice really liked this and it was the
22 one thing we could get her to eat.

23 And your mother called me back several
24 days later and told me, do not give Alice that,
25 they had found it causes dementia to be worse.

1 Q. Didn't you tell my mother you had gone
2 on the computer and you were looking into it?

3 A. Never.

4 Q. Okay.

5 A. Your mother told us that.

6 Q. After Alice died, do you recall asking
7 me what was going to happen to the furniture, that
8 you liked some of the furniture?

9 A. You know what, I take offense to this
10 because that is a lie. I never spoke to you after
11 Alice died. After I was accosted at the funeral by
12 your mother, after my flowers were thrown away in
13 the dumpster at the funeral, I never spoke to
14 you-all again.

15 Q. Well, you did -- what about the keys to
16 the house?

17 A. What about them?

18 Q. That you took the keys to the house to
19 Bessie?

20 A. I did take the keys to the house to
21 Bessie. Candy gave them to me.

22 Q. All right. Why were you interfering
23 with the keys to the house when Alice had just
24 died?

25 A. I wasn't interfering with anything.

1 After Alice died, Kay, Candy, Bessie, Katherine,
2 and I were in the cafeteria. We were all upset and
3 Candy said, I need to give the keys to somebody
4 because I don't want to be around her, talking
5 about you.

6 So Candy asked Katherine and I to
7 follow her back to the house so she could get the
8 stuff out of the house and give us the keys so that
9 she could leave. So that's how I ended up with the
10 keys, and then Peter called me and asked me to have
11 them delivered to Bessie, which I did.

12 Q. And when did he call you?

13 A. Probably that next day --

14 THE COURT: Who was it that gave you
15 the keys?

16 THE WITNESS: Candy.

17 THE COURT: And what did she say what
18 she was doing?

19 THE WITNESS: She did not want to be
20 there when she got there. She didn't want to be
21 around her.

22 THE COURT: Who is she?

23 THE WITNESS: Lisa.

24 BY MS. FISHER:

25 Q. So you were having contact with Peter

1 Kouten who was representing Alice?

2 A. Yes. Peter and I were friends. We got
3 to know each other during this time. Peter even
4 had his sons come over and get some stuff out of
5 the pond. Peter was awesome with Alice. She loved
6 when he would come visit. I had no reason to
7 dislike Peter.

8 Q. But he represented Alice, right?

9 A. At that point, I thought he was just
10 there checking to make sure that the caregivers
11 were doing what they were supposed to be doing. I
12 don't know who Peter represented at that point.

13 Q. And so you never had conversations with
14 me about your personal relationship with
15 Mr. Kouten, correct?

16 A. What kind of personal relationship?

17 Q. You said he was your friend.

18 A. Well, he was.

19 Q. So you had a personal relationship.
20 Did you ever tell me that?

21 A. I don't understand.

22 Q. Yeah, because you were caring for my
23 great-aunt. Did you ever tell me that while you
24 were being paid through me?

25 A. Tell you about -- I don't understand.

1 Q. Your personal relationship with
2 Mr. Kouten.

3 A. When he would come to see Alice that
4 was my relationship with Peter. I never saw Peter
5 out of his house. I didn't know Peter before all
6 of this started.

7 Q. But you knew him enough to call him or
8 talk to him on the phone to try to get the will and
9 try to get other documents, right?

10 A. Well, I will tell you one of the
11 reasons I was trying to do that.

12 Q. Yeah.

13 A. Alice made me promise to have her
14 wishes carried out. She would tell me over and
15 over and over that her wishes in her will were not
16 going to be carried out. She told me, Lisa and
17 Betty came here when my brother died and tried to
18 get money from him, and that's what they're doing
19 now, over and over and over.

20 So, yes, I did go to Pete with the will
21 and give it to him because I wanted her wishes
22 carried out. It's the one thing that I could do
23 for her. I felt so much guilt after I found she
24 had cancer and all the pain that she was in and
25 nothing was done to help this lady. You did

1 nothing to help her with her pain.

2 Q. How long was she in the hospital?

3 A. Maybe a week and a half. Who called?

4 Mona. Because we were at our wits end. It's in
5 the journal. It says, I can't take it anymore. I
6 can't take watching this poor lady suffer anymore.

7 Q. Uh-huh. Yeah. So you don't have any
8 information about me coming back and seeing Alice
9 the day she was -- after she was put in the
10 hospital, do you?

11 A. I don't recall seeing you at the
12 hospital except for the day that she died. You
13 could have come, I don't know.

14 Q. And you have no information about what
15 my conversations with the doctors were?

16 A. You never told us what was wrong with
17 her.

18 Q. Right. Because you were a caregiver.
19 You are not the conservatorship?

20 A. You're right, but --

21 Q. That's right.

22 A. -- I have cared for other people
23 before --

24 Q. There is no question pending.

25 A. -- is tell you --

1 THE COURT: Go ahead. I will allow you
2 to say what you want to say.

3 THE WITNESS: Anytime you care for
4 someone as the caregiver, you are told what this
5 person's condition is. We were never told
6 anything. We were blinded by -- we had no idea
7 what to do to help Alice.

8 BY MS. FISHER:

9 Q. Are you a licensed caregiver?

10 A. There is no such thing.

11 Q. There is. There is?

12 A. No, there isn't. I started my own
13 business and we looked into it.

14 Q. Okay. Well, were you a CNA?

15 A. No, ma'am.

16 Q. Are you an LPN?

17 A. I'm none of those things.

18 Q. You're just a companion, right?

19 A. Yes, ma'am.

20 Q. And, in fact, Alice was never supposed
21 to smoke in her house?

22 A. No. She was allowed to smoke in her
23 kitchen.

24 Q. When did that happen?

25 A. At one point the Court allowed that to

1 happen.

2 Q. And how do you know that?

3 A. Somebody must have told us because we
4 would never have allowed her to smoke in her house.
5 If it was a court order, we followed the court
6 order, but I do know that winter was coming and
7 they were worried about Alice being outside smoking
8 in the cold. But they did allow her to just smoke
9 in her kitchen area.

10 Q. So, again, going back to the question,
11 you inquired about some of her furniture. Do you
12 recall that?

13 A. I never recall anything about her
14 furniture.

15 Q. So isn't it -- are you getting paid to
16 be here today?

17 A. No. Not a penny.

18 Q. Are you doing this because I fired you?

19 A. First of all, you did not fire me.

20 Q. I did fire you.

21 A. And, second of all, I'm doing it
22 because it's what Alice asked me to do. She knew
23 that this was what was going to happen to her
24 money. She kept saying over and over, attorneys
25 are going to get all of my money, and it's not

1 going to go to the people I left my money to. Over
2 and over she told every caregiver that.

3 Q. So as you sit here today, when she told
4 you that, you believed her, right?

5 A. Believed what?

6 Q. Believed that she knew what was going
7 to happen to her property, right?

8 A. She had told me that you and Betty had
9 come when her brother died and you tried to get
10 money then. She knew that you were only here for
11 her money. That's what Alice told me.

12 Q. So you believed her, right?

13 A. I did believe her.

14 Q. And she had Alzheimer's, so you're
15 saying that there were periods of time when she was
16 lucid and understood what was going on, correct?

17 A. There were periods of times -- yes.

18 Q. Okay.

19 A. Maybe --

20 Q. That's all I'm asking. Were there
21 times when she was lucid?

22 A. Very seldom, but, yes.

23 Q. Did you ever tell Alice that -- I'm not
24 asking that question. I withdraw that question.

25 Were you aware that I was staying with

1 Alice on January 1st?

2 A. On New Year's Day?

3 Q. Yes.

4 A. Yes, ma'am.

5 Q. And were you also aware that I had
6 taken Alice out on that day?

7 A. I may have been. I don't recall it,
8 but I may have been aware of.

9 MS. FISHER: Okay. Nothing further.

10 THE COURT: Thank you very much. You
11 can -- do you have any other questions?

12 MR. WILLS: No, Your Honor.

13 THE COURT: You can be excused then.
14 Go back out to the hallway.

15 Hold it just a second. Let's clear
16 this up as far as the journal is concerned. If
17 you-all could -- you know, the only reason I said
18 put it in is because she said she had it and so
19 forth. If neither side wants it in, insists on it
20 being in, we don't have to put it in.

21 MR. WILLS: Judge, we would like to
22 have it in, Your Honor.

23 THE COURT: Bring it in. We will have
24 to take a recess and come back after lunch then to
25 put it in, I guess. Okay. So you stay around then

1 to be able to put it into evidence then.

2 THE WITNESS: Yes, sir.

3 THE COURT: If there's nothing else
4 this morning -- is there anybody else you want to
5 call as a witness?

6 MR. WILLS: No, Your Honor.

7 THE COURT: If there's nothing else
8 this morning, then we'll recess and be back at
9 2:00 for the purpose of the journal.

10 (A luncheon recess transpired.)

11 MS. FISHER: It's my understanding that
12 you were provided discovery over my objection;
13 however, in light of the fact that you are now
14 considering introducing documentation that was not
15 provided -- not provided to me during the discovery
16 process, I would ask the Court to at least look at
17 the discovery requests that were served on --

18 THE COURT: What does it say?

19 MS. FISHER: I'm going to tell you
20 right now. Sorry, Your Honor. Well, I'm sorry, if
21 they're representing they are separate counsel, I
22 should probably wait until they come, but I will at
23 least direct the parties to discovery that was sent
24 July 15, 2009. So --

25 THE COURT: What does it say?

1 MS. FISHER: If I can have a waiver --
2 because if they're not both here, I don't want to
3 get into any --

4 THE COURT: Okay. Let's wait on them.

5 MS. FISHER: That would be fine. Thank
6 you. Since she's not here, I'm going to go to the
7 ladies room.

8 (A recess transpired.)

9 THE COURT: Everybody is here now.
10 What do you have?

11 MR. WILLS: Your Honor, we have --
12 apparently, what we've got is the original of one
13 of the journals, and we've got a photocopy of
14 another journal that is -- I feel like the original
15 is somewhere in the -- in the ten years of file
16 that there is, but what we could grab right now is
17 a photocopy at least. But we have -- we do have
18 the one original.

19 THE COURT: Okay.

20 You wanted to tell me something about a
21 request that you made, Ms. Fisher. Have you
22 located that --

23 MS. FISHER: Yes.

24 THE COURT: -- and what do you want to
25 tell me about that?

1 MS. FISHER: July 15, 2009, my attorney
2 sent first request for production to defendants.
3 That included a request for any and all records
4 pertaining to Alice --

5 THE COURT: I'm sorry, the request for
6 what?

7 MS. FISHER: Any and all records
8 pertaining to Alice Shaw Baker's property,
9 accounts, policies, and/or interest; any and all
10 records pertaining to Alice Shaw Baker's estate
11 planning documents; any and all photographs; any
12 and all records pertaining to Alice Shaw Baker --
13 sorry, to Alice Shaw Baker's relationship with
14 Defendants and to issues raised in the pleadings of
15 this action.

16 So there is a continuing duty to
17 provide those documents. The documents were never
18 provided. I've never had an opportunity to look at
19 them, and it would be unfair to allow them
20 admission today. The testimony of Ms. Ferguson is
21 completely disputed and --

22 THE COURT: Go back and read me what it
23 was that you requested again.

24 MS. FISHER: Sure. Any and all records
25 pertaining to Alice Shaw Baker, Alice Shaw Baker's

1 relationship with the defendants and to issues
2 raised by the pleadings in this action. Any and
3 all --

4 THE COURT: I've forgotten exactly how
5 this came up during the testimony of the lady. How
6 did this come up?

7 MS. FISHER: Well, she raised the issue
8 that she had a journal.

9 THE COURT: I know that, but it was in
10 response to a question, you know, that you asked
11 her about something.

12 Is she still out there?

13 MR. WILLS: She is.

14 THE COURT: Bring her back in.

15 MS. FISHER: Again, I am going to still
16 continue to object to any introduction based on
17 that.

18 THE COURT: I understand that. And it
19 may be that -- that you requested it and they
20 didn't produce it, but that was back in 2009. I'm
21 not sure when -- when this came about, and
22 everything. We'll see what we can find out.

23 MS. FISHER: Thank you.

24 THE COURT: Come on back up. You're
25 still under oath.

1 THE WITNESS: Yes, sir.

2 REDIRECT EXAMINATION

3 BY THE COURT:

4 Q. I don't recall how this came up during
5 the course of your testimony awhile ago. Do you
6 recall what you were talking about?

7 A. I don't recall. I know that I had said
8 Lisa requested us to keep a journal, but I don't
9 remember.

10 Q. She did -- she asked -- Ms. Fisher
11 asked you to keep a journal?

12 A. Yes. So that when she came into town
13 you could read and see how Alice was doing. It
14 actually became a great tool for us because when we
15 changed shifts we could go back and read and see
16 how her day was.

17 Q. Okay. And did she ever review those
18 when she came?

19 A. No, sir.

20 MS. FISHER: Objection; move to strike.
21 She was not present during all of my visits.

22 THE COURT: I'm talking about with her,
23 of course.

24 BY THE COURT:

25 Q. Did she ever request it of you?

1 A. No, sir.

2 Q. And did the other people keep -- was it
3 just you keeping a journal or did the other
4 people --

5 A. No, sir. All the caregivers wrote in
6 it. Every time while they were on their shift and
7 then at the end of the shift so you would know
8 whether or not she ate and how her night was or how
9 her day was.

10 Q. I see.

11 THE COURT: All right. Anything you
12 want to say about this? Either one of you?

13 MR. WILLS: Well --

14 THE COURT: As to why you think it's
15 important for this to come in at this point.

16 MR. WILLS: These were records that
17 were -- her testimony has given the information
18 most probably that these records give. These are
19 original contemporaneous records of what was going
20 on at that time.

21 THE COURT: I appreciate that. I think
22 the best thing to do is just to not put it in, not
23 muddy the waters any more with this, and everything
24 and all.

25 MR. WILLS: I think you're right.

1 THE COURT: I sustain the objection to
2 the introduction of those. So thank you anyway.

3 THE WITNESS: Thank you.

4 THE COURT: That's the end of it, I
5 believe.

6 MS. FISHER: So, Your Honor.

7 THE COURT: Yes.

8 MS. FISHER: I would like an
9 opportunity to respond briefly and just finish up
10 my argument with regard to the motion for a new
11 trial.

12 THE COURT: All right. Go right ahead.

13 MS. FISHER: This case has become a
14 difficult case for me, not just because of Alice,
15 which would have been difficult in any event, but
16 because now my relationship with Alice, the acts
17 that I did in good faith, the acts my mother did in
18 good faith are being manipulated and made -- in
19 light of that, I'm going to use the strongest of
20 words to say because the testimony of Denise
21 Ferguson was not accurate, was not truthful to the
22 extent that I ask that you not disclose private
23 information.

24 That is, I believe, a duty in cases
25 involving a conservatee's rights because of the

1 conservator and the guardian. That is true.

2 What isn't true is that I didn't --
3 that I wanted to restrict Alice's access to any of
4 her friends. That's not true. My understanding
5 was her friends weren't coming to visit, except
6 once at Christmas, and that she talked to them on
7 the phone. That was the information that I
8 received and that was all the information I needed.

9 There was also testimony that I told
10 her to tell Alice the date and the president and
11 things of that nature. I don't recall that, but as
12 is my practice for my clients who are trying to
13 maintain independence, I do ask that caregivers
14 tell them each and every day what's the date, who
15 is the president. It's not to mislead anybody, but
16 it's to make sure that they're kept in the present.

17 This is a disgruntled employee who took
18 it upon herself to invade Alice's life. Just the
19 fact that they have journals that were supposed to
20 be given to me show that they were attempting to
21 interfere with Alice's care.

22 That's why I had attempted to locate
23 other caregivers and, in fact, was in the process
24 of trying to get her a doctor in California to look
25 at her.

1 Now, everybody has made a big deal
2 about this. This was something I was doing at the
3 last minute. It was not. When the doctor admitted
4 Alice to the hospital, I told him, I said, maybe I
5 can get her care in California. And he's the one
6 who told me she couldn't go to California without a
7 medical airplane.

8 So I went to a lot of trouble to
9 arrange that, but it was not for my good. It was
10 so that she could get care. You know, the
11 caregivers complained about Alice, but, in fact,
12 they wouldn't do the things that I had requested
13 them to do.

14 I spoke to her psychiatrist, Sam -- I
15 believe his name was Sam Rosen. I think that's
16 right. And, anyway, he told me that if I wanted to
17 get the best care for Alice and she wasn't getting
18 the care and they weren't taking her out, that I
19 needed to find her new caregivers. So that was the
20 goal.

21 At the time I requested the air
22 ambulance, Alice was ambulatory. She could speak
23 to me. She was in there because there was a
24 question about whether her medication was helping
25 her. Now, she died in ten days.

1 It is a great horror in my life that
2 she died before I could bring her and try to get
3 her care here. I'm not saying that the care -- the
4 doctors here are bad. But there was something
5 wrong and, ultimately, she died.

6 The day she died is the day there was a
7 loss of consciousness.

8 THE COURT: A loss of what?

9 MS. FISHER: Conscious. She was -- I
10 would say in a coma at that point. But before that
11 time, I was talking to Alice on the phone every
12 night, arranging to have sitters present while in
13 the hospital, and that's because I loved her.

14 So they can make this about money, but
15 if you look at the original pleading, Your Honor --
16 and I know you're under this premise that this
17 money would have gone to my mother. If you look at
18 the document in total, the money was to go to
19 animal charities.

20 And my mother had a standing and a
21 legitimate argument is and -- at the trial, I asked
22 the Court to allow me to amend, to try and make it
23 clearer because it was clear that you didn't think
24 it was the goal to amend to meet these requirements
25 so that the money went to animal charities.

1 That, in addition to the fact as
2 conservatorship, I had information which led me to
3 believe that Alice would, did, and wanted for all
4 of her monies to go to animal charities, I had a
5 duty. Okay.

6 It's been nine years. It's been nine
7 hard long years for me. Now, the Court has given
8 them damages that they never requested, and I had
9 no way of knowing during trial that you were going
10 to even consider as is set forth in my reply.

11 I tried to make it easier, because
12 everybody says I write too much, or whatever. I
13 put on page 4, very simple, A through F, of the
14 issues in this case.

15 And this was in the reply that was
16 filed this morning. And I only got their
17 opposition the other day, so I apologize for its
18 late timing. But if the Court at least looks
19 through those things that I'm saying are serious
20 violations, the Court will understand why --
21 although, I know this Court made an effort to
22 consider the evidence in its entirety -- but how
23 that compromised the case.

24 It created a picture of my relationship
25 with Alice that just isn't true. The Court

1 considered all of the things that I paid for, and
2 so there was, I think, a two-year -- or not even
3 two years where the estate was paying for her lawn
4 care and her insurance, but after that, for all
5 these years, I have paid \$58,000 which the Court
6 did not consider. If the Court goes back and looks
7 through the records, it would see that.

8 The Court also gave them loss of use
9 except the statute provides that they are not
10 supposed to administer the estate, even if I were
11 to accept this Court's proposition that I was
12 supposed to give it to them. I believe and I have
13 a good faith belief that the law provided that I
14 had to make sure that the appropriate person was
15 given that property. That's basic trust law and
16 basic statutory law.

17 So I have made that argument, and it's
18 been always in good faith, but even if it had been
19 in their hands, they would not have -- they would
20 have to pay these things. And if the Court is
21 saying it's okay for them to pay them, I paid them
22 to try and save the estate for Alice's charities,
23 because that's what she wanted. And that's what I
24 legally believed I had to do since it was on appeal
25 and since the Court was deciding that issue.

1 This Court gave them -- sanctioned me
2 under the Unfair Trade Practices.

3 THE COURT: No. No. I didn't sanction
4 you under that. I referred to that because that's
5 one of the few statutes that we have that refer to
6 matters like this in terms of how you go about
7 figuring what might be the proper award for
8 somebody that engages in that.

9 You didn't engage in an unfair trade
10 practice under that statute, but it's a good
11 standard to go by in judging what you did do.

12 MS. FISHER: Well, as the Court put in
13 its paperwork, I can only go by what the order was.
14 So if this Court says you didn't sanction me under
15 that, then, okay.

16 The Court deprived me of compensation.
17 I did the work. Everybody here says, we couldn't,
18 we couldn't do it. Okay. Well, I did. And I have
19 a practice, I have an elderly mother, and I did it
20 out of love and affection for a family member.

21 So everybody else, they're okay having
22 family, but when I took the step, somehow I'm being
23 deemed -- I don't even know. As I told you
24 earlier, I could have stole the money and be in
25 less trouble than I am here.

1 I would have never stolen the money and
2 I did not, so let me be clear about that.

3 The Court took on the role of looking
4 through my accounting, looking through those
5 things. This Court took that role on. Judge Falk
6 is now going to look at my account. How is that
7 not double dipping there? How am I going to be
8 able to respond there and then not have it affect
9 this?

10 I'm asking this Court to look at these
11 facts, look at the equitable issues. To be frank,
12 I don't think this Court is going to consider that
13 there were -- there was evidence that showed that
14 Alice wanted this money to go to animal charities.

15 I don't think that you're trying to be
16 unfair, but I think you have it in your mind that
17 Alice wanted it to go to them and that's all there
18 was.

19 Without looking at other documents,
20 without looking at statements that are independent,
21 not by a disgruntled employee, not by people who
22 are going to get the money, and certainly not by
23 me, because I'm not going to get anything here
24 except a lot of aggravation and a lot of sorrow
25 that this person that meant so much to my family,

1 her life is being made into something it wasn't.

2 She was a great person.

3 I did not take money from John's
4 estate. I didn't come to get John's money. I
5 didn't come for that reason. They made a mistake.
6 They wouldn't fix it on the record. My mother
7 wanted it fixed on the record. She abided by
8 Alice's request not to pursue it.

9 So Michael Mitchum wouldn't incur
10 additional attorney's fees, it was settled in less
11 time than we've been here today. I can tell you
12 now, whatever money my mother got was less than it
13 cost to come here.

14 May not be the smartest move, but I
15 respect my mother. I respected Alice. I tried to
16 do the right thing, and this Court only had to
17 decide that issue. They asked for a certain amount
18 of sanctions. You gave them, I think, three times
19 the amount of sanctions.

20 And, certainly, I have no way of
21 knowing what you were looking at with regard to the
22 accounting. I've looked through your accounting.
23 I can't figure it out, to be quite frank. There
24 are mistakes there, and I'm not sure why I'm being
25 held responsible for them. So that was supposed to

1 happen with Judge Falk.

2 I am respectfully asking this Court to
3 consider my motion for a new trial. I'm asking you
4 to be disqualified or recuse yourself because you
5 have too much information. You can't unring the
6 bell.

7 THE COURT: Did you say I have too much
8 information?

9 MS. FISHER: You have too much
10 information, yes. They are supposed to present
11 their case. I'm supposed to present my case. You
12 have this image of me and of my mother and it's not
13 true. I'm just a lawyer. I'm a lawyer who tried
14 to help Alice.

15 This statement about me telling Alice,
16 oh, you're talking too long to open a card, it
17 never happened. I loved Alice. Why would I bring
18 her a card and say, oh, you can't open the card?
19 Why would I arrange for her to have nice dinners?
20 Because I was trying to get her to feel better
21 about herself. Why would I ask the caregivers to
22 take her out?

23 And the only caregiver who took her out
24 was Candy. She was the only one who was honest.
25 She was the only one who took her out. She was the

1 only one not gossiping and the only one who didn't
2 force-feed her medication. She was the only one.

3 And I tried to preserve that property,
4 make it look good, pay for the property taxes, pay
5 for the insurance, pay for the insurance on her
6 car. The car was never driven by Candy. And, yes,
7 that was stated by Ms. Crowley. They have made
8 many misrepresentations which I have addressed in
9 my motion and no one cares.

10 They only care that somehow I did
11 something. I still don't know what you're saying I
12 did. You don't believe that Alice revoked her --

13 THE COURT: Let me interrupt you right
14 there. Do you not recognize the principle that --
15 that a person has to be mentally competent, as
16 mentally competent as she was when she made a will,
17 to revoke it?

18 MS. FISHER: I do. I do; however --

19 THE COURT: Do you dispute the fact
20 that she was mentally incompetent on January 1st?

21 MS. FISHER: Yes.

22 THE COURT: You do?

23 MS. FISHER: I do. Under the
24 principles of -- you have to look at the case in
25 its entirety.

1 THE COURT: Good. Good. We finally
2 agree on something.

3 MS. FISHER: Well, what I don't agree
4 with is that the presentation is directed by you,
5 Your Honor. Okay. So we have a case where we have
6 a judge who made an order. So as a lawyer, do I
7 have a right, do I have an obligation maybe to
8 assert a legitimate right if I believe that in good
9 conscious it is correct?

10 Now, we have --

11 THE COURT: It is what?

12 MS. FISHER: Correct.

13 So Alice had documentation produced by
14 us which was produced by us which said a person
15 works at dog charities, money is to go to charity.
16 So based on that -- based on Alice's representation
17 that she believed that Kay Passailaigue --

18 THE COURT: When did she represent that
19 to you?

20 MS. FISHER: The entire time. She
21 represented it at the hearing of the
22 conservatorship.

23 THE COURT: That was when she was
24 incompetent.

25 MS. FISHER: I'm not saying -- I'm not

1 saying she was ever incompetent.

2 THE COURT: I know you're not, but I
3 can't understand why you're not?

4 MS. FISHER: There's many reasons why.
5 You look at the order, it said there was a limited
6 conservatorship. It said she needed additional
7 examinations, you know. Was Alice difficult? To
8 them she was difficult. To me, she was just Alice.
9 You know, I'm sure they think I'm difficult, but
10 I'm not incompetent.

11 So she was having trouble and the Court
12 -- the Court -- if you look at law relating to
13 conservatorships, it says that a conservatee can
14 make a will. So this Court imposed a different
15 order which Alice never had notice of, and I
16 believe that I have an obligation to bring that to
17 the Court's attention. The Court is accepting her
18 incapacity rather than looking at her in total.

19 Now, it's interesting that they didn't
20 report Alice to Elizabeth Spencer when she exerted
21 these problems. They didn't report her until after
22 her last dog died when they wouldn't have to take
23 care of the dog, and when they knew -- because
24 anybody who knew Alice knew that if she knew they
25 weren't going to be taking care of her dog, she

1 would take action to make sure it went to animal
2 charities.

3 She was consistent with me and she was
4 consistent with my mother and she was consistent to
5 the people at the pension plan. She didn't vary
6 and say, oh, well, maybe she works at a dog
7 charity. She said she worked at a dog charity, and
8 that's where the property was supposed to go.

9 We have the judicial admission of
10 Ms. Passailaigue who said, oh, yeah, we had the
11 conversation about maybe she wanted me to buy some
12 property and then I could have all the dogs I want.
13 Okay. If you don't tell Alice you're not going to
14 do that, there's a -- there was an affirmation
15 there that is known in law that when you have a
16 duty to tell somebody that you're not going to do
17 something, that becomes a breach of trust.

18 It has to be shared duty. They took on
19 that fiduciary duty. When it came for them after
20 that condition, they chose not to.

21 So this is a -- this is a difficult
22 case, but it's not a case that this Court was
23 supposed to decide. It was a case that was the
24 parties were to present and for it to be considered
25 in a neutral environment.

1 It certainly hasn't been neutral to me
2 or my mother, and certainly not to an attorney that
3 I have the greatest respect for, John Hughes
4 Cooper. And he has been involved in a way he
5 shouldn't have been.

6 My mother who followed legal advice
7 believed it -- based on her own conversations with
8 Alice, that she knew that it was supposed to go to
9 animal charities. We all acted in good faith. I'm
10 entitled as conservator to immunity for certain
11 acts. And the Court isn't considering that. The
12 Court didn't consider anything that I would hope it
13 would consider.

14 So the motion for a new trial, as I
15 believe the Supreme Court has enabled me to file,
16 is to ensure I raise all these issues and ask you
17 respectfully to rule on these issues.

18 If the Court has any question, I
19 certainly will answer it, but this case must be
20 reversed, and I am respectfully asking for that.
21 Thank you.

22 THE COURT: Appreciate your position.

23 All right. Anything that you would
24 like to say, Mr. Wills?

25 MR. WILLS: Only that she has not

1 stated any grounds where she would be entitled to a
2 new trial.

3 THE COURT: All right. I will take the
4 matter under advisement, and I will issue a written
5 order as soon as I can.

6 MS. FISHER: Thank you very much.

7 THE COURT: Thank you.

8 MR. WILLS: Your Honor, may we address
9 the motion for stay because that will become
10 important in a hearing that we have tomorrow?

11 THE COURT: Go ahead.

12 MS. FISHER: Well, Your Honor, you've
13 already ruled on a motion for stay and --

14 THE COURT: I think -- I think that
15 everything that I've ordered in the previous order
16 is not stayed.

17 MS. FISHER: You already made
18 additional orders, and I will be taking appropriate
19 legal action to address those things. Not out of
20 disrespect, but just because I believe that's
21 appropriate in this case.

22 THE COURT: I'm not sure I know what
23 we're talking about.

24 MS. FISHER: Well, there was an
25 order --

1 THE COURT: I said in my previous order
2 that I don't think that anything that I ordered
3 therein is stayed pending whatever appeal comes out
4 of this.

5 MS. FISHER: Right. And so I will be
6 taking all appropriate legal action to see if the
7 Supreme Court believes it needs to be stayed. So I
8 would ask that the Court allow that process to take
9 place.

10 MR. WILLS: Well, for the record,
11 Ms. Fisher has filed a motion with the Court to
12 stay the judgments. Tomorrow, we have a hearing
13 from the appeal from the magistrate court on the
14 eviction action that we took to evict Candace
15 Rickborn. They've made an argument that we can't
16 do that because she has a pending motion to stay
17 the enforcement of your orders.

18 MS. FISHER: That's not completely what
19 I argued. Your Honor, they filed false ejectment
20 action. It's false. They know the property was
21 never in the possession of Candace Rickborn. They
22 made a representation to the Court that they had a
23 tenant relationship. That's false.

24 And so I have made a statement that I
25 will take all appropriate action to see if the

1 supreme court will stay it. And this Court already
2 ruled on my motion to stay without the opportunity
3 for me to be heard after Ms. Crowley opposed it, so
4 I'm not sure why --

5 THE COURT: If there's any question
6 about it, I'm saying now anything that I said in
7 the previous order is not stayed.

8 MS. FISHER: Yes, Your Honor. And I
9 will take all action necessary. Thank you.

10 MR. WILLS: Thank you.

11 (These proceedings were concluded at
12 2:59 p.m.)

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1 there's been reference to an order that was entered
2 by the probate court.

3 You can look at it and see exactly what
4 Judge Curry said on that occasion as far as what
5 she found to be what she should do on that
6 occasion, based on what was before her at that
7 time.

8 Which I'm not sure of the date of it, I
9 believe it's in November, or whatever; you will
10 have that and you can look at it and see when it
11 was. You can see what she said in that order, and
12 you can presume that she had good reason to say
13 that. She had good reason to do what she did when
14 she put it in writing and filed in the probate
15 court. You can presume that, that she was not able
16 to make a will at that time.

17 Now, the law does provide that if a
18 person can prove by the greater weight or
19 preponderance of the evidence -- and I'll talk
20 about that later -- that after that she regained
21 her sound mind, she got better, she knew what she
22 was doing, she knew what her estate was, she knew
23 how she wanted it to be distributed, that she tore
24 up the other will because of that; the burden of
25 proof on that is on the party making that claim.

1 knew the objects of her affection, all of those
2 things that a person has to have, mentally capable,
3 mentally competent to make a will or to revoke a
4 will.

5 She was in full capacity of those
6 things at that time, and then she tore it up. And
7 that's what she intended to do. She intended for
8 her property to go under the laws of intestacy at
9 that time.

10 The burden of proof is on the Plaintiff
11 to prove to you by the greater weight or
12 preponderance of the evidence those things that
13 they claim. Again, a set of scales. You put the
14 things in support of that claim on one side of the
15 scales; you put the things in contrary to those
16 claims on other side of the scales.

17 If the scales remain exactly even, the
18 Plaintiff has failed to meet the burden of proof in
19 regard to that claim. If the scales should tilt
20 even slightly in favor of the Defendant's position,
21 that this is her last will, a valid last will,
22 then, again, the Plaintiff has failed to meet the
23 burden of proof.

24 But, on the other hand, if the scale
25 tips even slightly in favor of the Plaintiff's

1 claim that she revoked it legally on that day by
2 tearing up a copy of it, then the Plaintiff would
3 have met the burden of proof of proving that claim
4 by the greater weight or preponderance of the
5 evidence.

6 So a slight tipping of the scales in
7 favor of a claim made by the Plaintiff in this case
8 is all that's necessary for her to have met the
9 burden of proof of proving that claim by the
10 greater weight or preponderance of the evidence.

11 As I said, on the other hand, if the
12 scales should remain exactly even or tilt even
13 slightly in favor of the Defendant's position in
14 regard to this, then the Plaintiff has failed to
15 meet the burden of proof or proving that claim by
16 the greater weight or preponderance of the
17 evidence.

18 Now, under our constitution and code of
19 laws, you are the sole judges of the facts of this
20 case. I've tried to emphasize that to you at the
21 start of this case, what your role was going to be.
22 You are to determine the facts in this case based
23 on the testimony and the evidence that's been
24 presented to you from the witness stand and my
25 instruction to you on the law.

1 order to make a will or in order to revoke a will.

2 A person who is capable of making a
3 will understands what she is doing, and she's doing
4 it with the intent, as I said, to revoke the will,
5 to have her property go under the laws of
6 intestacy, that is, to her next of kin, rather than
7 how she provided for it earlier in her Last Will
8 and Testament, which was in evidence in this case.

9 A will cannot be set aside merely
10 because the person was old and feeble, peculiar,
11 eccentric, unreasonable -- and I'm not saying she
12 was. I'm just reading you the rules that apply in
13 situations like that -- or because the will might
14 be considered unjust or foolish. Unless, as I
15 said, it has further been shown that at the time
16 she tore it up, if she did tear it up, she did it
17 with sufficient mental capacity to know what she
18 was doing and with the intent to do that, that is,
19 revoke that will.

20 Of course, if a person has the
21 sufficient legal capacity -- mental capacity, as I
22 said, and I've described it to you, then tearing up
23 a copy of a will could, under certain
24 circumstances, as I have described it, be enough to
25 have revoked a will, but it's up to you to decide,

1 as I said, whether or not there was any tearing up
2 of a copy of the will, and whether if it was torn
3 up did she have mental capacity that she needed to
4 have in order to revoke the will on that occasion.
5 You have to decide all that. That's why you are
6 here today.

7 You have no friends to reward or
8 enemies to pitch. Your job is to do what you said
9 you would do at the start, and that is to decide
10 this case based on the evidence and testimony that
11 was presented to you from the witness stand and my
12 instructions to you on the law. When you do that,
13 no one will have the right to criticize your
14 verdict, regardless of what your verdict may be.

15 Your verdict must be unanimous; all 12
16 of you must agree on what the verdict is before you
17 can come back in the courtroom and tell us you've
18 reached a verdict in regards to this case.

19 You will have with you in the jury room
20 this verdict form, Madame Forelady. And I ask that
21 you use it to let us know what the verdict is in
22 regards to this case. And I put the case heading
23 and the number up here at the top and the word
24 verdict. And there are two possible verdict forms
25 for you to use. The first one says, we find that

1 By the way, any posttrial motions you
2 have, if there are any posttrial motions -- and I'm
3 not saying that you have to file any, certainly.
4 Anyway, any posttrial motions, you have ten days to
5 do any posttrial motions.

6 Make any of those motions in writing,
7 file them with the Clerk of Court, but send me a
8 copy directly, also. Don't just assume because you
9 filed it with the Clerk that I've gotten anything.
10 So ten days for any posttrial motion, file them and
11 send them to me.

12 Bring the jury in.

13 (Jury in, 12:30 p.m.)

14 THE COURT: Give the verdict to the
15 bailiff, and she will bring it over to me.

16 We have the jury with us and the
17 parties are present.

18 And the jury has found: We find that
19 Exhibit 3 is the Last Will of Alice Shaw Baker.
20 That's the verdict of the jury.

21 Anything prior to the discharging of
22 the jury from the Plaintiffs, contestants? Prior
23 to discharge, anything else?

24 MR. COOPER: Yes, Your Honor. I would
25 like to poll the jury.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

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)

LAST WILL AND TESTAMENT

OF

ALICE SHAW-BAKER

I, ALICE SHAW-BAKER, of the County of Charleston, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all wills and codicils by me heretofore made.

ITEM I: I direct that all my funeral expenses and legally enforceable debts be paid as soon after my death as is practicable.

ITEM II: I give and devise unto Bessie Huckabee, a friend, of North Charleston, South Carolina, the sum of Eighteen Thousand (\$18,000.00) dollars.

ITEM III: I give and devise unto Sandra Byrd, a friend, of Goose Creek, South Carolina, the sum of Four Thousand (\$4,000.00) dollars.

ITEM IV: I hereby give notice of my intention to leave a separate writing which shall contain a list of items of tangible personal property and statements as to my desire for the disposition of such property upon my death. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

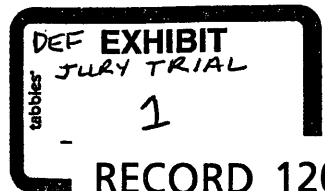
ITEM V: I give and devise unto Kay Passailaigue, all the rest, residue and remainder of my estate, real, personal and mixed, of whatever kind and nature, wherever the same may be situate, to be hers in fee simple absolute, to include the care of my dogs, except for those items in the separate list left by me at the time of my death as referred to in Item IV herein.

ITEM VI: I nominate, constitute and appoint Bessie Huckabee, as Personal Representative of this my Last Will and Testament. In the event that Bessie Huckabee shall predecease me or other wise be unable to qualify, or if having qualified, becomes incapacitated or resigns, then in that event, I nominate, constitute and appoint Kay Passailaigue, as Personal Representative. I give unto my Personal Representative or successor, full power and authority to sell,

Mavis C. Waters
Julian L. Hudson

Alice Shaw-Baker
Alice Shaw-Baker

page one



alien, mortgage or convey any part or all of my property whenever she, in her sole discretion, may deem best for the disposition of such property upon my death. My Personal Representative or successor, shall serve without bond, or if a bond is required, no surety shall be required thereon. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this 21 day of May, 2001.

Alice Shaw-Baker
Alice Shaw-Baker

SIGNED, SEALED, PUBLISHED AND DECLARED by the Testatrix as and for her Last Will and Testament, in our presence, who, in her presence, and in the presence of each other, and at her request, have hereunto subscribed our names as witnessed.

Marie C Waters

1 Poston Road, Suite 395
Charleston, SC 29407

James E. Hudson

1 Poston Road, Suite 395
Charleston, SC 29407

Marie C Waters

Alice Shaw-Baker
Alice Shaw-Baker

James E. Hudson, page two

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, ALICE SHAW-BAKER, the Testatrix, sign my name to this instrument this 21 day of May, 2001, 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, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

Alice Shaw-Baker
Alice Shaw-Baker, Testatrix

We, the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and Testament, and that she signs it willingly, and that each of undersigned witnesses, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that of the best of our knowledge, the Testatrix is eighteen (18) years or older, of sound mind, and under no constraint or undue influence.

Marie C. Waters
James L. Adams

Subscribed, sworn to and acknowledged before me by Alice Shaw-Baker, the Testatrix, and subscribed and sworn to before me by the above subscribing witnesses, this 21st day of May, 2001.

G. Ben Solomon
Notary Public for South Carolina

My commission expires: 9/4/2008

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE PROBATE COURT

IN THE MATTER OF: ALICE SHAW-BATES 32 DOCTOR'S AFFIDAVIT REGARDING CAPACITY

CASE NUMBER: 2008-6C-10-88

PERSONALLY APPEARED BEFORE ME Sharon Honney MD
Physician

who being duly sworn deposes and says:

I am (Please set forth your medical credentials):
MD

Business address and phone:

337 Folly Rd, Chas., SC 29412

Date and Place of this examination:

August 28, 2008

I have had previous opportunities to evaluate the patient?

☒ Yes ☐ No

(If yes, indicate dates and circumstances within the last year and/or reference if you have been the patient's personal physician for a period of time and the time frame.)

Is the patient oriented to time and place?

☒ Yes ☐ No

What is the physical condition and age of the patient? (Detail any other significant factors that may be relevant to the Court.)

Set forth the results of any tests which bear on the issue of incapacity and date of test:

BASED UPON MY EVALUATION OF THIS PATIENT:

☒ I **DO NOT** believe this patient is an "incapacitated person".¹ I do not find any impairment by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person, property, or finances.

☐ I **DO BELIEVE** THIS PATIENT IS AN "INCAPACITATED PERSON" and in need of a Guardian and/or Conservator as I find him/her to be impaired by reason of (CHECK ALL THAT APPLY AND SET OUT AND DESCRIBE THE LIMITATIONS RESULTING FROM EACH.)

- ☐ Mental Illness
- ☐ Mental Deficiency
- ☐ Physical Illness or Disability
- ☐ Advanced Age
- ☐ Chronic Use of Drugs
- ☐ Chronic Intoxication
- ☐ Other

¹"Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property. (Section 62-5-101 of the South Carolina Code of Laws)

Is this condition permanent or temporary? _____

Can Patient perform activities of daily living? yes

What other information do you believe would assist the Court in making a determination of capacity?

Ms. Baker appears to understand current medical problems, has been compliant with treatment and follow-up. She was clean and appropriately dressed at her appointment. She appeared to be well nourished and hydrated.

FURTHER AFFIANT SAYETH NOT.

Physician's Signature: _____

Print Name: _____

Examiner: _____

Credentials (M.D., Ph.D., D.O., R.N.)

Address: _____

Telephone: _____

SWORN to before me this 8th day of October, 2008

Notary Public for South Carolina

My Commission Expires: 5-11-2014

FAILURE TO PROVIDE DETAILED RESPONSES TO THE QUESTIONS ON THIS AFFIDAVIT MAY OBLIGATE YOU TO APPEAR AT THE PROBATE COURT HEARING.

All information MUST be typed or clearly printed.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELISABETH SPENCER,

Petitioner,

vs.

ALICE SHAW-BAKER, an alleged

Incapacitated person, and

LISA FISHER, her next of kin,

Respondents.

) IN THE PROBATE COURT

) COMMITMENT DIVISION

) CASE NO: 2008-GC-10-042 and

) CASE NO: 2008-GC-10-088

FILED
OCT-8 PM 3:32

C E R T I F I C A T E O F S E R V I C E

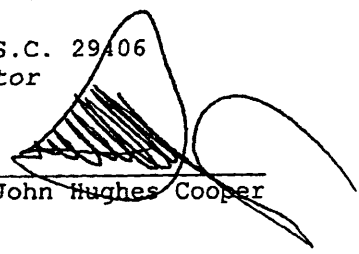
I hereby certify that on October 8, 2008 we served all counsel of record and interested parties with a copy of the foregoing Doctor's Affidavit of Shannon Honney, M.D. by first class mail addressed as follows:

C. Mac Gibson, Jr., Esquire
764 St. Andrews Blvd.
Charleston, SC 29407
Counsel for Petitioner,
Elisabeth Spencer

Lisa Fisher, Esquire
Law Offices of Lisa Fisher
P.O. Box 91112
Long Beach, CA 90809-1112
Temporary Co-Guardian

Ms. Jane Ornestein
Temporary Co-Guardian
128 Wainwright Manor
Summerville, SC 29485
Temporary Co-Guardian

Family Services, Inc.
4925 LaCross Road
North Charleston, S.C. 29406
Temporary Conservator


John Hughes Cooper

Last Will and Testament

OF

ALICE E. SHAW-BAKER

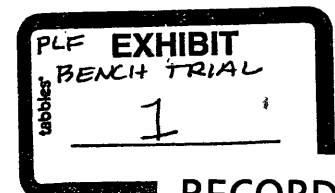
89-1
253
I, Alice E. Shaw-Baker, of the County of Charleston, South Carolina, being of sound and disposing mind and memory, do hereby make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all Wills or other instruments of a testamentary nature heretofore made by me.

ITEM I:

I direct that all of my debts secured and unsecured, be paid as soon as practical after my death; however, 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.

ITEM II:

I direct that 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 (which term wherever used herein shall include any Codicil hereto) or any insurance upon my life or on any property held jointly by me with another or on any transfer made by me during my lifetime or on any other property or interests in property included in my estate for such purposes be paid out my residuary estate and shall not be



charged to or against any recipient, beneficiary, transferee or owner of any such property or interest in property included in my estate for such tax purposes.

ITEM III:

I request that my Personal Representative abide by any memorandum directing the disposition of this property mentioned therein or any part thereof. This request is mandatory.

ITEM IV:

I give, devise and bequeath any pets which I may own at the time of my death to Kay Passailaigue Slade.

ITEM V:

I give, devise and bequeath my dog collections, including books, figurines, jewelry, videos, etc. to Kay Passailaigue Slade.

ITEM VI:

I give, devise and bequeath the sum of Twelve Thousand and 00/100 (\$12,000.00) Dollars to Kay Passailaigue Slade to care for the health and maintenance of my pets which I may own at the time of my death. If I do not own any pets at the time of my death, I still devise and bequeath the aforesaid sum of Twelve Thousand and 00/100 (\$12,000.00) Dollars to her.

ITEM VII:

I give, devise and bequeath the sum of Eight Thousand and 00/100 (\$8,000.00) Dollars to Bessie Huckabee.

ITEM VIII:

I give, devise and bequeath my Blue Sapphire ring, gold

wedding band and two (2) large dolls to Bessie Huckabee.

ITEM IX:

I give, devise and bequeath my residence at 306 Cassina Road to the John Ancrum Chapter of the SPCA, Charleston, South Carolina, provided, however, that Kay Passailaigue Slade and her husband, James Slade, shall have the right to use and occupy the residence for the rest of their natural lives. Kay Passailaigue Slade and James Slade must advise my Personal Representative of their intent to occupy the residence within sixty (60) days after the date of my death. If they do not elect to occupy said residence, then the residence is to immediately pass to The John Ancrum Chapter of the SPCA, Charleston, South Carolina, free and clear. If they do elect to occupy the residence, they shall be entitled to move in to the property immediately upon making that decision. While living on the property, they shall be liable for normal upkeep, including painting of the residence, plumbing repairs, air conditioning and heating repairs and other usual minor repairs required of residences. The SPCA will be liable for payment of taxes, insurance and major repairs, specifically, but not limited to, replacement of the roof, if necessary, and the heating and air conditioning systems.

ITEM X:

I give, devise and bequeath all the rest, residue and remainder of my property, of every kind and description, wherever situate and whether acquired before or after the execution of this

Will absolutely in fee simple to The John Ancrum Chapter of the SPCA, Charleston, South Carolina. It is expected that the income from this bequest shall be used to pay the expenses as stated in Item IX. I further direct that a permanent plaque in recognition of my gift be placed in an appropriate location in the building housing the SPCA. The wording of this plaque is attached to my Last Will and Testament and it is my desire that the exact wording be used.

ITEM XI:

I hereby nominate, constitute and appoint as Personal Representative of this my Last Will and Testament, Bessie Huckabee, and direct that she shall serve without Bond. If for any reason she is unable or unwilling to serve or continue to serve, then I nominate, constitute and appoint KAY PASSAILAIGUE SLADE, as substitute or successor Personal Representative and direct that she shall serve without bond.

ITEM XII:

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 to allot, assign, buy, care for, collect, contract with respect to, continue any business of mine, convey, convert, deal with, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, and in general to

exercise in the management of similar property owned in her own right, upon such terms and conditions as she may seem best, and to execute and deliver any and all instruments and to do all acts which such Personal Representative may deem proper or necessary to carry out the purposes of this Will, without being limited in any way by the specific grants of power made and without the necessity of a Court Order.

ITEM XIII:

If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary died first, then it shall be conclusively presumed for the purposes of this, my Will, that said beneficiary predeceased me.

IN WITNESS WHEREOF, I have hereunto set my Hand and Affixed my Seal this 5TH day of April, 1996.

Alice E. Shaw-Baker
ALICE E. SHAW-BAKER

THE foregoing Will consisting of 6 typewritten pages, this included, the 4 preceding pages thereof bearing on the margin the initials of the Testatrix was this 5th day of April, 1996, signed, sealed, and published and declared by the said Testatrix as and for her Last Will and Testament, in the presence of us, who at her request and in her presence and in the presence of each other,

have hereunto subscribed our names as witnesses hereto.

Cheryl Hotchkiss ADDRESS Charlotte

M. Edward Horowitz ADDRESS Charlotte, SC.

I, Alice E. Shaw-Baker, the Testatrix, sign my name to this instrument this 5th day of April, 1996, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly; 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.

Alice E. Shaw-Baker
ALICE E. SHAW-BAKER

WE, CHERYL HOTCHKISS and N. EDWARD HOROWITZ, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly, and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Cheryl Hotchkiss
M. Edward Horowitz

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

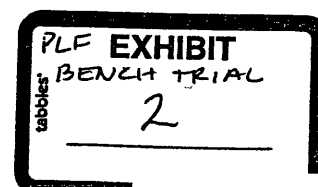
Subscribed, sworn to, and acknowledged before me by ALICE E. SHAW-BAKER, the Testatrix, and subscribed and sworn to before me by CHERYL HOTCHKISS, witness, this 5th day of April, 1996.

M. E. Edwards
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 10/20/99

MEMORANDUM

DANIEL GOLDSTEIN
ATTORNEY AT LAW

1000 WINDERMERE SHOPPING CENTER
12 WINDERMERE BOULEVARD • SUITE 10
CLARKESBORNE, SOUTH CAROLINA 29007
(803) 777-0002



RECORD 1220

old one

+

I shall die seized and possessed, or to which I shall be entitled at the time of my death, I give, devise and bequeath to Pet Helpers Inc. (Federal ID No.: 57-0802283). In the event, that Pet Helpers Inc. is no longer in operation at the time of my death I leave the rest, residue and remainder of my Estate, to The John Ancrum Chapter of the SPCA. It is my wish that the organization which inherits the rest, residue and remainder of my estate place a permanent plaque at an appropriate location in their building in recognition of my gift. The wording of this plaque is on an attached sheet which is made a part and parcel of this Will by reference thereto.

ITEM VIII. I hereby nominate, constitute and appoint as Executrix of this my Last Will and Testament my friend, Bessie Huckabee, and direct that she will serve without bond. In the event that Bessie Huckabee predeceases me or cannot serve, I hereby nominate, constitute and appoint as successor Executor, Daniel Goldstein, Esquire and direct that he will serve without bond.

ITEM IX. Whenever the word "Executor" or any modifying, or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, and feminine gender thereof, and shall apply equally to the Executor named herein and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein. The term "Executor" as used herein shall be synonymous with the term "Personal Representative".

ITEM X. My Executor is specifically authorized and empowered to exercise all of the powers in management of my Estate which any individual could exercise in the management of similar property owned in its own right, upon such terms and conditions as to my Executor may seem best, and to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

I, ALICE E. SHAW-BAKER, the Testatrix, sign my name to this instrument this 12th day of January, 1993, and being duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein

Alice E Shaw-Baker

expressed and that I am eighteen (18) years of age or older,
of sound mind, and under no constraint or undue influence.

Alice E. Shaw-Baker
ALICE E. SHAW-BAKER

we, TERESA GABRISH and CAROL DUNCAN
the witnesses, sign our names to this instrument, being first
duly sworn, and do hereby declare to the undersigned
authority that the Testatrix signs and executes this
instrument as her Last Will and that she signs it willingly,
and that each of us, in the presence and hearing of the
Testatrix hereby signs this Will as witness to the
Testatrix's signing, and to the best of our knowledge the
Testatrix is eighteen (18) years of age or older, of sound
mind, and under no constraint or undue influence.

Teresa Gabrish
Witness

Teresa Gabrish
Witness

Carol Duncan
Carol Duncan

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Subscribed, sworn to and acknowledged before me by ALICE
E. SHAW-BAKER, the Testatrix, and subscribed and sworn to
before me by TERESA GABRISH, and CAROL DUNCAN,
witnesses, this 7th day of January, 1993.

Daniel Goldstein

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 10/19/2000

COPIES

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
)
)

LAST WILL AND TESTAMENT
OF
ALICE SHAW-BAKER

I, ALICE SHAW-BAKER, of the County of Charleston, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all wills and codicils by me heretofore made.

ITEM I: I direct that all my funeral expenses and legally enforceable debts be paid as soon after my death as is practicable.

ITEM II: I give and devise unto my niece Betty Sazio Fisher of Long Beach California, the sum of One Thousand (\$1,000.00) dollars.

ITEM III: I give and devise unto my niece Margaret Sazio of Riverside California, the sum of Five Hundred (\$500.00) dollars.

ITEM IV: I give and devise unto my niece Darlene Strauss of Timonium, Maryland the sum of Fifty (\$50) dollars.

ITEM V: I give and devise unto my friend, Bessie Huckabee, of North Charleston, South Carolina, the sum of Eighteen Thousand (\$18,000.00) dollars.

ITEM VI: I give and devise unto my friend, Sandra Byrd. of Goose Creek, South Carolina, the sum of Four Thousand (\$4,000.00) dollars.

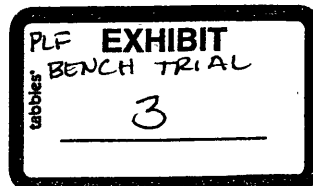
ITEM VII: I give and devise unto my friend, Kay Passailaigue, all the rest, residue and remainder of my estate, real, personal and mixed of whatever kind and nature, wherever the same may be situate to be hers in fee simple absolute. Included in the devise are any dogs I may own at the time of my death.

ITEM VIII: I nominate, constitute and appoint Bessie Huckabee, as Personal Representative of this my Last Will and Testament. In the event that Bessie Huckabee shall predecease me or other wise be unable to qualify, or if having qualified, becomes incapacitated or resigns, then in that event, I nominate, constitute and appoint Kay Passailaigue, as Personal Representative. I give unto my Personal Representative or successor, full power and authority to sell,

Mavis C. Waters
J. L. & H. L. H. H. H.

Alice Shaw-Baker
Alice Shaw-Baker

page one



Dr 22
RECORD 1224

alien, mortgage or convey any part or all of my property whenever she, in her sole discretion, may deem best for the disposition of such property upon my death. My Personal Representative or successor, shall serve without bond, or if a bond is required, no surety shall be required thereon. Notwithstanding the authority given to a person with priority for the appointment to nominate another as Personal Representative, pursuant to the South Carolina Probate Code, Section 62-3-203, as amended, no such nomination shall be given priority to my appointments herein, both primary, alternate(s) and successors(s).

ITEM XI: If any devisee(s) or other individual(s) shall contest this my Last Will and Testament, then and in that event, I give and devise the sum of One (\$1.00) dollar to each such devisee and/or other individual.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this 13th day of February, 2001.

Alice Shaw - Baker
Alice Shaw-Baker

SIGNED, SEALED, PUBLISHED AND DECLARED by the Testatrix as and for her Last Will and Testament, in our presence, who, in her presence, and in the presence of each other, and at her request, have hereunto subscribed our names as witnessed.

Maria C. Water

1 Poston Road, Suite 395
Charleston, SC 29407

Jean E. Hudson

1 Poston Road, Suite 395
Charleston, SC 29407

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
)
)

I, ALICE SHAW-BAKER, the Testatrix, sign my name to this instrument this 13th day of February, 2001, 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, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

Alice Shaw-Baker
Alice Shaw-Baker, Testatrix

We, the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and Testament, and that she signs it willingly, and that each of undersigned witnesses, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that of the best of our knowledge, the Testatrix is eighteen (18) years or older, of sound mind, and under no constraint or undue influence.

J. L. E. Hedmon
Marie C. Watson

Subscribed, sworn to and acknowledged before me by Alice Shaw-Baker, the Testatrix, and subscribed and sworn to before me by the above subscribing witnesses, this 13th day of February, 2001.

G. Paul Holm
Notary Public for South Carolina

My commission expires: 7/4/2008

PK-30

RECORD 1226

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

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)
LAST WILL AND TESTAMENT
OF
ALICE SHAW-BAKER

I, ALICE SHAW-BAKER, of the County of Charleston, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all wills and codicils by me heretofore made.

ITEM I: I direct that all my funeral expenses and legally enforceable debts be paid as soon after my death as is practicable.

ITEM II: I give and devise unto Bessie Huckabee, a friend, of North Charleston, South Carolina, the sum of Eighteen Thousand (\$18,000.00) dollars.

ITEM III: I give and devise unto Sandra Byrd, a friend, of Goose Creek, South Carolina, the sum of Four Thousand (\$4,000.00) dollars.

ITEM IV: I hereby give notice of my intention to leave a separate writing which shall contain a list of items of tangible personal property and statements as to my desire for the disposition of such property upon my death. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

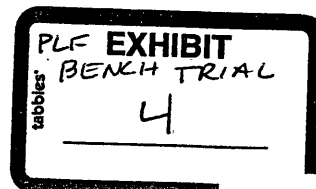
ITEM V: I give and devise unto Kay Passailaigue, all the rest, residue and remainder of my estate, real, personal and mixed, of whatever kind and nature, wherever the same may be situate, to be hers in fee simple absolute, to include the care of my dogs, except for those items in the separate list left by me at the time of my death as referred to in Item IV herein.

ITEM VI: I nominate, constitute and appoint Bessie Huckabee, as Personal Representative of this my Last Will and Testament. In the event that Bessie Huckabee shall predecease me or other wise be unable to qualify, or if having qualified, becomes incapacitated or resigns, then in that event, I nominate, constitute and appoint Kay Passailaigue, as Personal Representative. I give unto my Personal Representative or successor, full power and authority to sell,

Marie C. Watson
John E. Hudson

Alice Shaw - Baker
Alice Shaw-Baker

page one



alien, mortgage or convey any part or all of my property whenever she, in her sole discretion, may deem best for the disposition of such property upon my death. My Personal Representative or successor, shall serve without bond, or if a bond is required, no surety shall be required thereon. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this 21 day of May, 2001.

Alice Shaw-Baker
Alice Shaw-Baker

SIGNED, SEALED, PUBLISHED AND DECLARED by the Testatrix as and for her Last Will and Testament, in our presence, who, in her presence, and in the presence of each other, and at her request, have hereunto subscribed our names as witnessed.

Marie C Waters

1 Poston Road, Suite 395
Charleston, SC 29407

DeLox E. Hudson

1 Poston Road, Suite 395
Charleston, SC 29407

Marie C Waters

Alice Shaw-Baker

Alice Shaw-Baker

DeLox E. Hudson, page two

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, ALICE SHAW-BAKER, the Testatrix, sign my name to this instrument this 21 day of May, 2001, 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, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

Alice Shaw-Baker
Alice Shaw-Baker, Testatrix

We, the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and Testament, and that she signs it willingly, and that each of undersigned witnesses, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that of the best of our knowledge, the Testatrix is eighteen (18) years or older, of sound mind, and under no constraint or undue influence.

Marie C. Waters
James L. Hudson

Subscribed, sworn to and acknowledged before me by Alice Shaw-Baker, the Testatrix, and subscribed and sworn to before me by the above subscribing witnesses, this 21st day of May, 2001.

A. Paul Solomon
Notary Public for South Carolina

My commission expires: 9/4/2008

RCS105N1
Jul 22,09

***** South Carlina Retirement Systems *****
- Maintain Contact Log -

RCS105M1
1 more >

Action (D)

SSN : [REDACTED]

Phone : (843) 556 - 2475

Name: ALICE E SHAW BAKER

LISA FISHER

CONSERVATOR FOR

ALICE E SHAW BAKER

PO BOX 91112

LONG BEACH CA 90809-1112

*Reason : B/P1099

Start Time : 10:25:05

Call Length: 00:16:14

Call Date : 03 13 2008

CS Rep: JENNIE JACOBS

Dept: CSCC

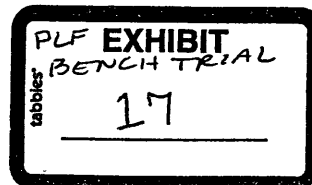
Last Updated by: RJJACO on: 03-13-2008

Notes :

MBR STILL STATING NEEDS 1099R FOR 2007(PREV LOGS & BP SYSTEM INDICATE IT
HAS BEEN ORDERED 5 TIMES AND ONCE MAILED OUT LOCALLY)UPDATED FOR BATCH RE-
PRINT AGAIN TODAY. MBR IS 79 YRS OLD AND WAS VERY UPSET & CRYING ABOUT THE
DEATH OF HER PET/DOG. OFFERED CONDOLENCES AND ALLOWED MBR TIME TO TALK IT
THROUGH; CONSIDER GETTING A NEW PET TO LOVE.

Direct Command:

Enter-PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10--PF11--PF12---
confm help retrn quit prev next bkwrd frwr left right main
Contact log displayed successfully



SCRS 6

RECORD 1230

RCS105N1
Jul 22,09

***** South Carlina Retirement Systems *****
- Maintain Contact Log -

RCS105M1
1 more >

Action (D)

SSN :
Phone : (843) 558 - 2475

Name: ALICE E SHAW BAKER
LISA FISHER
CONSERVATOR FOR
ALICE E SHAW BAKER
PO BOX 91112
LONG BEACH CA 90809-1112

*Reason : BENE PAYROLL

Start Time : 10:21:25
Call Length: 00:01:49
Call Date : 03 13 2008

CS Rep: BRENDA SMITH Dept: CSC1
Last Updated by: RSMITB on: 03-13-2008

Notes :

MBR CALLED TO REQUEST A REPRINT OF THE 1099R
REQUESTED... ADVISED MBR SHE HAS ALREADY CALLED TODAY TO GET A TEL NUMBR
FOR DEF COMP. ..I GAVE THE MEMBER THE TELEPHONE FOR DEF COMP AGAIN
BOTH TEL NUMBRS.

Direct Command:

Enter-PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11---PF12---
confm help retrn quit prev next bkwr frwr left right main
Contact log displayed successfully

SCRS 7

RECORD 1231

RCS105N1
Jul 22,09

***** South Carlina Retirement Systems *****
- Maintain Contact Log -

RCS105M1
1 more >

Action (D)

SSN :
Phone : (843) 556 - 2475

Name: ALICE E SHAW BAKER
LISA FISHER
CONSERVATOR FOR
ALICE E SHAW BAKER
PO BOX 91112
LONG BEACH CA 90809-1112

*Reason : BENE PAYROLL

Start Time : 09:50:24
Call Length: 00:00:41
Call Date : 03 13 2008

CS Rep: DANA PEARMAN Dept: CSC1
Last Updated by: RDALED on: 03-13-2008

Notes :

MAILED FORM 7202. NUMBER TO DEFERRED COMP. _____

Direct Command: _____

Enter-PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11---PF12---
confm help retrn quit prev next bkwrđ frwrđ left right main
Contact log displayed successfully

SCRS 8

RECORD 1232

RCS105N1
Jul 22,09

***** South Carlina Retirement Systems *****
- Maintain Contact Log -

RCS105M1
1 more >

Action (D)

SSN : [REDACTED]

Phone : () - -

Name: ALICE E SHAW BAKER

LISA FISHER

CONSERVATOR FOR

ALICE E SHAW BAKER

PO BOX 91112

LONG BEACH CA 90809-1112

*Reason : BENE PAYROLL__

Start Time : 15:44:50

Call Length: 00:10:58

Call Date : 09 14 2004

CS Rep:

Dept: CSCC

Last Updated by: RPARKL on: 09-14-2004

Notes :

ADV MEMBER THAT IF SHE CHANGES THE BENE AND THE ADDRESS F THE BENE IS A PO_ BOX THAT IS OKAY WITH US AFV NO MONTHLY PAYMENTS DUE HOWEVER AT HER DEA TH GL TO BE PAID SAID CURRENT BENE WORKS ON A DOG RESCUE AND THE MONEY TO GO TO THE DOG RESCUE ADV MAY WANT TO THE MAKE THE DOG RESUE THE BENE THAT WAY SHE KNOWS FOR SURE IT WILL GO TO THE RESCUE

Direct Command:

Enter-PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11--PF12---
confm help retrn quit prev next bkwrđ frwrđ left right main
Contact log displayed successfully

SCRS 18

RECORD 1233

Jim Hodges, Chairman
Governor

Grady L. Patterson, Jr.
State Treasurer

James A. Lander
Comptroller General

State Budget and Control Board
South Carolina Retirement Systems



Robert C. Toomey
Director

Hugh K. Leatherman, Sr.
Chairman,
Senate Finance Committee

Robert W. Harrell, Jr.
Chairman,
Ways and Means Committee

Rick Kelly
Executive Director

(803) 737-8800

1-800-868-9002

March 19, 2001

ALICE E SHAW BAKER
306 CASSINA RD
CHARLESTON SC 29407-7722

RE : ALICE E SHAW BAKER
SSN: [REDACTED]
SOUTH CAROLINA RETIREMENT SYSTEM

Dear Member:

This will acknowledge receipt of your change of beneficiary form. The beneficiary(ies) for your retirement account under option 0 is as follows:

Name	Date of Birth
KAY PASSAILAIGUE	[REDACTED]

The beneficiary(ies) for your Retiree Group Life Insurance is as follows:
KAY PASSAILAIGUE

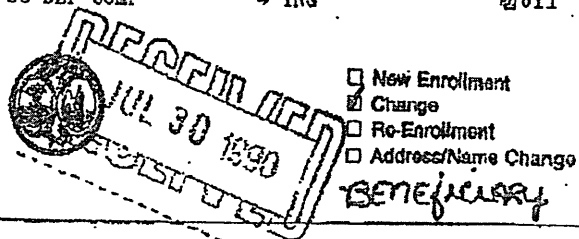
If you have any questions or need further assistance, please contact customer service at 803-737-6800 or 1-800-868-9002 (in-state only).

Sincerely,

Benefits Payroll Department

NOTE: This letter is also printed for any changes or corrections made to the existing beneficiary information on record.

STATE OF SOUTH CAROLINA

Deferred Compensation Program
Participation Agreement

Please Print Carefully

EMPLOYEE INFORMATION			
Name	SHAW-BAKER ALICE E	Social Security No.	[REDACTED]
Address	306 CASSINA ROAD	CHARLESTON S.C.	29407
Birth Date	[REDACTED]	Annual Salary \$	39,471.44
		Phone (H)	556-2475 (W) 792-9708
If Maximizing Deferrals, FICA Deduction Last Paycheck \$ _____			
Employer		Code	Sub Entity
Pay Frequency ☐ Weekly (52) ☒ Bi-Weekly (26) ☐ Semi-Monthly (24) ☐ Monthly (12) ☐ Other _____			

STARTING/ENDING DATES	
Beginning with the Pay Date	_____ (If Special, Number of Payments) _____
Special Deferral Ending Date	_____

DEFERRAL ALLOCATION			FUNDING OPTIONS
New Deferral	Special Deferral	Total	
\$ _____	\$ _____	\$ _____	401 (k)
\$ _____	\$ _____	\$ _____	☐ 36 mo. ☐ 60 Mo. ☐ 84 Mo. ☐ DIF
\$ _____	\$ _____	\$ _____	457
\$ _____	\$ _____	\$ _____	☐ 36 Mo. ☐ 60 Mo. ☐ 84 Mo. ☐ DIF
\$ _____	\$ _____	\$ _____	☐ Universal Life - Amount \$ _____
\$ _____	\$ _____	\$ _____	409(b) - (Must Be Accompanied By SC-EF125 Form.)
\$ _____	\$ _____	\$ _____	
Total Deferral			

BENEFICIARY	
Primary	ESTATE
Address	_____
Contingent	_____
Address	_____

ACKNOWLEDGEMENT

I understand all of the terms, provisions, and conditions which are incorporated into this agreement. I elect to participate as indicated above and consent to the above referenced total ("Total Deferral") being deferred from my gross compensation each pay period. If the Administrator determines the amount of any deferral shown above for any Plan needs to be reduced to prevent actual or possible violation of any requirement of the Internal Revenue Code or any law, I direct the deferral to such Plan be reduced accordingly and, to the extent permissible under such laws, my deferral to another Plan be increased by such amount. The withholding of my deferred amount by the Employer, to be credited under the Plans, shall begin on the first deduction date as noted above.

Alice E. Shaw-Baker
Participant's Signature

7-24-90
Date

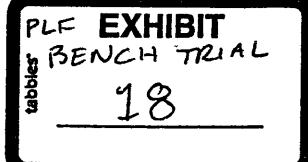
Katherine M. Wolfe
Accepted for the State

ADIAL
Have change in beneficiary as quickly as possible.

J&W/KVI PLAN ADMINISTRATOR • 3780 FOREST DRIVE • SUITE 101 • COLUMBIA, SC 29204
TOLL FREE 1-800-922-1380 • COLUMBIA 734-9700 • GREENVILLE 292-8240 • CHARLESTON 555-8792

SC-EF124 (4-80)

PINK — EMPLOYEE COPY



ING 10

RECORD 1235

SOUTH CAROLINA
DEFERRED COMPENSATION
457 Distribution Request

UPON DEATH
MY ESTATE IS
ALL GOING TO
CHARITY

Last Name SHAW-BAKER		First Name ALICE	MI E	SOCIAL SECURITY NUMBER 98999-01
Address - Street & Number 306 CASSINA ROAD		Home Phone Number 556-2475		Mo Day Year Date of Birth [REDACTED]
City CHARLESTON	State SC	Zip Code 29407	Daytime Phone Number 556-2475	Beneficiary Social Security Number [REDACTED]

☐ Retirement, Termination, or Disability	☐ Hardship	☒ Minimum Distribution (Age 70 1/2 & Over) Date of Birth _____
☐ Death: Beneficiary Date of Birth _____ Relationship _____		
☐ Estate Tax ID No. _____		

☐ Full Distribution-Close Account	☐ Full Distribution-Leave Account Open for Future Contributions	ONLY complete if check is NOT payable to Participant
--	--	--

Amount Requested: \$ 6,367.64 MUST SPECIFY FUND TO WHICH PAYMENT IS TO BE MADE PLEASE CHECK: ☒ ENTER DOLLAR ☐ OR ☐ PERCENTAGE	Make checks payable to: ALICE SHAW-BAKER NOTE: UNLESS OTHERWISE INDICATED CHECKS WILL BE PAYABLE TO PARTICIPANT
Daily Interest Guarantee Fund Guaranteed Certificate Fund John Hancock Diversified Stock Fund American Century 20th Century Ultra Investors Vanguard Institutional Index Fund Vista Growth & Income Fund Franklin Small Cap Growth Fund Fidelity Diversified International Oppenheimer Equity Income Fund	WHERE PAYABLES SHOULD BE SENT: 306 CASSINA RD Street and Number CHARLESTON SC 29407 City State Zip Code

1. Total number of allowances you are claiming: 4 2. Additional amount, if any, you want deducted: _____ 3. I claim exemption from withholding (see instructions) Enter "Exempt": _____	Marital Status ☒ Single ☐ Married ☐ Married, but withhold at higher Single rate Note: If married, but legally separated, or spouse is a nonresident alien, check the single block.
--	---

Under the penalties of perjury, I certify that the number of withholding exemptions and allowances claimed on this certificate does not exceed the number to which I am entitled. If claiming exemption from withholding, I certify that I incurred no liability for Federal income tax for last year and that I anticipate that I will incur no liability for Federal income tax for this year.

Signature: Alice Shaw-Baker Date: 1/14/2008

S.C. State Taxes: _____ % or \$ _____ (not required to be withheld)

My signature acknowledges that I have read the entire front and back of this application, that I understand its contents, and affirm that all information that I have provided is true and correct.

Participant Signature: Alice Shaw-Baker Date: 1/14/2008

Plan Administrator: Dee Deerington Date: 1-26-2008

STATE OF SOUTH CAROLINA

Deferred Compensation Program
Participation Agreement☐ New Enrollment☐ Re-Enrollment☐ Name Change☒ Beneficiary Change

Please Print Carefully

FEB 22 2001

EMPLOYEE INFORMATION

Name SHAW-BAKER ALICE E. Social Security No. [REDACTED]
 Address 306 CASSINA ROAD CHARLESTON SC 29407
 Birth Date [REDACTED] Annual Salary \$ [REDACTED] Phone (803) 556-2975
 Married Single Sex: Male Female
 Employer RETIRED Code Sub Entry
 Pay Frequency ☐ Weekly (52) ☐ Bi-Weekly (26) ☐ Semi-Monthly (24) ☐ Monthly (12) ☐ Other

STARTING/ENDING DATES

Beginning with the Pay Date (If Special, Number of Payments)
 Special Deferral Ending Date

DEFERRAL ALLOCATION (Per Paycheck)

	New	Special	Total
401(k)	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>
457	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>
Life (Existing Only)	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>
TOTAL	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>

*If Maximizing Deferrals Enclose Copy of Paycheck Stub

FUNDING OPTIONS

(New & re-enrollments only)

Guaranteed Certificate Fund

36 Mo., 60 Mo. or 84 Mo.

(Select only one above)

Daily Interest Guaranteed Fund

FIMCO Total Return Fund

Oppenheimer Capital Income Fund A

Vanguard Institutional Index Plus Fund

Chase Vista Growth & Income Fund

John Hancock Diversified Stock Fund

American Century Ultra Investors

Strong Opportunity Fund

Franklin Small Cap Growth Fund

Fidelity Diversified International Fund

EuroPacific Growth Fund

401(k) 457

Whole Percentages Only

(Must equal 100%)

%

%

%

%

%

%

%

%

%

%

%

%

%

COMPLIANCE INFORMATION (MUST BE COMPLETED)

Suitability: The Securities Exchange Act of 1934 requires that BenefitsCorp Equities have reasonable grounds to believe, based upon the information provided by you, that your investment selections are suitable given your objectives and financial situation.

Investment Objective Number of Dependents Occupation Other Income
 (i.e., safety of principal, long-term growth, aggressive growth)
 Circle or specify objective(s) above.

I understand this information is required, however, my signature below indicates that I decline to furnish personal financial information.

BENEFICIARY DESIGNATION

Primary KAY PASSAIAIGUE Relationship CUSTOMER OF PETS AND
 Address 4616 DURANT AVE. NCHAS. 29405 SSN [REDACTED]
 Contingent Relationship
 Address SSN

My signature acknowledges that I have read the entire front and back of this application, that I understand its contents, and affirm that all information that I have provided is true and correct.

Participant Signature Alice E. Shaw-Baker Date 2/14/2001
 Registered Representative Date

SECURITIES OFFERED THROUGH BENEFITSCORP EQUITIES, INC. • 6821 E. ORCHARD RD. • GREENWOOD VILLAGE, CO 80111
 (A WHOLLY-OWNED SUBSIDIARY OF GREAT-VEST LIFE & ANNUITY COMPANY).

SEABURY & SMITH, INC., PLAN ADMINISTRATOR • 3700 FOREST DRIVE • SUITE 200 • COLUMBIA, SC 29204-4060
 TOLL FREE 1-800-922-1380 • COLUMBIA (803) 734-8700 • GREENVILLE (864) 287-4015 • CHARLESTON (843) 553-8782

SC-DEF-14 (1-09)

MAIL ORIGINAL AND CANARY COPIES TO SEABURY & SMITH • PINK - PARTICIPANT

ING 16

RECORD 1237

Hydrick, Beth

From: Hydrick, Beth
To: Dionne, Candace
Cc: Morris, Delisa; Michaud, Rachel; Omduff, Nancy
Subject: RE: SC Bene Designation-xxx-xx-
Attachments:

Sent: Tue 4/7/2009 5:23 PM

Hi Candace,

Here is the Bene info on the following ppt:

Primary: Kay Passalunghi Relationship: Custodian of Pets and Rescue - Governed By Will 249-088004.
(DoeDee faxed this information on 2-12-09) I be glad to fax it again if you need the Bene Chg form. Just let me know.

Take Care,
Beth

Beth Hydrick
Office Coordinator
SO Deferred Compensation Plan
ING
200 Arbor Lake Drive, Suite 128
Columbia, South Carolina 29223
803.754.7897 ext 2
803.754.7661 fax
Email: beth.hydrick@us.ing.com
www.ing-usa.com

ING. Your future. Made Easier.SM

From: Dionne, Candace
Sent: Tue 4/7/2009 4:21 PM
To: Hydrick, Beth
Cc: Morris, Delisa; Michaud, Rachel
Subject: SC Bene Designation-xxx-xx-
2

Hello,

Can you verify bene designation for SC part xxx-xx-
2

Thanks!

Candace Dionne
Plan Administrator
ING
1776 Lisbon Street
Lawton, ME 04240
Tel: 617-867-7556 Fax: 888-850-1350
Email: candace.dionne@us.ing.com
ING. Your future. Made easier.SM

<https://jaxmail.citistreetonline.com/exchange/BPHydrick/Sent%20Items/RE:%20SC%20B...> 5/29/2009

STATE OF SOUTH CAROLINA

Deferred Compensation Program
Participation Agreement

FEB 22 2001

☐ New Enrollment☐ Re-Enrollment☐ Name Change☒ Beneficiary Change

Please Print Carefully

EMPLOYEE INFORMATION

Name SHAW-BAKER ALICE E. Social Security No. [REDACTED]
 Address 306 CASSINA ROAD CHARLESTON SC 29407
 Birth Date [REDACTED] Annual Salary \$ [REDACTED] Phone (843) 556-2975
 Married Single Sex Male Female Female
 Employer RETIRED Code [REDACTED] Sub Entity [REDACTED]
 Pay Frequency ☐ Weekly (52) ☐ Bi-Weekly (26) ☐ Semi-Monthly (24) ☐ Monthly (12) ☐ Other [REDACTED]

STARTING/ENDING DATES

Beginning with the Pay Date [REDACTED] (If Special, Number of Payments) [REDACTED]
 Special Deferral Ending Date [REDACTED]

DEFERRAL ALLOCATION (Per Paycheck)

	New	Special	Total
401(k)	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>
457	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>
Life (Existing Only)	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>
TOTAL	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>	\$ <u>[REDACTED]</u>

*If Maximizing Deferrals Enclose Copy of Paycheck Stub

FUNDING OPTIONS

	401(k)	457
Guaranteed Certificate Fund	%	%
36 Mo., 60 Mo. or 84 Mo. (Circle only one above)	%	%
Daily Interest Guaranteed Fund	%	%
PIMCO Total Return Fund	%	%
Oppenheimer Capital Income Fund A	%	%
Vanguard Institutional Index Plus Fund	%	%
Chase Vista Growth & Income Fund	%	%
John Hancock Diversified Stock Fund	%	%
American Century Ultra Investors	%	%
Strong Opportunity Fund	%	%
Franklin Small Cap Growth Fund	%	%
Fidelity Diversified International Fund	%	%
EuroPacific Growth Fund	%	%

COMPLIANCE INFORMATION [MUST BE COMPLETED]

Suitability: The Securities Exchange Act of 1934 requires that BenefitsCorp Equities have reasonable grounds to believe, based upon the information provided by you, that your investment selections are suitable given your objectives and financial situation.

Investment Objective [REDACTED] Number of Dependents [REDACTED] Occupation [REDACTED] Other Income [REDACTED]
 (i.e., safety of principal, long-term growth, aggressive growth)
 Circle or specify objective(s) above.

I understand this information is required, however, my signature below indicates that I decline to furnish personal financial information.

BENEFICIARY DESIGNATION

Primary KAY PASSAILAIGUE Relationship SISTER-IN-LAW
 Address 4616 DURANT AVE NCHAS 29405 SSN [REDACTED]
 Contingent [REDACTED] Relationship [REDACTED]
 Address [REDACTED] SSN [REDACTED]

My signature acknowledges that I have read the entire front and back of this application, that I understand its contents, and affirm that all information that I have provided is true and correct.

Participant Signature Alice E. Shaw-Baker Date 2/14 2001
 Registered Representative [REDACTED] Date [REDACTED]

SECURITIES OFFERED THROUGH BENEFITSCORP SECURITIES, INC. • 8825 E. ORCHARD RD. • GREENWOOD VILLAGE, CO 80111
 (A WHOLLY OWNED SUBSIDIARY OF GREAT WEST LIFE & ANNUITY COMPANY).

SEABURY & SMITH, INC., PLAN ADMINISTRATOR • 3700 FOREST DRIVE • SUITE 200 • COLUMBIA, SC 29204-4060
 TOLL FREE 1-800-922-1380 • COLUMBIA (803) 734-6700 • GREENVILLE (864) 297-4015 • CHARLESTON (843) 558-8782

CO-OPIN (1-90)

MAIL ORIGINAL AND CANARY COPIES TO SEABURY & SMITH • PREC - PARTICIPANT

MAILED
JAN 29 2001
TWH

Beneficiary Agreement Request

Issuing Company: NATIONAL LIFE OF VERMONT

Policy(ies) numbered: 1424341

On the life of: ALICE G. SHAW-BAKER

Request is hereby made, subject to the rights of present collateral assignees of record, if any, that the proceeds shall be payable at the death of the insured(s), as designated in the policy(ies), in accordance with the following provisions. The present beneficiary is revoked. The right to change the beneficiary of each policy as provided in that policy is reserved.

First Beneficiary(ies): Name(s) Relationship to Insured Date of Birth Social Security No.

JOHN ANCRUM SOCIETY FOR PREVENTION OF CRUELTY
TO ANIMALS

FIN # [REDACTED]

Second Beneficiary(ies): Name(s) Relationship to Insured Date of Birth Social Security No.

Beneficiary Address:

- Instructions:
1. Indicate below the current address of each beneficiary named in this designation.
 2. If a class of beneficiaries is named (e.g., Provision for Issue), indicate the name and address of each living beneficiary.
 3. Attach a separate sheet if additional space for the address is needed.

Name Street Address City, State, Zip Code

JOHN ANCRUM SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS
3861 LEEDS AVENUE
CHARLESTON, S.C. 29405

Short Term Survivorship:

Any beneficiary under this Agreement who survives the insured but dies prior to noon of the tenth day after the death of the insured will be considered as not having survived the insured. Request is made to change the number of days for Short Term Survivorship from ten (10) days to: _____ (Enter number of days - 0 to 90 days may be used.)

Notice: If at the death of the insured there is no existing beneficiary, the death benefit will be paid in one sum:

1. to the owner or the owner's estate, or
2. to the insured's estate on any policy which is part of a pension or profit sharing plan.

Notwithstanding any provision of this policy, this Beneficiary Agreement shall be effective as of its date of execution and upon its being recorded at the Administrative/Home Office. This Beneficiary Agreement is valid whether the insured is living at the time of recording or not. This does not prejudice the Company on account of any payment made by it before receipt of this Agreement at the Administrative/Home Office.

Estate: If used, the term "Estate" of any person shall be deemed to be a designation of the executors or administrators of that person's estate.

Effect of Assignment: Any assignment of a policy payable under the provision of this Agreement operates to the extent thereof to transfer the interest of any beneficiary whom the assignor has the right to change.

Agreement Covering Annuity Contract: If an annuity contract is covered by this Agreement, as applied to such contract, the word "policy" is construed to mean "annuity contract" and the word "insured" is construed to mean "the named individual upon whose death the annuity death benefit will be paid".

PLF EXHIBIT
BENCH TRIAL
19

NLIC 24

RECORD 1240



National Life of Vermont

September 17, 1979

M.P. LAMPHERE

Alice E. Shaw-Baker
306 Cassina Rd.
Parkwood Estates
Charleston, SC 29407

OCT 2 1979
POL BEN. TITLE

RECEIVED
POLICYHOLDER
SEP 24 11 16 AM '79
RECEIVED
SEP 24 1979
POLICY BENEFIT DIVISION
TITLE SECTION

Dear Policyowner:

Re: Your Policy #1424341

YOUR BENEFICIARIES are the most important reason for maintaining your National Life Insurance policy. Yet your personal plans or family situation may have changed since your policy's beneficiary clause was last adjusted. If you have not recently considered whether this insurance would be paid in the manner and to the people you wish, now might be a good time to review the arrangements.

Your National Life representative would be happy to discuss the beneficiary designations with you and assist with any desired changes. You may contact your Agent directly or complete the bottom of this letter and return it in the enclosed postage-paid envelope.

Please excuse the duplication if you've received additional letters for other National Life policies you own. We feel you may wish to consider each of your policies separately.

Margaret Lamphere

Policyholder Service Department
National Life Insurance Company

No changes needed.

I've forgotten - what is my current Beneficiary arrangement?

Send forms to change to the following (please include the full name and relationship to yourself).

Primary Beneficiary:

Secondary Beneficiary:

COPY SENT

cc: Columbia Agency - #80

POL SERV. CONTROL

National Life Insurance Company - Montpelier, Vermont 05602 - (802) 229-3333

NLIC 81

RECORD 1241

I have requested three times ^{Columbus}
that you send me a change
of beneficiary form. you have not done
so, I may I remind you - I am the
owner of the policy and I have the right
to say who will receive the money on my
policy. If you do not send the form
along with receipt for the enclosed payment -
then I will have my attorney contact you.
Alice Shaw-Baker Policy 1424341

Client Services Division

National Life Insurance Company
Montpelier, Vermont 05604

☐ Call ☐ Visit ☐ From ☐ To Telephone no. ()

Address

Number 1424341 Name Alice Shaw-Baker Name Stamp
Paul Skirry
Rec'd 8/29/90
11 AM
Ordered asap

Reply by ☐ Phone ☐ Letter ☐ OMNICON Time:

☐ Rush Needed by

Write Carefully—this may become a part of the permanent file.

Re: her note about beneficiary change

1. nothing recorded or mapped - Lisa Tinsman
2. nothing at the agency - that contact was from her 8/29/89 - when she called - they sent her an inventory letter - she needed a policy loan which was processed. Agency gave her Tom Cook's name as a contact - also his address & phone #.
3. Tom Cook - 803-762-1026 has not had any contact with or from Alice Shaw-Baker
4. Insured's phone 803 556 2475
5. Called insured 8/29 1:50 PM to let her know nothing has been rec'd here and to get info on how she wants bene set up - no answer
6. Called 3:30 PM - no answer - again 4:15 - no answer
7. 4:25 reached Mrs Baker - she wants her policy payable to her estate - told her we would handle

1752-85

87718

NLIC 104

RECORD 1243

Dear Mr. Harkin

As per your instruction, I have signed the form as per your indication by an X. I have also enclosed my Policy.

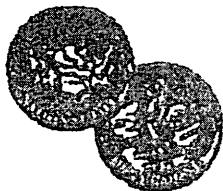
It is my understanding that a new policy will be issued to me within 30 days and I will have a paid-up policy in the amount of in and around \$13,000.00, I will continue to earn tax free dividends which will increase the value of the face amount. You will see, that the automatic draft on my bank check, if possible, will be September, but certainly not after October 1, 1991. If any of this is not correct I will expect you to call me at 556-2475 after 3 P.M. (allowing the phone to ring so that I can jump over the dog to answer - my dog feels all telephone calls are for her).

Please also correct your records to address mail to me as MRS. and not as MS. I have been a leader of equal right for women but dislike some of the extremes to which some people have taken this movement.

Expecting to hear from you very shortly, I remain

Very truly yours

Mrs. Alice E. Shaw-Baker
306 CASSINA ROAD
PARKWOOD ESTATES
CHARLESTON, S.C. 29407



National Life
of Vermont

November 5, 1991

Alice E Shaw-Baker
306 Cassina Rd
Parkwood Est
Charleston SC 29407

Re policy Number 1424341 on your life.

Dear Ms. Shaw-Baker,

Please accept my apologies for the confusion we seem to have caused you.

Attached is a copy of your latest beneficiary agreement which names your executors or administrators. This has been in effect since you signed it on Sept. 4, 1990.

If we can be of any additional assistance, please let us know.

Sincerely,

Beverly M. Gaboriault
Title Service Representative
Contract Benefit Services

Enc: 1

cc: 080 Columbia

National Life Insurance Company • Montpelier, Vermont 05604 • (802) 228-3333

RECEIVED

SEP 5 1991

Policy 1424341

Received when I suppose is my said policy
however you have really goofed and am not
pleased. I changed the beneficiary on this policy
months ago and you still show my mother who
is deceased and my brother. I changed this -
my brother is not beneficiary. I want this corrected
immediately. You have the change of beneficiary
up there find it and send my copy so it will
be a part of this policy. I fail to understand how
you could be so careless.

Alice Shaw - Baker
706 Cassin Road
Charleston, S.C. 29407

GROUP SENT

SEP 2 1991

POL. SERV. CONTROL

HOW MANY TIMES DO I HAVE TO GO THRU
YOUR STUPID - PROXY-NO PROXY

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS

A24341

The undersigned hereby appoints Richard L. Fricks, Stansfield Turner, and Thomas R. Williams, and each or any of them with full powers of substitution, the true and lawful proxies or proxy of the undersigned to attend and vote in my/its behalf at any annual, special or adjourned meeting or meetings of National Life Insurance Company. This proxy shall be valid for a period of three years from its date unless sooner revoked by notice in writing.

000298565

ALICE E. BAKER SHAW-BAKER
PARKWOOD EST
306 CASSINA RD
CHARLESTON, SC 29407-7722

MY NAME IS NOT BAKER
IT IS ALICE E. SHAW-BAKER

by

(L.S.)

Signature of Policyholder or Annuitant

PLEASE SIGN, DATE AND RETURN PROMPTLY USING THE ENCLOSED ENVELOPE
I WANT SOMEONE ON THE BOARD THAT CAN GET MY NAME CORRECT

PLEASE DETACH AT PERFORATION

NATIONAL LIFE INSURANCE COMPANY

October 1994

NOTICE TO POLICYHOLDERS AND ANNUITANTS

The Annual Meeting of National Life Insurance Company for the election of Directors and for the transaction of other business is held each year at the Company's office in Montpelier, Vermont, on the first Friday of February at 9:00 a.m.

Directors are elected in four classes by the members of the Company to serve a term of four years. Names and principal affiliations of the present members of the Board are indicated on the reverse side of this notice.

Policyholders and annuitants are the members of the Company and are entitled to vote at each Annual or Special Meeting in person or by proxy. We would be happy to have you attend any meeting in person and you may obtain an admission ticket by contacting our Corporate Secretary. However, if you are unable to attend, you may wish to participate by signing and dating the attached proxy and mailing it to us in the enclosed reply envelope.

Frederic H. Bertrand

Chairman and Chief Executive Officer

To be counted, this party must be received by the Corporate Secretary of National Life Insurance Company, National Life Drive, Montpelier, Vermont 05604, on or before December 1, 1994.

DIRECTORS

FREDERIC H. BERTRAND (1985) ERM
Chairman of the Board and
Chief Executive Officer
National Life Insurance Company

ROBERT E. BOARDMAN (1986) ERM
President, Board of Directors, Inc.
Hartford, Inc.

DAVID R. COATES (1993) ERM
President, Board of Directors, Inc.
Kaiser Aluminum Corporation, VA

BENJAMIN F. EDWARDS, III (1991) CM
President, Chairman & Chief Executive Officer
A. T. Kearney, Inc.

EARLE H. HARRISON, JR. (1987) ERM
Executive Vice President and
Chief Operating Officer
National Life Insurance Company

RICHARD L. RICE (1977) ERM CM
Vice President and
Chief Executive Officer
National Life Insurance Company

CHARLES H. EBHART, JR. (1990) ERM
National President, W. L. Gore & Co.
Baltimore, MD

THOMAS R. WILLIAMS (1973) ERM CM
President, The Valley Group, Inc.

STANLEY D. TURNER (1984) AL
President and Arthur

J. GARY SEILLINO (1989) AL
President, A. G. Seillino & Company, Inc.

E. MILES PRENTICE, III (1991) ERM
President, First & Main

JOHN H. HARDING (1985) ERM
President and Chief Operating Officer
National Life Insurance Company

How many years does it take for you
to get a simple thing like my consent
name? Every 3-4 years I go thru this M V
NPMI IS NOT BAKER - NOT NO NO
IT IS ALICE SHAW-BAKER
I want like my name corrected. Why
you people insist on this is beyond me

E - Member of Executive Committee
F - Member of Committee on Finance
C - Member of Compensation Committee
A - Member of Audit Committee
M - Member of Nominating Committee
P - Member of Policy Committee

National Life of Vermont

January 7, 1996

January 7, 1996

Mr. E. E. Shaw
1500000000
1500000000
1500000000

Mr. E. E. Shaw-Baker
1500000000
1500000000
1500000000 SC 2907-772

1500000000

1500000000

1500000000

1500000000 - On your life

1500000000

1500000000 Shaw-Baker:

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1500000000

In responding to recent correspondence which indicates that a change of beneficiary is desired, we are unable to prepare beneficiary forms at this time because the John Morton Society for the Prevention of Cruelty to Animals has not been adequately identified. We need the following information in order to prepare the proper beneficiary forms for signature:

1. Is John Morton Society for the Prevention of Cruelty to Animals the correct legal title?
2. Is it incorporated? If so, in which state?
3. If not incorporated, we need to know how it holds title to property and the title of the officer who may accept payment on its behalf. Generally, we provide for payment to the treasurer of an unincorporated association, but if it should be some other officer, please let us know.

1. Is John Morton Society for the Prevention of Cruelty to Animals the correct legal title?
2. Is it incorporated? If so, in which state?
3. If not incorporated, we need to know how it holds title to property and the title of the officer who may accept payment on its behalf. Generally, we provide for payment to the treasurer of an unincorporated association, but if it should be some other officer, please let us know.

1500000000

1500000000 any questions, please feel free to contact us.

1500000000

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1500000000 Agency - 1500000000

1500000000

1500000000 Insurance Company - One National Life Drive - Montpelier, Vermont 05604
(802) 228-3333 - Fax (802) 229-7333

Insurer (Check one)
☒ National Life Insurance Company
☐ Vermont Life Insurance Company
☐ Champlain Life Insurance Company
Montpelier, VT 05604

pbc-081

Instructions for
Preparation of
Beneficiary Forms

To: (Name)

Alice Shaw-Baker
(Address: Street, City, State, Zip Code)

Date

12-5-95

For: Policy(ies) No(s)

1424341

Agency No.

081

Instructions: Complete the following information. Mail completed form to:

☐ Your servicing agency/agent.

☒ Contract Benefit Services, One National Life Drive, Montpelier, VT 05604

NOTE: After receipt of this information, the forms authorizing beneficiary changes will be completed and forwarded to you for signature(s). This form does NOT accomplish the changes. It furnishes the information for us to prepare the documents which require signature(s).

Beneficiary: Give name, relationship to insured, date of birth, Social Security Number and address for each beneficiary named.

First

John Arcene Society for the prevention of cruelty to animals
2222 avenue Charleston, S.C.

Second

RECEIVED

FEB 1 1996

TITLE DIVISION

Additional Instructions: Complete, if applicable

Issue: Provision for issue of

Settlement Options: If payment is to be made under one of the settlement options rather than one sum, indicate which option:

Trust: If trust is named above as a beneficiary, check appropriate box below and complete information requested for ONLY that box.

☐ Testamentary Trust: trust is part of the last will and testament of (give full name):

☐ Living Trust: also known as Inter Vivos trust, or Life Insurance trust (give the following information):
Trustees (Full Name, Complete Address for each)

Date of Trust

Name of Trust or (Grantor)

5394 (0991) Write Return as indicated under "Instructions" Cancel - Return for your files

NLIC 130

RECORD 1250

**National Life
of Vermont**

National Life Insurance Company
Montpelier, VT 05604
(802) 229-3333

Telephone Message
Claims & Title

☒ Call ☐ Voice Mail ☐ Visit ☒ From ☐ To ☐ Telephone Number (803) 558-2475

Alice Shaw-Baker

Address:

Policy Number

1424341

Insured's Name

Alice Shaw-Baker

Name Stamp

Kim Dunn

Date: 3/5/96

Time:

Referred to:

for reply

Reply by: ☐ Phone

☐ Letter

☐ Omnicon

☐ Fax

☐ Voice Mail

☐ Rush needed by:

Message (Write clearly this may become part of the permanent file):

Received your letter dated 2/7/96 regarding the proposed beneficiary agreement. You had asked if John Ancrum Society for the Prevention of Cruelty to Animals was the correct legal name and it is, also, is it incorporated and in what state, it is incorporated in the state of South Carolina. The tax payer identification number is [REDACTED]

Ok. Thank you and I will prepare the appropriate beneficiary form for your consideration

Please send the forms to me as soon as possible.

National Life
of Vermont

National Life Insurance Company
Montpelier, VT 05604
(802) 229-3333

Telephone Message
Claims & Title

☒ Call ☐ Voice Mail ☐ Visit ☒ From ☐ To ☐ Telephone Number ()

Alice Shaw-Baker

Address:

Policy Number
1424341

Insured's Name
Alice E. Shaw-Baker

Name Stamp

Kim Dunn

Date: 3/27/96

Time:

Referred to:

for reply

Reply by: ☐ Phone

☐ Letter

☐ Omnicon

☐ Fax

☐ Voice Mail

☐ Rush needed by:

Message (Write carefully this may become part of the permanent file):

I have received your letter dated March 6, 1996 and the beneficiary forms naming the John Ancrum Society for the Prevention of Cruelty to Animals and have discussed this with my attorney. We have decided not to make the change of beneficiary and name my estate as beneficiary.

Ok. I will order the file to make sure your estate is named as beneficiary and if it isn't I will prepare beneficiary forms accordingly.

Thanks for your help.

L. Randolph Waid, Ph.D.
Licensed Clinical Psychologist

The Oaks Business Center
1459 Stuart Engals Blvd.
Suite 204-A
Mt. Pleasant, S.C. 29464

Telephone
(843) 881-2778
Fax
(843) 881-6878

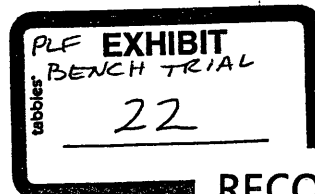
REPORT OF NEUROPSYCHOLOGICAL CONSULTATION
CONFIDENTIAL - FOR PROFESSIONAL USE ONLY

Name: Alice Shaw Baker
Age: 79 (DOB: [REDACTED])
Sex: Female
Date of Consultation: November 20, 2008

Identifying Information: Alice Shaw Baker was referred to this office for evaluation per a court order by Tamara C. Curry, Associate Judge of Probate Court, Charleston County. Review of the court order revealed the history of the case with Ms. Alice Shaw Baker being assessed as an incapacitated person in need of an appointment of a Guardian and Conservator. Ms. Lisa Fisher, Esquire, is Ms. Alice Shaw Baker's great-niece and was appointed as Guardian and Conservator. It was also ordered by Tamara C. Curry that Alice Shaw Baker undergo neuropsychological evaluation in this office. The evaluation was to assess Ms. Alice Shaw Baker's mental condition with a report summarizing the diagnosis, treatment options, prognosis, and whether Ms. Alice Shaw Baker has dementia or one or more other conditions which may affect her cognitive functioning. There was also request regarding potential treatment interventions that may be helpful; whether or not Alice Shaw Baker should be allowed to drive an automobile; whether or not Alice Shaw Baker requires 24 hour daily care/supervision; or whether less care/supervision may be sufficient.

Background: Ms. Alice Shaw Baker was transported to the office by Ms. Lisa Fisher, on November 20, 2008. Ms. Baker presented appropriately attired but with agitated and oppositional behaviors. A clinical interview was pursued and I also consulted with Ms. Lisa Fisher. Ms. Fisher reported that she should have made the appointment later in the day as Ms. Shaw Baker tends to be more difficult in her behaviors during the morning hours. There was review of how Ms. Shaw Baker has been living alone with concerns regarding how the home had become "cluttered and unkempt". Apparently, Ms. Shaw Baker has been residing in the Charleston area for numerous years. She is a widow. Ms. Shaw Baker was a poor historian and denied any difficulties that led up to the need for Probate Court intervention. In interview, Ms. Shaw Baker also denied having any problems with memory or depression. Yet, Ms. Fisher reported that Ms. Shaw Baker lost a pet dog approximately one year ago and became depressed. Reportedly, Ms. Shaw Baker had three dogs that were well trained and all of the dogs have died within the last few years.

Review of records revealed that Ms. Shaw Baker was previously assessed by Leonard W. Mulbry, Jr., MD. Dr. Mulbry assessed Ms. Baker as having a Cognitive Impairment, Not Otherwise Specified vs. Early Dementia. He also assessed Ms. Shaw Baker as having Nicotine Dependence. Dr. Mulbry deferred with any Axis II Personality Disorder. It was noted that Ms. Baker also had Diabetes Mellitis that was supposedly being controlled by diet. Dr. Mulbry recommended Ms. Shaw Baker not drive until she successfully underwent a formal driving evaluation.



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A structured symptom evaluation revealed Ms. Shaw Baker revealed her to deny any difficulties with sensory perceptual functioning. There was no report of motor dysfunction such as coordination/balance problems. Ms. Shaw Baker denied that she has had any recent falls. She denied having any disruptive bodily pain or headaches. There was no report of dizziness/vertigo. Ms. Shaw Baker denied any history for seizures.

In interview, Ms. Shaw Baker denied that she has any attention/concentration difficulties or memory problems. Yet, this appeared to be inconsistent with her presentation in interview as well as the results obtained from neuropsychological testing.

In interview, Ms. Shaw Baker denied any problems with sadness/depression or sleep disturbance. There was no report of being disruptively anxious or tense. She did acknowledge that there is an ease in which she becomes annoyed and irritable. Clinical evaluation failed to reveal paranoid ideation or delusional thinking. There was no report of phobic symptomatology. Ms. Shaw Baker denied hallucinatory activity and there was no evidence of psychotic symptomatology. She denied any difficulties with appetite.

Ms. Shaw Baker reported that her primary care physician is Dr. McGuire. Yet, it was unclear exactly what medications she was taking. She denied previous head or neck injury. Ms. Shaw Baker was not an accurate historian with regard to previous surgeries. She did acknowledge having diabetes and it appears that diabetes has been present for approximately ten years. There was no report of any other compromising medical problems.

Ms. Shaw Baker denied previous investment in formal psychiatric treatment. Reportedly, she does not consume alcohol or illicit drugs. There has been no history of formal substance abuse treatment. She does smoke tobacco products and further stated that she has "no plan to give up the smoking of cigarettes".

Family History: Apparently non-contributory for psychiatric illness or substance abuse problems. There was no report that family members have suffered a senile dementia of the Alzheimer's type.

Psychosocial History: Ms. Shaw Baker apparently grew up in San Francisco, California. She is a high school graduate. She had four years' service in the Navy and apparently was employed during her adult life in medical settings.

Ms. Lisa Fisher, Esquire, is an attorney in Long Beach, California. She is currently serving as Guardian and Conservator. Ms. Fisher reported that actions have been taken to assist Ms. Alice Shaw Baker to remain in her home. The house has been completely refurbished and fire-retardant carpet and sprinklers were installed. There are fire extinguishers in the house. Ms. Fisher is planning to contact the fire department to assure if there is immediate notice in the event of a fire. Ms. Fisher is also looking into Lifeline which would allow Ms. Alice Shaw Baker the ability to contact emergency services if she is injured. In response to expressed concern by this psychologist over Ms. Shaw Baker's isolation, Ms. Fisher stated that Ms. Shaw Baker has friends who visit on a regular basis. Reportedly, Ms. Shaw Baker has also agreed to participate at the Animal Shelter as a volunteer. Ms. Fisher is also going to look into adult daycare as this may be an appropriate option to facilitate more socialization on the part of Ms. Shaw Baker. The stated goal is for Ms. Shaw Baker to remain in her residence with appropriate daily care/supervision.

Procedures: The goal of the current evaluation was to assess Ms. Shaw Baker's brain behavior and independent living skills. The current evaluation included administration of the CERAD Neuropsychological Battery, Stroop Test, Trail Making Test, Controlled Oral Word Association Test, and Independent Living Scales (ILS).

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Examination Results:

Neurobehavioral Observations: Ms. Shaw Baker was difficult to engage in testing. She was oppositional regarding testing and, at times, was hostile and demanding. It appeared that this was partially attributable to the manner in which she simply could not meet the demands of testing. Ms. Shaw Baker was observed to ambulate without difficulty or need for use of an assistive device. She did not demonstrate disruptive psychomotor retardation or excitement. Yet, she was oppositional to testing and there was a constant need to encourage her and ask her to comply with the demands of testing. At times, Ms. Shaw Baker became perseverative in her behaviors. On one occasion, when Ms. Lisa Fisher left the facility, Ms. Shaw Baker was not willing to return to the demands of testing until her return.

Ms. Shaw Baker was negative about testing. It was evident that she was poorly oriented and experiencing disruptive neurocognitive impairments. Later, in the testing process, she became worried about her blood sugars and need for provision of food. Overall, Ms. Shaw Baker was assessed as angry, hostile, and labile in her moods with repetitive need for breaks in the testing in order to smoke cigarettes. Indeed, Ms. Shaw Baker was observed to be a chain smoker with nicotine stains on her fingers. While the neuropsychological test results were compromised by Ms. Shaw Baker's behavioral extremes, it was our view that she was experiencing considerable neurocognitive impairments likely reflective of a dementia. Enclosed is a summary of the results obtained in the neuropsychological testing conducted on Ms. Alice Shaw Baker. There is also provision of responses to the referral questions posed in the Probate Court order by Tamara C. Curry, Associate Judge.

CERAD Neuropsychological Battery: To commence the evaluation, Ms. Alice Shaw Baker was administered the CERAD Neuropsychological Battery which was specifically developed to assess for the neurocognitive impairments associated with a senile dementia of the Alzheimer's type and normed on an elderly cohort (mean age=72). Below are Ms. Shaw Baker's scores and level of impairment for each of the CERAD tests:

<u>Test:</u>	<u>Score:</u>	<u>Level of Impairment:</u>
Verbal Fluency	16	Normal
Modified Boston Naming Test	13	Questionable
Mini-Mental State Exam	13	Moderate
Word List Memory	1	Severe
Constructional Praxis	5	Moderate
Word List Free Recall	0	Severe
Word List Recognition	2	Moderate
Visual Free Recall	0	Severe
Visual Recognition Recall	2	Mild

As can be seen, Ms. Shaw Baker is performing quite deviant from expected performance even considering her advanced age. Of note, she was generally efficient in her performance on executive functioning tests involving category fluency and confrontational naming. Yet, she demonstrated considerable impairment on learning/memory tests and recognition and cuing did not assist her in recall of information.

Mental Status Examination revealed Ms. Shaw Baker to not be oriented to the year, season of the year, date, day of the week, or month. She could identify that she was in Charleston, South Carolina, but was unable to name the current office or floor of the building in which the testing took place. Ms. Shaw Baker was alert and able to register information. Yet, she was not able to spell "world" correctly in backward order.

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Ms. Shaw Baker was also unable to recall any of the previously learned three objects after a brief delay. Yet, cuing did assist her in recalling two out of three objects. Simple naming abilities were intact. Ms. Shaw Baker was not able to correctly follow a three stage command. Yet, she did correctly draw the intersecting pentagons. Ms. Shaw Baker attained a mental status examination score of 13/30.

Language Functions: Ms. Shaw Baker did not demonstrate any aphasic or agnostic symptoms. Her conversational speech was generally of normal rate and tone, with occasional mild slurring. Ms. Shaw Baker had difficulties being responsive to the examiner's inquiries without tangentiality and derailment. Ms. Shaw Baker performed in the average range on a category fluency test but was impaired on a more demanding phonemic verbal fluency test placing her in the mild to moderately impaired range (T=30) for an individual of her age and educational level. There was no evidence of receptive language dysfunction.

Attention/Memory Functioning: Ms. Shaw Baker experienced considerable difficulties meeting the demands of neurocognitive testing. This appeared due to both behavioral/psychiatric overlay as well as a dementing disorder. Ms. Baker was administered the Stroop Test demonstrating slow and impaired processing speed for word stimuli (T=26). Yet, we could not proceed further with the Stroop Test due to color blindness.

Ms. Shaw Baker's performance on the CERAD Word List Memory Test revealed the ability to recall 0, 0, and 1 word after three administrations of a ten word list with two intrusive errors. Ms. Shaw Baker was unable to recall any of the previously administered words after a brief delay. She remained impaired in her performance on a recognition format demanding that she discriminate previously administered from non-administered words. Ms. Shaw Baker was severely impaired in her performance on a free recall paradigm in which she had to recall and reproduce previously administered visual designs. On a recognition format, she correctly discriminated two out of five previously administered visual designs.

Other Neurocognitive Tests: Evaluation failed to reveal any evidence that Ms. Shaw Baker experiences systematic visual inattention or neglect processes. Ms. Shaw Baker demonstrated some constructional dyspraxia. She could not draw a three dimensional design. On a visuographic sequencing test involving the serial processing of numbers, Ms. Shaw Baker was able to complete the test though her performance was in the moderate to severely impaired range (T=21) for an individual of her age and educational level. We attempted to administer Trail Making Test-Part B which demands alternate sequencing between numbers and letters and rendered Ms. Shaw Baker to become quite confused. The test was discontinued to avoid excessive frustration.

Independent Living Scales: Ms. Shaw Baker was administered the Independent Living Scales (ILS) which is an ecologically valid measure that assists in determining an individual's competency, particularly as it relates to independent living or level of needed care. The Independent Living Scales consist of five subscales assessing individuals with regard to memory/orientation, managing money, managing home and transportation, health and safety, and social adjustment. These combine to result in a Full Scale standard score. In administering the Independent Living Scale, Ms. Shaw Baker generally participated well though clearly experienced difficulties as items became more difficult.

Ms. Shaw Baker's responses to the ILS resulted in low functioning level for memory/orientation (standard score=20), managing money (standard score=20), managing home and transportation (standard score=32), health and safety (standard score=26), and social judgment (standard score=32). Ms. Shaw Baker's Full Scale standard score of 55 was also in the low functioning area. Her performance, again, was reflective of some oppositional behaviors and easy agitation but also associated with a decline in her intellectual and neurocognitive abilities.

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Summary/Response to Referral Questions: One of the most salient findings from the current evaluation was the manner in which Ms. Alice Shaw Baker was easily agitated and belligerent in her behaviors and difficult to engage in neuropsychological testing. Yet, despite the manner in which psychiatric and behavioral difficulties interfered with Ms. Shaw Baker's test performance, she was assessed as having definitive neurocognitive impairments. Ms. Shaw Baker was poorly oriented, slow in her mental/information processing speed, with disruptive difficulties following multistep tasks, and impaired anterograde memory. There was evidence of constructional difficulties and significant executive dysfunction.

I believe that Ms. Shaw Baker is experiencing a dementia with comorbid psychological/emotional difficulties. It is difficult to disentangle whether the etiology of the dementing illness is associated with an Alzheimer's disease or representative of a vascular etiology. Considering Ms. Shaw Baker's history for diabetes, there is potential for a vascular etiology. Ms. Shaw Baker's comorbid mood, agitation, and perseverative thinking serve to further compromise her cognitive functioning.

It certainly would be useful for Ms. Shaw Baker to pursue treatment, particularly with a geriatric psychiatrist. Potential to profit from use of medications to assist her with any psychiatric overlay to her neurocognitive decline may be of assistance. There is also need for Ms. Shaw Baker to be compliant with medical treatments including treatment for diabetes. If medical and behavioral difficulties are able to be managed, it would be more possible to determine the extent and severity of any dementing disorder and its etiology. If the etiology is potentially Alzheimer's disease, certainly placement on one of the medications appropriate for that diagnosis would be warranted such as Aricept.

Based on the current evaluation, both considering the evidence of neurocognitive impairments, as well as psychiatric overlay, I do not believe that Ms. Alice Shaw Baker should be allowed to drive a motor vehicle. Certainly, if there could be improvement in her functioning via the above recommended treatments, the question regarding her ability to drive could be re-assessed.

Finally, there are referral questions regarding the level of daily care/supervision that Ms. Alice Shaw Baker requires. Once again, with appropriate medical and psychiatric treatment, Ms. Shaw Baker may function in an improved manner which would certainly alter the level of daily care and supervision she would need. A primary concern is Ms. Shaw Baker's excessive smoking of cigarettes and potential for a fire within the home. Currently, I understand that Ms. Shaw Baker is ordered to not smoke cigarettes in the home or, if there is inclement weather, she can smoke only in the pantry or in the kitchen where there are cement and tile floors, respectively. Yet, the current evaluation raises concern whether Ms. Shaw Baker is going to be compliant with the court order when not under supervision.

There is also concern whether Ms. Shaw Baker would be compliant with use of medications without provision of assistive care. Currently, I am informed that Ms. Shaw Baker sleeps throughout the night and does not demonstrate any increased confusion or "sun downing" during night hours. As such, Ms. Shaw Baker may not need 24 hour supervision. Yet, it is evident from the current evaluation that Ms. Shaw Baker does need care and supervision on a daily basis. While there are different ways to arrange this, I believe there is need for care/supervision for preparation of all meals throughout the day into the early evening. I believe, at a minimum, that care/supervision should be for a course of twelve hours such as 8:00 a.m. to 8:00 p.m. Certainly, continuing monitoring of Ms. Shaw Baker's level of functioning, as well as the potential to improve from investing in the above recommended treatments may alter her need for daily care/supervision. If Ms. Shaw Baker was able to participate as a volunteer at the Animal Shelter or invest in adult day care, this would also serve to alter her need for supervision. I am not impressed from the current evaluation that Ms. Shaw Baker will follow through with those possible activities.

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I also believe that Ms. Shaw Baker needs to be followed on a regular basis by a primary care physician with regard to her diabetes, hypertension, potential elevated cholesterol, and other medical compromises. I believe that referral for an MRI study of the brain would be appropriate to help delineate the potential causal factors for her neurocognitive decline. Clearly, it is appropriate for Ms. Shaw Baker to be assessed as an incapacitated person who is in need of a Guardian and Conservator. I would also add that as a part of the Independent Living Scale assessment, Ms. Shaw Baker was able to correctly identify the purpose of a will.

Once again, Ms. Alice Shaw Baker was difficult to assess due to her disruptive agitated behaviors, anger, negativity, and perseverative behaviors. Yet, Ms. Shaw Baker's disruptive behaviors are considered to be overlay to a dementing disorder that renders her with compromises and impairments of her brain behavior functioning. Pursuit of appropriate medical and psychiatric treatment clearly is warranted and may result in improvement in Ms. Shaw Baker's level of functioning. Yet, until that is evident, I believe that Ms. Shaw Baker is in need of supervised care at a minimum level as stated above.

I will be happy to respond to further inquiries or alter my opinions if other information is provided that would justify such. Please feel free to contact me.



L. Randolph Waid, Ph.D.

Licensed Clinical Psychologist (SC # 333)

Clinical Associate Professor in Psychiatry and Neurology, MUSC

C.: Lisa Fisher, Esquire
John Hughes Cooper, Esquire

LRW/plr

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF JOHN DAVID SMOAK, III

BETTY FISHER, AND LISA
FISHER, as Conservator for
Alice Shaw-Baker,

CASE NO. 09-CP-10-3010

Plaintiffs,

vs.

BESSIE HUCKABEE, KAY
PASSAILAIGUE SLADE, SANDRA
BYRD, HENRY MCMASTER, in his
capacity as Attorney General
of South Carolina, STATE
BUDGET AND CONTROL BOARD,
SOUTH CAROLINA RETIREMENT
SYSTEM, INC, SOUTH CAROLINA
DEFERRED COMPENSATION
PROGRAM, and NATIONAL LIFE
INSURANCE COMPANY,

Defendants.

DEPONENT: JOHN DAVID SMOAK, III
DATE: SEPTEMBER 17, 2009
TIME: 9:30 AM
LOCATION: 2133 Dorchester Road
North Charleston, South Carolina
REPORTED BY: J. LYNN CLARK, CSR(Iowa) RPR-CP
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1 know, and I think she didn't have -- nobody came
2 and saw her as far as I know.

3 Q. And did she ever discuss with you what she
4 planned to do with her estate if she passed away?

5 A. Yeah. And she -- she -- I remember -- I've
6 been trying to think back exactly what she said,
7 and I remember at one point she had told me she was
8 going to give it to a dog group, and I think she
9 said something about Jack Russell Rescue, and then
10 at another time she had mentioned something about
11 there being I guess like -- I don't know -- I hate
12 to label and say, Pet Helpers or something like
13 that, but I remember her -- she specifically -- and
14 I thought it was odd that, you know, it seemed like
15 she wanted to give her house to dog -- I mean to a
16 dog -- she'd give it to her dog if her dog was
17 alive, I would think, but to some type of dog --

18 Q. Charity?

19 A. -- charity, whether it be Spay and Neuter
20 or -- you know, I don't know exactly. But -- I
21 mean, it seemed like she was speaking of, you know,
22 that she wanted -- that there wasn't necessarily
23 any family alive that wasn't -- that a brother or
24 sister or anything like that, but she wanted to
25 give the stuff to some type of dog organization,

1 you know.

2 Q. And did she mention any particular dog
3 charity that you can remember other than the Jack
4 Russell Rescue?

5 A. I remember that. I also remember her -- I
6 want to say that she said something about the SPCA,
7 but I'm not positive.

8 Q. And approximately when were these
9 conversations about her leaving her property? Was
10 this during the beginning of your relationship with
11 her or --

12 A. Yeah, that's when I remember the thing about
13 the Jack Russell because that's the first thing
14 that kind of tipped me off -- I was like, that
15 seems odd that my next-door neighbor's going to
16 give her house away to -- and then, you know, as I
17 lived there, I realized -- I guess she didn't have
18 a whole lot of, you know, obviously family around
19 the area. She didn't have a lot of visitors, and
20 she was just kind of a -- you know, a lonely woman,
21 you know, living there at that house, and she kind
22 of just loved her dogs.

23 Q. And she was living alone, as far as you
24 know, until approximately a year ago?

25 A. Whenever they put somebody in there to take

1 because you don't have a will and it's just kind of
2 curious to me that -- I have about 50 neighbors,
3 none of them know whether I have a will. But yet
4 you, as a neighbor, know that Alice had a will.

5 A. I don't know that she physically had a will.
6 She never talked to me about a written will. She
7 just -- I asked her about her home, and actually
8 just in well-being care of a woman that lived next
9 to her, neighborly, being nice, that, hey, you
10 know -- if my grandmother's house, if the gutter
11 fell off, somebody came over there and put the damn
12 thing back up. Well, nobody ever seemed to do
13 that. And she had people come and take care of the
14 lawn. So I saw her out there one day on a ladder
15 trying to hook her gutter back up, went out there
16 to be nice, put the thing back up, and, you know --
17 just and talked to her, and in casual conversation,
18 asked her, you know, how she was doing. And, you
19 know, she told me she was getting blind in one eye.
20 I mean I had lots of neighborly dialogue with her,
21 and over the course of those conversations -- you
22 know, she was the one that originally told me she
23 wanted to give the house to Jack Russell
24 Foundation, and out of that --

25 Q. And that was all part of a conversation --

1 A. This is over a five-year conversation.

2 Q. But it had to do with repairs and your
3 concern for her, but not, maybe I'll buy this
4 house, maybe if -- you know, I mean, was that ever
5 in your mind?

6 A. I mean, yeah, at one point I thought maybe I
7 might move out of my house and buy another house,
8 but I hadn't really necessarily intended -- but it
9 was more of a what's going to happen to the house
10 next door to me? At the time I had some friends
11 looking for houses. You know, if she said, oh, I'm
12 going to go move into a home, I would have said,
13 hey, maybe I know somebody that would buy your
14 house.

15 Q. Nice neighborhood.

16 A. Yeah. Nice neighborhood. I'd rather pick
17 my neighbor than some jackass move in and trash the
18 place or, you know, or turn it into a rental home.
19 I'd rather somebody that cares about the
20 neighborhood buys the house was my intent.

21 Q. Now, during the course of helping her, how
22 many times do you think she talked about, I'm
23 giving the house to the Rescue?

24 A. Maybe like once or twice.

25 Q. Once or twice. How many times did you help

1 her? 10, 20, 30 --

2 A. Yeah. You know, she didn't come and go that
3 much. Every now and then, you know, she would have
4 something in the car, and -- you know, and this was
5 more when she first moved in because as she lived
6 there, she drove less and became less agile and
7 that kind of thing. But, you know, just a
8 neighborly thing. If I'm standing out in the yard
9 and I see an old lady walking with a bag of
10 groceries, I'd go over there and help her. That's
11 just -- I don't know. That's how I was raised.

12 Q. So the discussions, about maybe one or two.

13 A. Yeah, about -- yes. About the Jack Russell
14 thing. And she had told me at other times that --
15 you know, that she would -- she was going to -- she
16 wanted her house to -- because I asked her about it
17 later on that -- you know, that she -- she seemed
18 to want the house to go to a dog thing, and I just
19 found that peculiar. I mean, I guess. I don't
20 know why.

21 Q. When was the last time you talked to Alice?
22 Do you remember?

23 A. I don't remember the exact date but, you
24 know, it was when she was walking, you know, with
25 healthcare people, I guess they're called,