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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM LANCASTER COUNTY

Court of Common Pleas

Brian M. Gibbons Circuit Court Judge

Appellate Case No. 2014-000936

Janice Gregory, Grady L. Martin, Jr., Kevin Martin, Teresa B. Martin, and William D. Martin, Appellants,
v.
The Estate of Janice Broughton and Jill Gainey, as Personal Representative of the Estate of Janice L. Broughton, Respondents.

RECORD ON APPEAL

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SC Court of Appeals

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Summary Judgment Order of March 18, 2014

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012CP-29-00127

Janice Gregory, Beady
L. Martin Jr.
PLAINTIFF(S)

Estate of Janice L. Braughton
+ Jill B. Baine
DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

Corrected Clerical Error (KA)
Motion for Summary Judgment - Granted

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
	FILED	
	OFFICE OF CLERK OF COURT FOR LANCASTER COUNTY	
	3-18-14	\$
	LANCASTER COUNTY LANCASTER, SC	

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

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

Bevle Yallie 2168 3/18/14
Circuit Court Judge Judge Code Date

Transcript of Proceedings of March 17, 2014

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF LANCASTER
2014-CP-29-00936

Janice Gregory, et al.
vs.
The Estate of Janice L. Broughton, et al.

Lancaster, South Carolina
March 17, 2014

Before the Honorable Brian M. Gibbons

APPEARANCES

For the Plaintiffs: Ms. La'Keabian Henderson
For the Defendants: Mr. Francis Bell

Reported by: Michael C. Watkins
Official Court Reporter

THE COURT: All right, Mr. Bell, I believe it is your
motion on this?

1 MR. BELL: It is, Your Honor.

2 THE COURT: Why don't you tell me a little bit about
3 the case and then we'll go from there.

4 MR. BELL: Your Honor, Janice Broughton had some
5 children, I think two of which are in court but I've never
6 officially met them even in suit, and she married the
7 Broughton fellow and lived with him for a good many years in
8 Lancaster. And based on what Lawyer Wright is telling us,
9 who did the will, Mr. Broughton died I think some time in
10 '06 and, of course, left everything to his wife, and then
11 Phil Wright met her in August of '07 to do a deed of
12 distribution. She then came back December the 6th of 2007
13 to do a will with Phil Wright. And you have as part of the
14 motion Mr. Wright's deposition and as part of the motion his
15 secretary, Ms. Collins', deposition. The other young lady
16 was an intern and she has not been deposed. Ms. Broughton
17 basically told Mr. Wright that she had children, though she
18 wasn't going to leave them anything and therefore this is
19 not an issue of children born after the will, all of these
20 children were born before the will. Ms. Broughton then left
21 everything to a cousin of her husband who happens to be
22 sitting next to me whose name is Jill Broughton Gainey. Ms.
23 Gainey is also an employee of mine, Your Honor, but that's
24 neither here nor there. Ms. Broughton left everything to
25 Ms. Gainey. She then lived for almost three years, because

1 she died in the summer of 2010, and Ms. Gainey then opened
2 up an estate and so forth and then here comes this lawsuit
3 of the five children suing Ms. Gainey saying she was
4 incompetent, meaning the decedent on the date that she
5 signed the will, which is December of '07, and something
6 about undue influence. So we then went through discovery
7 and they weren't providing me with anything, meaning the
8 plaintiffs' lawyers, and they deposed Ms. Gainey and deposed
9 some other people. And I, of course, have talked to Phil
10 Wright, I knew what Phil Wright was going to say which he
11 says in the deposition, and plaintiffs scheduled his
12 deposition earlier last year but then decided to cancel. So
13 we got on the trial roster for the last term of court, which
14 was two weeks ago and they up and did -- the plaintiffs --
15 up and did Mr. Wright and Ms. Collins' the Friday before
16 court was starting on Monday, and that's fine, the
17 transcript was delivered Monday. So we were number two in
18 line, and there is no worse position to be in in court than
19 number two in line and they never did reach us. So I then
20 decided now that I have the evidence produced by them as to
21 what occurred on the day the will was signed that I filed my
22 motion. So I then filed my motion for summary judgment and
23 the only evidence I attached to it was the two people that
24 were with her on the day the will was designed and signed,
25 so it was all done in one day. And then I got in last

1 Thursday -- and I'm assuming these affidavits are filed, I
2 don't know that, I have not seen anything that has been
3 filed over at the clerk of court's office -- I got unfiled
4 affidavits by fax on Thursday which was within the rule's
5 two day requirement, and one was signed by Janice Gregory
6 who is a daughter, and one was signed by Terry Gilbert
7 Gregory who I understand is her husband. I immediately went
8 to the file and low and behold as of last Thursday Ms. Terry
9 Gilbert Gregory had not been identified through all of the
10 discovery as being a witness. But Ms. Henderson shows up
11 this morning and I handed to her a copy of what I filed
12 Friday called my pretrial brief which I had prepared in case
13 I was going to trial, but I decided to file it Friday for
14 the Court's use on this issue of my motion for summary
15 judgment, and I told her that one of the reasons I was
16 raising today was that they had never identified Mr. Gregory
17 before I got that affidavit. And low and behold she's here
18 but she called the other lawyer who is involved, Mr.
19 Stanford -- and I'm saying that without asking her about
20 it -- and it's -- they need to change their timeframe -- but
21 at 12:02 on 17 March, which is today, in comes to my law
22 firm an amended answer to interrogatory that's listing Terry
23 Gregory as now a witness. So that shows me that I'll never
24 tell her anything in advance again because they're trying to
25 correct an error they had, but that's fine, Your Honor. The

1 problem the plaintiffs have, Your Honor, is first of all
2 taking the evidence in the light most favorable to the
3 plaintiffs, both of these affidavits say they last saw the
4 decedent on Mother's Day of '07. Well, I don't care what
5 her condition was on Mother's Day of '07 as long as she was
6 alive, and she was. What counts is what is her condition on
7 the day she did the will, and that's December 6th of '07,
8 and two people -- and the only two people that saw her that
9 day that we can get, because the third witness is not in
10 Lancaster, was attorney Phil Wright and his staff who had
11 met her one time before in August of '07 when Mr. Wright did
12 the distribution, and then met her in December of '07 when
13 she did a will. And if you read Mr. Wright's deposition --
14 and I'm not going to sit here and go through it word for
15 word and all of that kind of stuff, Your Honor -- but if you
16 read his deposition, particularly my cross examination, Mr.
17 Wright did exactly what he was supposed to do, in that he
18 talked to her -- he knew her beforehand but he talked to
19 her, made an appraisalment that day as to what her condition
20 was. He saw nothing to indicate she didn't know what she
21 was doing, and he saw nothing to indicate she was under any
22 type of influence. And she told him she had children and
23 she told him that she wasn't going to leave them anything
24 and he did the will, and the will is authoritative and self
25 proving by the statute in that the last feasible will that

1 you'll see as part of the affidavit is the self-serving
2 acknowledgment that the two witnesses signed and Mr. Wright
3 notarized. So Ms. Collins who I personally know because her
4 mother used to work for me many years ago, Ms. Collins also
5 testified that she met the lady once -- she was not in there
6 when Mr. Wright talked to her because Mr. Wright talks to
7 these people by themselves. Ms. Broughton came in by
8 herself, nobody drove her down there. She came in the
9 office, she looked fine, acted fine, went into Mr. Wright's
10 office, they had their discussions and then Mr. Wright then
11 gets his staff and says, "Prepare me a simple will, bla
12 bla." Ms. Collins then prepared the will, and then she goes
13 in there along with the other witness and Mr. Wright when
14 the procedures of going over it and signing it and sworn and
15 all of that stuff and the signing stuff occurred. And
16 again, Ms. Collins, working for Mr. Wright, said, "She knew
17 what she was doing that day and I saw nothing influencing
18 her." And then she leaves. Now, in this case, Your Honor,
19 she came back one more time. A year or two after doing the
20 will she decided to sell some land and Mr. Wright handled
21 that transaction and they went to some people called the
22 Knights. So Mr. Wright dealt with her three times before
23 her death, the second time is when he did the will. There's
24 absolutely no evidence presented by these affidavits -- and
25 you can read them all if you want to, Your Honor -- there's

1 absolutely no evidence presented of any undue influence on
2 the day of the will. And on top of that as to undue
3 influence if you'll read the cases in there, the particular
4 law, it says that even if somebody could say there was some
5 undue influence then time, a passage of time cures that and
6 that's why I'm bringing up this lady lived for over 1,000
7 days before she died. But secondly and even more
8 importantly, you know, in this state what most people don't
9 understand is somebody could be crazy as anything, but if
10 they have a sane moment and go to a lawyer and do a will and
11 then walk out and become crazy again, they've got a valid
12 will. So the plaintiff has produced no evidence, no
13 evidence as to her mental condition on the date of the will
14 that helps them at all, the only two people that know about
15 that have testified. So that's when I -- when I had time I
16 filed this motion for summary judgment. So taking the
17 evidence in any light you want to most favorable to the
18 plaintiffs they cannot survive this summary judgment because
19 they have no evidence as to the two issues they pled as to
20 the day of the will. So that's our position, Your Honor.

21 THE COURT: Thank you, Mr. Bell. Ms. Henderson?

22 MS. HENDERSON: Thank you, Your Honor. May it please
23 the Court?

24 THE COURT: Yes, ma'am.

25 MS. HENDERSON: Your Honor, I'm not sure if you have

1 before you the two affidavits --

2 THE COURT: I don't see them, I need to see those. I
3 need to have them for my review. Okay. Yes, ma'am.

4 MS. HENDERSON: Thank you, Judge. As it relates to the
5 motion for summary judgment, of course, in order to survive
6 this motion for summary judgment we've got to show that
7 there is evidence that there is a disputed material of fact
8 that exists, and that is regardless of the strength of the
9 evidence. So if there's any evidence that shows a genuine
10 issue of material fact then, of course, we survive the
11 motion for summary judgment. Again as alluded to by
12 defendant's counsel all evidence in its reasonable
13 inferences must be viewed in the light most favorable to my
14 clients in the judgment for summary judgment. Judge, we do
15 take exception to some of the statements that you have heard
16 from plaintiffs' (sic) counsel. I think that you do have
17 before you the actual motion itself for summary judgment
18 that was filed by the defendants.

19 MR. BELL: Yes.

20 MS. HENDERSON: In particular there has been the
21 assertion that Mr. Wright did everything that he was
22 supposed to do as it relates to meeting with the decedent
23 and preparing her actual will. Judge, what we are saying is
24 that on the date in question, of course, there was not the
25 mental capacity that was required in order to actually make

1 an entry into a will. The affidavits that have been passed
2 up are from one of the plaintiff's in which she indicates
3 she had met with her mother in 2007 around that day, and
4 that she noticed that her mother had problems at that time
5 as well as she observed the fact that her mother was sitting
6 and staring with a blank look on her face, she appeared very
7 depressed, she was rocking back and forth even though she
8 was not in a rocking chair, she was looking into the air and
9 talking to her dead husband. That coupled with the fact,
10 Judge, that I believe it has been brought out in various
11 depositions as well as this particular affidavit of Janice
12 Gregory, the decedent actually suffered from a brain tumor,
13 and it's Ms. Gregory's position that that brain tumor
14 actually impacted the decedent well into 2007 and on. In
15 addition that affidavit from Ms. Gregory indicates that
16 there is a Mr. Robert Broughton who is actually, I believe,
17 a relative of the defendant in this case and he's expected
18 to testify to the fact that he noticed the changes in the
19 decedent's behavior as it relates to the date of the will in
20 that she had become withdrawn from most people other than
21 the defendant. So those are issues that we believe that
22 should be put forward to the fact finder judge. As it
23 relates issues regarding medication --

24 THE COURT: Let me ask you this: Mr. Bell in his
25 argument mentioned that it came out, and maybe this is in --

1 by way of deposition testimony, I don't see it in the
2 affidavits -- that the last time either Terry Gregory or
3 Janice Gregory saw Ms. Broughton would have been in May of
4 2007 and the will was executed later that fall.

5 MS. HENDERSON: In December of 2007.

6 THE COURT: Yeah. Is that true?

7 MS. HENDERSON: Judge, that is true. And to that point
8 we concede that an insane person can make a will if they do
9 so during a sane interval. We, of course, believe that
10 there is sufficient evidence to indicate that the decedent
11 did not have the requisite mental capacity to enter into a
12 will at that particular juncture.

13 THE COURT: What evidence do you have to suggest that
14 other than what you've handed up in these affidavits?

15 MS. HENDERSON: If you take a look at the actual
16 deposition of Phillip Wright, one of the questions that I
17 asked Mr. Wright -- and I believe it occurred on page 28 of
18 the deposition that you have.

19 THE COURT: Okay.

20 MS. HENDERSON: One of questions that I asked Mr.
21 Wright is -- starting at line 18, Judge, "When Ms.
22 Broughton, the decedent, came to your office, what did she
23 tell you was the extent of her estate?" Answer: "I didn't
24 ask her the extent of her estate. My response was. "Okay."
25 And then from there he indicates, "Unless there are going to

1 be specific devises to specific people of specific things I
2 don't go into the size of the estate with them, it's their
3 business." And Judge, in order to determine whether or not
4 someone has a sound mind to enter into a will, the Supreme
5 Court of South Carolina in Madison versus Madison says that
6 there's three a pronged test; one is that the person knows
7 the nature and extent of the property. So if you take a
8 look at the actual testimony, depositions testimony of the
9 actual attorney that drafted the will he didn't meet that
10 first prong. There was never a question of the decedent as
11 it relates to the extent of her estate. Even then, Judge,
12 looking in that same packet after the actual motion itself,
13 the first exhibit is the actual will, we take exception to
14 some of the portions in the will itself. It seems to be
15 that there's a conflict that exists there. If you take a
16 look at paragraph two it indicates that "I plan to execute a
17 memorandum directing my personal representative to
18 distribute certain items up to my personal property to
19 selected persons. The memorandum shall be left with my
20 will."

21 THE COURT: Where is this, now?

22 MR. BELL: That's on the first page of the will page
23 and it's paragraph. The first and second sentences of
24 paragraph two of the will.

25 THE COURT: And there was no memorandum?

1 MS. HENDERSON: There was no memorandum, Judge. And
2 then if you move forward to paragraph three, and this is
3 where we believe that the conflict exists within the will
4 itself, it says, "I hereby leave all of my property, both
5 real and personal wherever situated to my cousin, Jill B.
6 Gainey."

7 THE COURT: Even though the previous paragraph said
8 there was going to be a memorandum saying where it was going
9 to go.

10 MS. HENDERSON: That's correct, Judge.

11 THE COURT: Okay.

12 MS. HENDERSON: And then even with further going into
13 the actual will itself, if you take a look at the
14 beneficiaries of the will, the first beneficiary, of course,
15 is Jill Gainey who we've brought suit against. The
16 secondary beneficiary of the will will be Macy Gainey, and
17 that's the actual daughter of Jill Gainey. And in
18 deposition we asked what the relationship was between Ms.
19 Broughton and Ms. Gainey and there wasn't a relationship,
20 and there has been only a few times that the two of them had
21 actually met, so we believe that that goes towards the undue
22 influence. If you take a look at the personal
23 representative, of course, it is Jill Gainey, the successor
24 personal representative, I believe, is Jill Gainey's
25 husband. Also in the actual deposition of Phil Wright we

1 asked how the decedent came to come into his office and
2 there was testimony that the decedent chose that law firm
3 because she was referred there by Jill Gainey.

4 THE COURT: Got it. So you believe you've shown issues
5 of material fact which should preclude the Court from
6 granting summary judgment.

7 MS. HENDERSON: I do, Judge.

8 THE COURT: Thank you, Ms. Henderson. Brief reply, I'm
9 getting hungry.

10 MR. BELL: Me too, Your Honor. Your Honor, they
11 haven't shown anything required by the rules which is by
12 affidavit or some other, they haven't filed anything. What
13 she is arguing, Your Honor, is innuendo. And if you read
14 these cases it says no matter how obnoxious a decedent may
15 be with his estate he's got a right to do with it what he
16 wants to do under the law period, that's in there. Same
17 thing about the insanity. So the point I'm making, Your
18 Honor, is they got nothing, they got absolutely nothing to
19 cover the day the will was done, that's why I am -- I don't
20 throw around summary judgment just for the heck of it. They
21 got absolutely nothing that they provided to me or to you
22 today that covers the date that the will was done and that's
23 the day -- it don't matter what happened before or after,
24 that's the day.

25 THE COURT: Yes, sir, I understand. Thank you very

1 much. I'm going to take this matter under advisement and
2 read all of the attachments a little bit better prior to
3 rendering a decision.

4 (End of the hearing.)

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Affidavit of Janice Gregory

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)
)
Janice Gregory, Grady L. Martin Jr.,)
Kevin Martin, Teresa B. Martin,)
and William D. Martin)

Plaintiffs,)

VS.)

The Estate of Janice L. Broughton)
and Jill B. Gainey as Personal)
Representative of the Estate of)
Janice L. Broughton,)

Defendants,)

IN THE PROBATE COURT

SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF JANICE GREGORY
IN OPPOSITION to MOTION for
SUMMARY JUDGMENT

CASE#: 2010-ES-29-00435

Personally appeared before me, Janice Gregory, who being duly sworn, states, in opposition to the Defendant's Motion for Summary Judgment, states as follows:

I, Janice Gregory, am one of the children of Janice L. Broughton, and I live in Greenwood, South Carolina. I have visited my mother at her home in Lancaster, South Carolina. I visited my mother before the death of her second husband, James Howard Broughton, who died October 14, 2006. I also visited with her, in her home, after his death in 2007.

Prior to the death of Mr. Broughton, my mother, Janice L. Broughton had many medical problems, and depended upon Mr. Broughton very heavily. She was taking Darvocet-N, medicine that is used for pain, and she was taking Trazodone medicine which functions are for pain and depression.

I specifically observed how my mother became more depressed in 2007, after the death of her husband. I along with my brother, Grady Martin and my husband, Terry Gilbert Gregory, went to see my mother in 2007; it was sometime after Mother's Day of 2007. I observed and noticed my mother had a blank stare on her face, and she appeared to be very depressed. I

observed her as she was sitting in a regular chair, but I saw her as she was rocking with her body, back and forth in the chair, looking in the air and talking to her dead husband, Mr. Broughton.

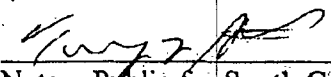
I noticed and saw she was very, very depressed, and confused. I observed that she no longer had a look of confidence that I had observed prior to Mr. Broughton's death. I could definitely see how the impact of his death, culpable with the medication, and the previous brain tumor had impacted her in 2007.

I further believe that Mr. Robert Broughton, the uncle of James Howard Broughton, will testify as to his observation and knowledge of Janice Broughton before and after the death of her husband. That they had a good relationship to the extent that Janice Broughton over the years had baby sat his two children. That after the death of Mr. Broughton, Mr. Robert Broughton stopped by the house of my mother, Janice Broughton and she came to the door and indicated that she didn't want to have anything to do with people and that she appeared to have totally withdrawn from people except for Jill Gainey and Kathy Knight.


JANICE GREGORY

Sworn to before me on

March 12, 2014


Notary Public for South Carolina

My Commission Expires 2/28/23

Affidavit of Terry Gilbert Gregory

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

Janice Gregory, Grady L. Martin Jr.,
Kevin Martin, Teresa B. Martin,
and William D. Martin)

Plaintiffs,)

VS.)

The Estate of Janice L. Broughton)
and Jill B. Gainey as Personal)
Representative of the Estate of)
Janice L. Broughton,)

Defendants,)

IN THE PROBATE COURT

SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF TERRY GILBERT
GREGORY IN OPPOSITION to
MOTION FOR SUMMARY
JUDGMENT

CASE#: 2010-ES-29-00435

Personally appeared before me, Terry Gilbert Gregory, who being duly sworn states, in opposition to the Defendant's Motion for Summary Judgment, states as follows:

I am Terry Gilbert Gregory, I live in Greenwood, SC, and I am not a part of this lawsuit.

I went with my wife, Janice Gregory and her brother Grady Martin, to see their mother, Janice L. Broughton, sometime after Mother's Day in 2007. Upon arrival, we were invited into the house by Ms. Broughton. This was not the first time I had seen and talked to my mother-in-law, Ms. Broughton. I could tell, and I observed, that she was very nervous, depressed and confused in 2007. I watched her as she sat in a chair and was rocking back and forth; staring in the air. I watched her and I observed her during the conversation with her children how sometimes she would start talking to her dead husband, Mr. Broughton, saying "Howard, what you going to do" and "you said you were going to help me."

I could see a great difference in Ms. Broughton in 2007. I could tell that she was more nervous, depressed, and I could see the big effect, the death of her husband had on her actions,

and her mind, based on what I observed in her, and how she was talking to her children and her dead husband.

Terry Gilbert Gregory
TERRY GILBERT GREGORY

Sworn to before me on

March 13, 2014

Terry Gilbert Gregory

Notary Public for South Carolina

My Commission Expires 2/28/23

Will of Janice L. Broughton

RECEIVED

JANICE L. BROUGHTON

NOV -5 PM 28

SANDRA S. ESTERLINE
LANCASTER COUNTY
PROBATE JUDGE

I, Janice L. Broughton, of Lancaster County, South Carolina, being of sound mind and disposing mind and memory, yet aware of the uncertainties of this earthly existence, do hereby make, publish and declare this to be my Last Will and Testament, intending hereby to dispose of all my worldly possessions and to revoke any and all testamentary dispositions heretofore by me made.

I. I direct that my Personal Representative, hereinafter named, shall pay all of my just and legal debts and funeral expenses as soon after my death as shall be practicable.

II. I plan to execute a memorandum directing my Personal Representative to distribute certain items of my personal property to selected persons. The memorandum shall be left with my will. I direct my Personal Representative to follow my wishes in the distribution of the items listed in the memorandum.

III. I give, devise and bequeath all of my property, both real and personal, wherever situate, to my cousin, Jill B. Gainey. In the event my cousin predeceases me or that she should die within sixty (60) days of my death or that we should both die in a common


disaster, then I give, devise and bequeath all of my property, both real and personal, wherever situate, to her daughter, Macie Gainey. Provided, however, should I be deceased prior to the time Macie attains 18 years of age, I designate Charles Gainey as Trustee to administer her share of said property. My said Trustee shall have the full right, power or authority to use all or any of her portion of my said property and any income therefrom, for her use and benefit as he deems wise, and in order to use property for her, my said Trustee shall have the full right, power, and authority to sell, mortgage, hypothecate or invest all or any of her portion of my said property, giving full warranties. When Macie attains the age of 18 years, I will and direct that she be paid her entitlement, at which time the Trust shall cease and terminate.

IV. I hereby appoint and nominate my said cousin, Jill B. Gainey, as Personal Representative of this my Last Will and Testament. In the event that she should fail or so cease to act, then I appoint Charles Gainey as successor Personal Representative of this my Last Will and Testament.

V. I direct that my named Personal Representative serve without posting bond.

VI. I direct that my named Personal Representative has the power to sell, mortgage, lease or otherwise encumber or hypothecate any of my real or personal property as the Personal Representative deems it necessary in the administration of my Estate without the permission or consent of the Probate Court and without the permission or consent of any devisees, heirs or beneficiaries.

IN WITNESS WHEREOF, I, the Testatrix, sign my name to this instrument this 6th day of December, A.D., 2007, 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.


JANICE L. BROUGHTON

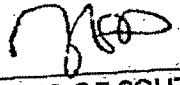
STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

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 Testatrix's Last Will and that Testatrix 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.

Lusica Boling Residing at Lancaster, S.C.
Janice C. Collins Residing at Heath Springs, S.C.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED
BEFORE ME BY THE TESTATRIX AND SUBSCRIBED
AND SWORN TO BEFORE ME BY THE WITNESSES,
THIS 6TH DAY OF DECEMBER, 2007.


NOTARY PUBLIC OF SOUTH CAROLINA
My Commission Expires: 5/5/16

(L.S.)

JLB

Testimony

Deposition of Attorney Phillip E. Wright

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

JANICE GREGORY, GRADY L.)
MARTIN, JR., KEVIN MARTIN,)
TERESA B. MARTIN, AND)
WILLIAM D. MARTIN,)

PLAINTIFFS,)

VS)

THE ESTATE OF JANICE L.)
BROUGHTON AND JILL B.)
GAINNEY, AS PERSONAL)
REPRESENTATIVE OF THE)
ESTATE OF JANICE L.)
BROUGHTON,)

DEFENDANTS.)

C.A. NO. 2011-CP-29-00127

DEPOSITION OF PHILIP E. WRIGHT

LANCASTER, SOUTH CAROLINA

FEBRUARY 21, 2014

REPORTER: KELLY REITER

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Appearances:

For the Plaintiffs -

Keabii Henderson, Esquire
The Shaw Legal Group, LLC
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Greenville, South Carolina 29616

For the Defendants -

Francis L. Bell, Junior, Esquire
Francis Bell Law Firm, LLC
312 North Main Street
Post Office Box 867 (29721)
Lancaster, South Carolina 29720

Also Present -

Ms. Jill Gainey

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1 Deposition of Philip E. Wright, taken before me,
2 Kelly Reiter, a Notary Public for the State of South
3 Carolina, at the Law Office of Philip E. Wright, PA, 408
4 North Main Street, Lancaster, South Carolina, commencing
5 at 11:42 a.m. on February 21, 2014, in accordance with
6 the South Carolina Rules of Civil Procedure.

7 It was stipulated by and between Counsel for the
8 Plaintiffs and Counsel for the Defendants that this
9 deposition is taken for any purpose allowed under the
10 South Carolina Rules of Civil Procedure;

11 That the signing of the transcript of deposition by
12 the witness is waived.

13 * * * * *

14 Philip E. Wright, first being duly sworn, deposes and
15 says as follows:

16 E X A M I N A T I O N - (By Ms. Henderson)

17 Q All right. Good morning, Mr. Wright.

18 A Good morning.

19 Q You are an attorney. So therefore, the ground
20 rules as it relates to depositions, I will skip
21 over if that agrees with you.

22 A Fine with me.

23 Q All right. If you will, just state your name again
24 for the record, please.

25 A My name is Philip Edward Wright.

Deposition of Philip E. Wright

- 1 Q And you are an attorney here in Lancaster?
- 2 A I am.
- 3 Q How long have you been an attorney here?
- 4 A I came here in July of 1977.
- 5 Q And currently, you are in solo practice?
- 6 A I am.
- 7 Q How long have you been in solo practice?
- 8 A I started a solo practice in November of 1986.
- 9 Before that, I was a partner with Richard E.
- 10 Richards, an attorney who is now deceased.
- 11 Q And what practice areas do you have in your
- 12 practice?
- 13 A I do a general practice. About half of my practice
- 14 is domestic relations work. I do wills, probate
- 15 work. I handle litigation matters. I'm primarily
- 16 a trial attorney. I'll handle some automobile
- 17 accident cases, do some collection work. I don't
- 18 do any bankruptcy or any of the other specialized
- 19 stuff. Just things that an attorney in a small
- 20 town has to do.
- 21 Q Okay. Now, as you are aware, we are here today as
- 22 it relates to a lawsuit brought involving the
- 23 estate of Janice Broughton.
- 24 A Right.
- 25 Q And Janice Broughton is a former client of yours?

Deposition of Philip E. Wright

1 A That's correct.

2 Q And specifically, we're interested in the execution
3 of a will that Ms. Broughton came into your office
4 for in 2007. Do you recall when that was?

5 A Yes.

6 Q When was that?

7 A We did her will, I believe, in December of 2007.

8 Q Okay. And do you recall if Ms. Broughton - - -
9 Well, before I ask you that, had you provided any
10 services for Ms. Broughton prior to December 2007?

11 A Yes. I did the deed of distribution in her
12 husband's estate. He had died previous to that, I
13 think a year or two before. In the summer before
14 we did her will in the winter, she came in to see
15 me, and I did the deed of distribution that
16 conveyed his property to her.

17 Q Is that the only instance prior to December of
18 2007?

19 A That's the only record that I have prior to - - -
20 The deed of distribution was the first thing.

21 Q All right. After the deed of distribution and up
22 to the date that the will was executed, did you
23 have any interaction with Ms. Broughton, whether
24 inside your office or outside your office?

25 A I don't recall any. Lancaster is a small town.

Deposition of Philip E. Wright

1 You run into people everywhere. I may have seen
2 her, but I don't recall.

3 Q So you would not have a basis to know whether Ms.
4 Broughton, whether she had any changes to her
5 personality from the date that her husband passed
6 away until the date that she executed the will?

7 A Every time that I had contact with her, and there
8 were several times from 2007 through 2009, she
9 appeared to me to be generally of the same
10 disposition. She was a very happy person,
11 talkative, always called you sweetie or baby or
12 something. She was just very - - - She was very
13 nice, but I - - - I didn't notice any change in her
14 during that two-year period.

15 Q So before that, though, from the date that her
16 husband passed away until the date that she came in
17 for the will execution, do you have occasion to
18 know whether there were any changes to her?

19 A I didn't have any direct contact, so no.

20 Q All right. And do you recall if Ms. Broughton
21 called your office? You probably may or may not
22 know the answer to this question. But do you have
23 knowledge as to whether she, herself, called or how
24 she came to come to your office for a will?

25 A Okay. I was told by my secretary, Jennifer

Deposition of Philip E. Wright

1 Collins, that Jill Gainey, who works at Francis
2 Bell's office just a block up the street, had
3 called and said that a relative of hers was going
4 to be calling - - - might be calling us to do a
5 will.

6 Q Okay.

7 A Just to put us on notice she'd be calling, and she
8 - - - She mentioned it to me casually. Then later,
9 Ms. Broughton did, in fact, call and I think got
10 Jennifer when she called in and made the
11 appointment.

12 Q Okay.

13 A We went back and looked at the appointment books to
14 confirm that.

15 Q Okay. Now, moving forward to the date that Ms.
16 Broughton came in, can you tell us what you
17 remember about that date and her visit to your
18 office?

19 A I remember her coming in. She had a - - - She kind
20 of had a - - - leaned forward a little bit in her -
21 - - kind of humped forward just a little bit. She
22 was always smiling. She had a pretty wide mouth, a
23 pretty big mouth, and you could always see her
24 teeth. But she would smile and was very - - -
25 always just very pleasant. That's the way she was

Deposition of Philip E. Wright

1 when she came in to do the deed of distribution,
2 and that's the way she was when she came in to do
3 the will. I had her come back to my office. We
4 sat down. We talked generally. I think I asked
5 her - - - I had some other Broughton clients.
6 Everybody around here is related to everybody, and
7 I'm not from here. So I don't know all of those
8 connections, and I usually try to find out. If I'm
9 going to be doing something with somebody, I'll
10 say, well, do you know so-and-so, or do you know
11 so-and-so? And she wasn't related to the
12 Broughtons that I had done stuff for before, so - -
13 - And I do that just to kind of get in my mind who
14 she is, and a little bit about her, and to see
15 whether she can communicate with me very well in a
16 will appointment. She was not a relative to those
17 Broughton clients that I had. I asked her - - -
18 You know, I told her I knew she was there to do a
19 will. Had she decided on what she wanted to do?
20 And she said she had. I said, well, I know I just
21 did your husband's deed of distribution. You
22 hadn't gotten remarried? And she said, no, she
23 hadn't. I think I asked her if she had children.
24 My recollection is, she had some children, but they
25 lived - - - They didn't live here, around here, and

Deposition of Philip E. Wright

1 she wasn't very close to them. Then she - - - I
2 said, well, who are you going to leave your estate
3 to? She said, I want to leave everything to Jill
4 Gainey. And I have to admit, I - - - I knew Jill
5 by seeing her at Francis' office as a receptionist,
6 but I don't know Jill personally. So I get her - -
7 - I got her name confused. For some reason, I
8 called her Jill Crenshaw from time-to-time. But
9 she said Jill Gainey is who she wanted to leave it
10 to. She said that she was real close to Jill, that
11 she - - - Jill was a real sweet person, that she
12 had known her for a long time and liked her and
13 felt like she ought to get her estate. And that's
14 it. Then I - - - When I did the personal
15 representative - - - or did the personal
16 representative choice, you know, I told her, I
17 said, well, now we like to provide - - - Oh, she
18 told me that if Jill died before she did, she
19 wanted her estate to go to, I think, Jill's
20 daughter, whose name was Macie or something like
21 that. I asked her, if Jill did die before her, who
22 she wanted to name as the personal representative
23 in place of Jill? And she gave me the name of
24 another individual, a gentleman who I don't - - - I
25 did not know who he was, but somebody she trusted.

Deposition of Philip E. Wright

1 So it was a - - - That was pretty much it. It was
2 a simple will. Whenever I've got a simple will
3 like that to do, and I'm not doing a lot of other
4 work for the person, I usually do it when they're
5 here. So we just - - - I buzz the secretary and
6 tell them, I'm coming out to give them the details.
7 Sometimes, I do it sitting in my office.
8 Sometimes, I go out to their office. Now, I don't
9 recall particularly what I did that day, but I
10 remember we did her will while she was here. So it
11 was - - - The appointment and the signing was the
12 same day. They prepared the will. I let her look
13 over it in the office, went over it with her. She
14 was satisfied with it. We then copied it, and we
15 have her sign two copies. I keep - - - I make it a
16 practice to keep an original of the will in my
17 office. I know the bar - - - I've been to seminars
18 and they say, well, you shouldn't do that. Some
19 lawyers do. Some lawyers don't. I've had a number
20 of clients, over the years, lose wills, and they
21 come back. They die, and the family will come by
22 here looking for a will, and I'll give them the
23 original so they can probate. I've had clients who
24 have lost it during their lifetime and come back in
25 to get the original, so I - - - We do actually two

Deposition of Philip E. Wright

1 originals. So I had an original of her will, too.
2 I gave her an original to take with her. I told
3 her if she decided that she wanted to change it or
4 do anything with it, to let me know, so that I
5 could destroy mine. Or if she wanted to do a
6 codicil, just to come back, and we can do that. I
7 just sit - - - She sat in my office, and we waited
8 while the secretary typed the will, which probably
9 took ten minutes, fifteen minutes. She signed it
10 and was on her way.

11 Q Okay.

12 A That was it. It was probably a thirty, thirty-five
13 minute appointment altogether.

14 Q All right. Prior to the date that Ms. Broughton
15 came into your office for the will, were you
16 familiar with her educational history or
17 background?

18 A I don't know how much education she had.

19 Q Do you know whether she was literate?

20 A I know she read the will when I gave it to her, and
21 we went over it. She didn't appear to have trouble
22 reading it.

23 Q Did she read it aloud?

24 A She did not read it aloud, no.

25 Q Okay. Were you familiar with Ms. Broughton's

Deposition of Philip E. Wright

- 1 medical history at that time?
- 2 A I was not.
- 3 Q Are you now knowledgeable that Ms. Broughton had a
4 brain tumor?
- 5 A I have been told that she had some kind of medical
6 condition at some point in her life. Now, I don't
7 - - - I'm not sure when it was and how serious it
8 was.
- 9 Q Okay. And you testified that you and Ms. Broughton
10 talked about her children?
- 11 A I just asked her if she had children. She said she
12 had some, but they didn't live around here.
- 13 Q Did she indicate to you that she wanted to omit her
14 children from the will?
- 15 A She indicated she wanted to leave the entire estate
16 to Jill.
- 17 Q Did she say specifically she wanted to omit her
18 children?
- 19 A By saying that she wanted to leave it to Jill and
20 not to them, I believe that's what she intended,
21 yes.
- 22 Q Do you know whether or not she had executed any
23 prior wills?
- 24 A I do not know that.
- 25 Q Do you know whether she executed any subsequent

Deposition of Philip E. Wright

1 wills?

2 A I am not aware that she did.

3 Q Did you also draft a power of attorney, making Jill
4 Gainey attorney-in-fact for Ms. Broughton?

5 A I don't recall. We may have - - - That's something
6 that we usually cover at a will appointment. I do
7 three documents typically, a will, power of
8 attorney, and a healthcare power of attorney.
9 We'll go over each of those with somebody. I don't
10 recall talking to her, frankly, about either of
11 those.

12 Q Okay. At any time after the date that she came in
13 and executed her will in your office, did you draft
14 a power of attorney making Jill Gainey attorney-in-
15 fact for Ms. Broughton?

16 A If I did, I don't have any recollection of it.

17 Q Do you recall drafting any POA in the weeks prior
18 to Ms. Broughton's death?

19 A No, I don't have any recollection of doing any POA
20 for her at any time.

21 Q Okay.

22 A I mean, a POA is a - - - I use a form. People come
23 in pretty regularly and ask for those. I'll see
24 the individual, talk with them, make sure that they
25 know the person they're giving it to, that it's

Deposition of Philip E. Wright

- 1 somebody they trust, and make sure they're
2 competent, that I can - - - They can converse with
3 me, understand me, and I can understand them. And
4 if they want to execute it, we execute it. But I
5 do not recall ever doing that with Ms. Broughton.
- 6 Q Okay. Now, you mentioned that you also handled
7 real estate transactions - - -
- 8 A Right.
- 9 Q For Ms. Broughton? Can you - - -
- 10 A I did. I did at that - - - I stopped doing real
11 estate actually in December of 2009. I closed a
12 transaction for her in the summer of 2009, of a
13 four-plus-acre tract that she sold to some people
14 by the last night of Knight and actually did a
15 contract on that piece of property. I did a
16 contract for the second piece of property. That
17 was an acre, 1.05 acres, but I did not close that
18 transaction. I had stopped closing just before
19 they wanted to close that. In fact, I let my real
20 estate secretary go on December 17th, and I
21 referred them to another attorney to do that
22 closing because I didn't have the staff to do it
23 any longer.
- 24 Q When was the contract drafted for that second piece
25 of property, the 1.05 acres?

Deposition of Philip E. Wright

1 A I didn't have a date on the contract, and I frankly
2 don't remember. I know when they bought the - - -
3 I met with Ms. Broughton and the buyers. I
4 remember when they were buying it, they were
5 talking about, we're going to buy the other piece
6 later, but I didn't - - - At that point, I'm not
7 sure how much later they were going to do it. But
8 at some point after we closed the first one, we did
9 a contract on the second one. They did eventually
10 end up buying that, but not through me.

11 Q Were they the same buyers as the first transaction?

12 A Same as the first transaction.

13 Q Individuals by the name of Knight?

14 A Knight.

15 Q Did you know the buyers to be related to Ms.
16 Broughton?

17 A I do not know if they - - - I didn't know. I
18 didn't know anything about their relationship.

19 Q Okay.

20 A The guy's middle name was Need, and I've never had
21 anybody whose middle name was Need before. I
22 thought that was kind of unusual.

23 Q Okay. As it relates to the first transaction, do
24 you know whether the sale price was fair market
25 value?

Deposition of Philip E. Wright

1 A I don't. I didn't discuss that. They had agreed
2 on a price of, I think, twenty-five thousand
3 dollars. It was a cash transaction. There wasn't
4 a loan involved. It was just pretty much a
5 straight cash purchase. I have no idea what the -
6 - - I'm not aware of any appraisals. I didn't look
7 at any tax value or anything on it. No.

8 Q And it was for four acres?

9 A 4.05.

10 Q And as it relates for the second transaction, are
11 you aware of whether the sale price was fair market
12 value?

13 A I'm not aware. That was something that was
14 probably worked out with the buyers and - - - When
15 they have an agreed price, I don't try to argue
16 with them.

17 Q So the first transaction closed in the summer of
18 2009?

19 A Right. I remember it because those were the first
20 - - - The buyers were the first people I had to
21 tell that, I'm sorry, I can't close your deal
22 because I've quit doing that. It just kind of
23 stuck out, that they were - - - You know, they were
24 disappointed that they couldn't do it here, and I
25 sent them to Brian Trimnal.

Deposition of Philip E. Wright

1 Q Okay. I'd just like to get a little bit more
2 specific as it relates to the date that Ms.
3 Broughton came in for her will execution.

4 A Okay.

5 Q You met with her. Do you recall how long your
6 initial meeting with her was prior to the will
7 being drafted or typed?

8 A It - - - Probably fifteen, twenty minutes.

9 Q And during that time frame, you had occasion to
10 discuss the will contents with Ms. Broughton?

11 A Right.

12 Q And you testified previously that the entire
13 process took about thirty, thirty-five minutes?

14 A That's right.

15 Q Now, when the will was brought into your office,
16 who was in there as you went over the will with Ms.
17 Broughton?

18 A My secretary, Ms. Collins, and my runner at the
19 time, Jessica Boiling. When I get ready - - - When
20 they do the will and they copy the will and they
21 bring it in, I generally go over the will with the
22 staff standing there. She looks it over, reads it.
23 I ask her if she's got any questions about it. If
24 she doesn't, then we go ahead and sign it right
25 there.

Deposition of Philip E. Wright

1 Q Okay. What do you normally look for as it relates
2 to an analysis as to whether or not one is being
3 unduly influenced for a will?

4 A I don't know how I would be able to look for undue
5 influence. I look for whether the person is
6 competent, whether they can talk clearly, express
7 themselves clearly, understand my questions to
8 them, and can respond to those questions well. I
9 try to make a determination as to whether they
10 appear to be nervous or jittery or unsure, and I
11 run into a lot of people that are. When I have a
12 question about that, I'll generally stop and have
13 them go get me a doctor's statement. I'll have
14 them come back with that, and I'll make sure that
15 they're competent. But Ms. Broughton was
16 conversant, clear, happy, outgoing, talkative. I
17 mean, I didn't have any question. She did not
18 appear to me to be under any restraint of any type.
19 She came in by herself. To the best of my
20 knowledge, she drove herself. My secretary, Ms.
21 Collins, has a good view of the parking lot.
22 Whenever somebody comes, she'll see them pull up.
23 If there's somebody with them, they'll generally
24 tell me that, you know, so-and-so's in the parking
25 lot, but they've brought somebody with them. If

Deposition of Philip E. Wright

1 they bring somebody with them, I usually talk with
2 them about who that is, and do they need them to
3 come in, or whether - - - My recollection is that
4 she came by herself. Nobody was with her. So, no,
5 I didn't. I did not see any indication that she
6 was under any pressure or stress of any type.

7 Q Do you have occasion to know of any medications
8 that Ms. Broughton may have been on, on that date
9 and time that she came into your office for the
10 will?

11 A I have no idea.

12 Q Okay. Are you aware of any condition of depression
13 that Ms. Broughton may have had at the time that
14 she executed your will?

15 A If she was depressed - - - She was a happiest - - -
16 one of the happiest people I've ever - - - We don't
17 see many happy clients. Most people come in here
18 in trouble, going through a bad time. She was a
19 very happy individual. I would not have thought
20 that she was depressed at all. She did not appear
21 depressed.

22 Q Was it happy to an extreme?

23 A No, just a happy person. Just sort of an outgoing,
24 likeable person who, you know, you could relate to
25 very easily.

Deposition of Philip E. Wright

1 Q All right. Other than the two real estate
2 transactions and the will, did you have occasion to
3 represent Ms. Broughton in any way?

4 A In any other way?

5 Q In any other way?

6 A I don't have any record that I did. I don't recall
7 doing anything else for her. Like I said, I do a
8 lot of litigation. She wasn't involved in any
9 litigation. So, no, I don't have anything else I
10 did for her.

11 Q Had you handled affairs for her deceased husband?

12 A I don't recall doing anything for him, other than
13 doing the deed of distribution. No, I don't.

14 Q You didn't handle the other portions of the probate
15 estate?

16 A I don't recall working on the probate estate. I
17 just - - - She came in specifically to do the deed
18 of distribution. The only thing that I do in
19 relation to that is to look at the probate file to
20 see if there's a will there, to see who the
21 beneficiaries are, to make sure that the property
22 that she wants to be deeded to her is, indeed, hers
23 to do it. There used to be a sheet that certified
24 that, you know, we had read the will and this,
25 that, and the other. I don't think they do that

Deposition of Philip E. Wright

1 anymore. But I had to look at the probate file for
2 purposes of determining she was the beneficiary
3 under that document.

4 Q Okay.

5 A And I frankly don't recall whether it was testate
6 or intestate, but she was the - - - She was the
7 person who was supposed to inherit the property, so
8 I did the deed of distribution to her.

9 Q Had you represented Jill Gainey in any matters?

10 A No.

11 Q Do you know the reason that the referral came to
12 your office, or why you were referred?

13 A Well, I hope the reason she came to my office is
14 that I'm the most pleasant attorney in town, and I
15 try to be nice to people. I have generally good
16 relationships with most of the law firms, and
17 frankly, a lot of people in other firms refer
18 people to me to do work for them. So I - - - But,
19 no, I don't know specifically why Jill did that.

20 Q Okay.

21 A Jill - - - My client - - - My secretary, Jennifer,
22 used to work - - - Well, she worked at another law
23 firm first and then came here. But her mother,
24 Grace Clanton, worked at Mr. Bell's office, and I
25 think Jill did the same job that her mother did at

Deposition of Philip E. Wright

1 that firm. So she just kind of moved into that
2 position, but that's really the only thing that I
3 knew about Jill. At that time, I didn't know
4 anything personally about her, her husband, or if
5 she was married. I'm sorry. I just didn't know.

6 Ms. Henderson - Okay. All right. I don't
7 have any other questions.

8 Mr. Bell - Mr. Wright, very quickly - - -

9 E X A M I N A T I O N - (By Mr. Bell)

10 Q You've told us, and provided us with copies - - -
11 And I'm not going to introduce it, but you first
12 met Ms. Broughton for a deed of distribution. It
13 looks like August of '07. That's the date of the
14 deed, August 8th?

15 A That sounds about right.

16 Q And you had to form an opinion that day as to
17 whether or not she mentally was in a position to
18 sign the deed of distribution, didn't you?

19 A Yes.

20 Q And did you so form that opinion?

21 A I did.

22 Q Okay. And then you meet her four months later, or
23 five months later, whatever, the 6th of December.
24 She tells you about children for the will?

25 A Right.

Deposition of Philip E. Wright

- 1 Q She says she don't want to leave them nothing?
- 2 A She said they didn't live anywhere around here.
- 3 Q Okay. She told you who she wanted to leave it to?
- 4 A She did.
- 5 Q And gave you some other names as far as substitutes
- 6 and all that kind of stuff?
- 7 A Right.
- 8 Q And you prepared the document according to her
- 9 wishes?
- 10 A I did.
- 11 Q And did you see anything that day that gave you any
- 12 concern as to her capacity, mental or physical, to
- 13 know what she was doing, properly conveying it to
- 14 you, and signing what turned out to be her will?
- 15 A No.
- 16 Q All right. Did you see anything that day that gave
- 17 you any concern, as the lawyer involved, that in
- 18 any way showed that she was under any kind of
- 19 constraint or influence of any kind that you could
- 20 ascertain by talking to her in the office?
- 21 A She seemed perfectly normal to me. I didn't see
- 22 anything wrong with her.
- 23 Q And you did take a picture of her license to
- 24 ascertain she was eighteen or older?
- 25 A I did.

Deposition of Philip E. Wright

1 Q Okay.

2 A She was older than me, and I'm sixty-two now. So I
3 would have been in my mid fifties then, and she was
4 - - - She was in her late sixties or seventies, I
5 would think, at that time.

6 Q Okay. And then the next time you saw her was
7 roughly two years later, when she and some Knight
8 people hired you to draft a contract and actually
9 be involved in the real estate closing?

10 A That's correct.

11 Q And in that closing, Ms. Broughton sold a tract of
12 land, based on the deed, for about twenty-five
13 thousand dollars to the Knights?

14 A That's right.

15 Q And your office did that. You witnessed the will -
16 - - I'm sorry, the deed?

17 A Yes. She worked with - - - My real estate
18 secretary at the time was Beverly Boyd.

19 Q Right.

20 A And Beverly set up that file. She would have had
21 the most contact with the people prior to the
22 transaction. I would have had contact doing the
23 contract, but then she would have done all of the
24 scheduling and timing and gotten them in. Then
25 I'll actually physically do the closing.

Deposition of Philip E. Wright

- 1 Q Right. Because the - - -
- 2 A And Beverly sits in on a lot of - - -
- 3 Q Because under the law of this state, a lawyer has
- 4 got to be there - - -
- 5 A Yes.
- 6 Q When you do a closing?
- 7 A Correct.
- 8 Q Secretaries can't do it?
- 9 A No.
- 10 Q You can get disbarred - - -
- 11 A They - - - They - - -
- 12 Q If you don't have a lawyer there, right? They get
- 13 in trouble?
- 14 A They get fired if they do it in my office.
- 15 Q I understand that. The lawyer gets in trouble,
- 16 too?
- 17 A A lot of trouble.
- 18 Q Again, you have provided us with a copy of her
- 19 deed, and I see your signature and Ms. Boyd's
- 20 signature?
- 21 A That's correct.
- 22 Q And this thing is dated 27 July of '09. So a year-
- 23 and-a-half after the will, did you see any change
- 24 in Ms. Broughton? I understand that she was older.
- 25 But did you see any change in Ms. Broughton,

Deposition of Philip E. Wright

1 physically or mentally, that gave you any concern
2 as to her ability to understand what you were doing
3 at the real estate closing, when she got twenty-
4 five thousand dollars for giving these people
5 property?

6 A No. She was essentially the same, and it was a
7 much more - - - That's where you go through the
8 closing documents and numbers, and she followed all
9 of that with us and was very clear. I didn't see
10 any difference in her that day than when I had done
11 the previous transaction with her.

12 Q And, of course, you also provided us with a
13 contract of sale that was dated 5 November of '09.
14 Did you actually draft that?

15 A I did.

16 Q At whose request?

17 A You know, I don't recall whether the Knights called
18 me or if she called me. I just - - - I know that
19 when we did the first transaction, there was a - -
20 - They were leaving like an acre. It was a five-
21 acre tract, and she was selling four and leaving an
22 acre there. The discussion was, you know, we're
23 going to buy that later.

24 Q All right.

25 A I don't know whether they were going to build a

- 1 house, get a mobile home, do whatever they were
2 going to do, but they were going to buy that later.
3 At some point, somebody contacted us, one of them,
4 and said, we want to go ahead and buy the other
5 part. So I just - - - I used basically the same
6 form.
- 7 Q Right. But this contract was for one acre?
- 8 A Right.
- 9 Q At seventy-two thousand dollars?
- 10 A Yes. It had a - - - I assumed - - -
- 11 Q It had something on it?
- 12 A I assumed that it had something on it.
- 13 Q Right, okay.
- 14 A Because we don't have much land here worth seventy-
15 two thousand dollars an acre.
- 16 Q Not even up in Indian Land.
- 17 A Well, maybe in Indian Land.
- 18 Q All right. So again, you're under subpoena for
19 next week. I want to let the plaintiffs' counsel
20 know, you have expressed to me an issue that you
21 have next Friday that I've got to tell the judge
22 about. Your wife has a medical procedure at Duke
23 next Friday? Is that correct, sir?
- 24 A That's right. She has to undergo an - - -
- 25 Q We don't need to know what it is.

Deposition of Philip E. Wright

1 A Yes.

2 Q But it was postponed because of the weather we had
3 last week?

4 A That's right.

5 Q So - - -

6 A Snowed them out.

7 Q Right. So you need to be - - - In fact, you told
8 me you're going to be leaving at about six o'clock
9 Friday morning?

10 A Yes, to - - -

11 Q All right. And we'll - - -

12 A Fight the Charlotte traffic.

13 Mr. Bell - We'll let the Court know that.

14 Thank you. I have no other questions.

15 Ms. Henderson - All right. Just a couple more
16 questions.

17 FURTHER EXAMINATION -(By Ms. Henderson)

18 Q When Ms. Broughton came into your office, what did
19 she tell you was the extent of her estate?

20 A I didn't ask her the extent of her estate.

21 Q Okay.

22 A Unless they're going to do specific devises to
23 specific people of specific things, I don't go into
24 the size of the estate with them. It's their
25 business.

Deposition of Philip E. Wright

1 Ms. Henderson - Okay. All right. No further
2 questions.

3 Whereupon - The deposition was concluded at
4 12:14 p.m.

Signing of Transcript Kelly Reiter
Court Reporter/Notary Public
of Deposition By

Witness Waived

(Recorded deposition tapes retained for fifteen days
from date of certification or until transcript has been
signed in cases when signature is not waived)

Deposition of Philip E. Wright

Testimony

Deposition of Jennifer Collins

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LANCASTER) SIXTH JUDICIAL CIRCUIT

JANICE GREGORY, GRADY L.)
MARTIN, JR., KEVIN MARTIN,)
TERESA B. MARTIN, AND)
WILLIAM D. MARTIN,)

PLAINTIFFS,)

VS)

THE ESTATE OF JANICE L.)
BROUGHTON AND JILL B.)
GAINY, AS PERSONAL)
REPRESENTATIVE OF THE)
ESTATE OF JANICE L.)
BROUGHTON,)

DEFENDANTS.)

C.A. NO. 2011-CP-29-00127

DEPOSITION OF JENNIFER COLLINS

LANCASTER, SOUTH CAROLINA

FEBRUARY 21, 2014

COPY

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Appearances: For the Plaintiffs -
Keabii Henderson, Esquire
The Shaw Legal Group, LLC
Post Office Box 25908
Greenville, South Carolina 29616

For the Defendants -
Francis L. Bell, Junior, Esquire
Francis Bell Law Firm, LLC
312 North Main Street
Post Office Box 867 (29721)
Lancaster, South Carolina 29720

Also Present -
Ms. Jill Gainey

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1 Deposition of Jennifer Collins, taken before me,
2 Kelly Reiter, a Notary Public for the State of South
3 Carolina, at the Law Office of Philip E. Wright, PA, 408
4 North Main Street, Lancaster, South Carolina, commencing
5 at 11:11 a.m. on February 21, 2014, in accordance with
6 the South Carolina Rules of Civil Procedure.

7 It was stipulated by and between Counsel for the
8 Plaintiffs and Counsel for the Defendants that this
9 deposition is taken for any purpose allowed under the
10 South Carolina Rules of Civil Procedure;

11 That the signing of the transcript of deposition by
12 the witness is waived.

13 * * * * *

14 Jennifer Collins, first being duly sworn, deposes and
15 says as follows:

16 E X A M I N A T I O N - (By Ms. Henderson)

17 Q All right. Good morning, Ms. Collins.

18 A Good morning.

19 Q I'm Keabii Henderson, and as you know, I've brought
20 you here this morning to take your deposition.

21 A Yes, ma'am.

22 Q Have you had your deposition taken before?

23 A Never.

24 Q All right. Well, I understand that you're a
25 secretary for an attorney. So therefore, you're

Deposition of Jennifer Collins

1 probably familiar with some of these rules, but
2 just for the sake of it, I'll go ahead and repeat
3 some of them for you.

4 A Okay.

5 Q All right. This morning, if at any time you need
6 to take a break, just let me know. I don't
7 anticipate that the deposition will take very long,
8 but nevertheless, if you do need to take a break,
9 just let me know that. If we do take a break for
10 any reason and the deposition has not concluded,
11 then it would not be appropriate for you to begin
12 discussing your testimony with any individual
13 outside of this deposition. Do you understand
14 that?

15 A I do.

16 Q In addition, if I ask you a question and you don't
17 understand the question, please ask me to rephrase
18 the question until you do understand the question.
19 If you do provide an answer to a question that I
20 asked, we will assume that you did understand the
21 question. Is that fair?

22 A That's fair.

23 Q Also, if an answer calls for a yes or a no answer,
24 I'd appreciate it, as well as the stenographer here
25 would appreciate it, if you could indicate yes or

- 1 no, as opposed to uh-huh or un-huh. Because that's
2 sometimes difficult to ascertain what you might
3 mean.
- 4 A Yes, ma'am.
- 5 Q And let's go ahead and get started. Do you reside
6 here in Lancaster?
- 7 A I live in Heath Springs, but it's part of Lancaster
8 County.
- 9 Q Okay. How long have you lived in this area?
- 10 A All of my life.
- 11 Q Are you familiar with Jill Gainey?
- 12 A I am.
- 13 Q How long have you known Jill Gainey?
- 14 A As long as she's been working for Mr. Bell.
- 15 Q Do you know approximately how long that's been?
- 16 A I don't. My mother worked for Mr. Bell for a
17 number of years, and Ms. Gainey took her position.
18 I can't recall how long that's been.
- 19 Q Outside of knowing her from that work environment,
20 do you have any other type of relationship with
21 Jill Gainey?
- 22 A I don't.
- 23 Q And you guys don't attend the same church or
24 anything of that nature?
- 25 A No.

- 1 Q Okay. I kind of skipped over this, but let me ask
2 you. Do you have family members that are here in
3 Lancaster County?
- 4 A I do.
- 5 Q Do you know what the last names of those family
6 members are?
- 7 A My family members?
- 8 Q Yes, ma'am.
- 9 A (Indicating yes) - I have family members with the
10 last name of Clanton.
- 11 Q How is that spelled?
- 12 A C-l-a-n-t-o-n.
- 13 Q Okay.
- 14 A And then on my married side, Collins.
- 15 Q Okay. Is that all of the last names for family
16 members here for you?
- 17 A Yes.
- 18 Q And the whole reason for that is just to make sure
19 that when we're selecting jurors on Monday, that we
20 don't have any of your family members sitting up
21 there. Okay. So you've known Jill Gainey for the
22 entire length of time that she's worked for her
23 current employer?
- 24 A That's correct.
- 25 Q And other than that work environment, you don't

1 have any other relationship with her. Is that
2 correct?

3 A No.

4 Q Are you also familiar with Janice Broughton?

5 A I am.

6 Q How are you familiar with her?

7 A She came into our office for us to do a will for
8 her.

9 Q Do you recall when that was?

10 A It was in 2007.

11 Q Was that the first time she had been into your
12 office?

13 A I understand that's not the first time she's been
14 in the office. That's the first time I've had
15 dealings with her.

16 Q Okay. When did you begin working for Mr. Wright?

17 A I came in March of 2003.

18 Q So between March of 2003 and 2007, when Ms.
19 Broughton came in to execute her will, you had no
20 dealings with Ms. Broughton?

21 A That's correct.

22 Q Okay. Thinking back to your knowledge of any
23 transactions or representations, that sort of
24 thing, between Ms. Broughton and Mr. Wright, do you
25 know of any other than the execution of the will

Deposition of Jennifer Collins

- 1 that you testified that was in 2007?
- 2 A That's the only thing I had dealings with.
- 3 Q All right. So you don't know of any other matters
4 that Mr. Wright may have represented Ms. Broughton
5 on?
- 6 A We had a real estate transaction, but I did not
7 have a part in that.
- 8 Q All right. What do you know about the real estate
9 transaction that you just referred to?
- 10 A I don't know anything, other than we've been
11 pulling files and looking at documents in the
12 office, preparing for today. I do family court,
13 primarily. I was just part of the will.
- 14 Q Do you recall the date of that real estate
15 transaction?
- 16 A I do not.
- 17 Q Do you recall if it was here in Lancaster County?
- 18 A It was.
- 19 Q Okay. So you had an opportunity to meet with
20 Janice Broughton back in 2007 when she came in for
21 her will execution?
- 22 A I did. I witnessed her signing it.
- 23 Q Do you recall what day that occurred on?
- 24 A I don't.
- 25 Q Was there anyone else privy to your witnessing Ms.

Deposition of Jennifer Collins

- 1 Broughton signing that will?
- 2 A Mr. Wright would have been in the room with us, as
3 well as Jessica Boiling, who was the other witness.
4 And that's B-o-i-l-i-n-g.
- 5 Q Okay. Do you recall seeing Ms. Broughton come in
6 prior to this date to meet with Mr. Wright
7 concerning the contents and what she wanted to be
8 in the will?
- 9 A We did it the same day that she came.
- 10 Q Do you recall approximately how long that took?
- 11 A Probably less than an hour.
- 12 Q Did Ms. Broughton drive herself to your office?
- 13 A She did.
- 14 Q Was there anyone else with her - - -
- 15 A She - - -
- 16 Q At that time?
- 17 A She was alone.
- 18 Q How much time did you spend speaking with or in the
19 presence of Ms. Broughton on that date?
- 20 A Probably less than ten minutes, just the time it
21 took to witness the will.
- 22 Q Okay. Did you have any conversation with Ms.
23 Broughton?
- 24 A None, other than showing her where she needed to
25 sign.

1 Q That was something that you did?

2 A I don't normally do that. That particular day, she
3 was in Mr. Wright's office. He was on his side of
4 his desk, and she was on the other side. When we
5 would go in and do wills in his office, you have to
6 stand on the corner, kind of where Ms. Gainey is.
7 Ms. Broughton was on that side, so I just reached
8 over and showed her the spot where her name was
9 typed.

10 Q Okay. Do you recall who typed up the will?

11 A I did.

12 Q How long did that process take?

13 A Probably ten, fifteen minutes. We have a standard
14 form with standard paragraphs, and Mr. Wright
15 always comes to us and tells us the specifics in
16 the will and changes that need to be made to our
17 draft form to meet the individual's needs.

18 Q Did that occur in this time, where Mr. Wright met
19 with you to make any suggested changes to the will
20 after you had typed it up originally?

21 A Repeat that, please.

22 Q Did Mr. Wright come to you and make any changes to
23 this will after you had typed it up originally?

24 A No, ma'am.

25 Q How long had Ms. Broughton met with Mr. Wright

- 1 prior to your getting the directions to type up the
2 will?
- 3 A I don't recall.
- 4 Q Do you recall if it was more than one hour?
- 5 A It was not.
- 6 Q Do you recall if it was more than thirty minutes?
- 7 A It's possible the whole process took thirty
8 minutes. I just don't recall.
- 9 Q Okay. Were you privy to the conversation that Ms.
10 Broughton had as she described to Mr. Wright her
11 desire as it related to her will?
- 12 A No, ma'am.
- 13 Q Do you - - -
- 14 A He meets with the clients behind closed doors.
- 15 Q Okay. Jessica Boiling, is she still employed by
16 Mr. Wright?
- 17 A No, ma'am.
- 18 Q What - - -
- 19 A She was a - - - She ran errands for our office
20 while she was over at the local university here.
- 21 Q She was a college student?
- 22 A Yes.
- 23 Q And you testified previously that yourself, as well
24 as Jessica Boiling, and Mr. Wright, and Ms.
25 Broughton were all in the office as Ms. Broughton

Deposition of Jennifer Collins

1 signed where she needed to for the will?

2 A Yes, ma'am.

3 Q Do you recall if Ms. Broughton had any questions
4 concerning the will?

5 A She did not.

6 Q Do you know what Ms. Broughton's educational level
7 was?

8 A I don't.

9 Q Can you describe the process that occurred after
10 you typed the will, up to the point where Ms.
11 Broughton signed the will?

12 A After Mr. Wright came to me with the direction of
13 what to put in the will, I typed up the will. I
14 take it to his office. He looks at it to make sure
15 it's what it's supposed to say before he shows it
16 to the client, of what her wishes are - - -

17 Q Was she in there at the time, Ms. Broughton?

18 A She was.

19 Q And were you in there as Mr. Wright looked at the
20 will at - - -

21 A I was not.

22 Q Okay.

23 A I hand it to him. I walk back out, close the door.
24 He looks at the will, and then he would give it to
25 her and go over it with her. When he's ready or

Deposition of Jennifer Collins

1 was satisfied that everything's right, then he
2 buzzes back out to me and says, grab the witness,
3 you guys come in and witness the will.

4 Q Okay. All right. Had you seen Ms. Broughton
5 outside of coming into Mr. Wright's office?

6 A No. I did not know her before she came here.

7 Q Based on any of the files that you've seen in your
8 office relating to Ms. Broughton, do you have any
9 knowledge as to what her mental capacity was at the
10 date and time that she executed the will?

11 A I do not.

12 Q And again, based on your observations on that
13 particular date, did you have an assessment as to
14 her mental capacity?

15 A She was a very pleasant lady, did not seem to be
16 disoriented whatsoever. She knew exactly what she
17 wanted to do.

18 Q Describe what someone looks like if they're
19 disoriented.

20 A You can tell by the way they talk and the questions
21 they ask. If they're confused, they're not clear
22 on what's going on.

23 Q Do you know whether Ms. Broughton had ingested any
24 type of medication prior to coming into your
25 office?

- 1 A I do not know.
- 2 Q Do you know whether Ms. Broughton was prescribed
3 any medication on that date and time that she
4 executed your will?
- 5 A I do not.
- 6 Q Are you familiar with the effects that medication
7 would have on individuals? And by that, I mean,
8 are you familiar enough to know when you're
9 encountering someone that has taken a prescribed
10 medication?
- 11 A Are you asking, as far as the side effects that
12 would happen with the medication?
- 13 Q Just when one is under the influence of some type
14 of prescribed medication, are you familiar with
15 what that person would look like?
- 16 A It depends on the medication.
- 17 Q Okay.
- 18 A It's safe to say yes, if somebody is acting a
19 little spacey from the result of a medication, we
20 would know that.
- 21 Q Would you know if someone was acting differently
22 than normal, if they had taken medication and you
23 had not met that person previously?
- 24 A No.
- 25 Q Okay. Do you have any knowledge as to any type of

- 1 mental impairment that Ms. Broughton may have had
2 on the date and time that she executed the will?
- 3 A I don't.
- 4 Q Are you aware of any type of medical issues that
5 she would have had, prior to her coming in to
6 execute the will, that would relate to her brain?
- 7 A I do not.
- 8 Q On the date and time that Ms. Broughton came in to
9 execute the will, were you aware that she had
10 children?
- 11 A No. Facts are never discussed with us. We just go
12 in and witness the wills.
- 13 Q In typing up the will, do you become privy to
14 facts?
- 15 A I'm only told to put whatever he and she, or the
16 person that he speaks of - - - or speaks with,
17 wants in their wills.
- 18 Q Right. So in doing that, do you become privy to
19 the facts as it relates to the individual testator
20 or testatrix?
- 21 A Yes, ma'am. Yes, to some extent.
- 22 Q And in this instance, did you become aware that Ms.
23 Broughton had children based on your following the
24 instructions of Mr. Wright in typing up her will?
- 25 A No.

Deposition of Jennifer Collins

- 1 Q So to your knowledge, this was not a case where Ms.
2 Broughton acknowledged that she had children and
3 made it very clear that she did not want to devise
4 or bequeath any belongings to them through her
5 will?
- 6 A If that knowledge was divulged, it was not to me.
- 7 Q It wasn't apparent through the will?
- 8 A No.
- 9 Q Okay. Describe to me what happened after Ms.
10 Broughton executed the will.
- 11 A After she executed the will, while we were still in
12 her presence, we fold - - - We do two originals in
13 our office. We give the client one - - -
- 14 Q Two originals?
- 15 A Yes. We give the client one, and we keep the other
16 in a safebox. So that if something happens after
17 the person passes and the will is lost, can't be
18 found, that kind of thing, their personal
19 representative can come here and look for it, and
20 we would have an original will to give them to
21 probate. So while we're still in her presence, I
22 would have had - - - She signed two originals that
23 day. I would have folded up one, put it in an
24 envelope marked original, handed it to her. Folded
25 up the duplicate, and either I took it or gave it

Deposition of Jennifer Collins

1 to Jessica, I don't recall which, and we would have
2 taken it and filed it.

3 Q I understand that's the procedure that you normally
4 follow. Can you tell us with certainty that that's
5 the procedure that was followed on that date and
6 time?

7 A Not with certainty, no.

8 Q And the two wills that are executed, the way that
9 that's done is that there are two copies of the
10 same will printed?

11 A Yes, ma'am.

12 Q Is that correct?

13 A That's correct.

14 Q Okay. Do you recall if Ms. Broughton misplaced her
15 original will that she would have taken with her on
16 that date and time?

17 A After she left here?

18 Q Correct.

19 A I do not know.

20 Q Are you aware that - - - of any time that she may
21 have contacted your office to request a duplicate
22 copy?

23 A Not that I recall.

24 Q Are you aware of how Ms. Broughton came to Mr.
25 Wright's office for a will? Do you know whether

- 1 she was referred by anyone?
- 2 A She was referred.
- 3 Q Do you know by whom?
- 4 A By Jill Gainey.
- 5 Q Do you know if Ms. Broughton set the appointment to
6 come in for the will herself, or - - -
- 7 A She did. She placed a phone call to the office,
8 and I actually took the phone call.
- 9 Q Can you describe that phone call?
- 10 A She gave me her name, told me that she wanted to
11 make an appointment for her will, and that her
12 cousin had referred her, that her cousin worked for
13 another lawyer in town. She wanted just to come
14 and - - - wanted us to do the will for her, wanted
15 to set the appointment up. Past that, I don't know
16 how quickly I was able to get her in or any of
17 those details, but I scheduled the appointment for
18 her to come in to meet with Mr. Wright to do the
19 will.
- 20 Q Do you know how much time would have transpired
21 between the time of the call and the time that the
22 appointment was set?
- 23 A I don't.
- 24 Q Do you know if it was more than a month?
- 25 A I doubt that, but I don't know for sure.

Deposition of Jennifer Collins

1 Q Do you doubt that it would have been more than two
2 weeks?

3 A Probably less than two weeks. We can usually get
4 someone in within a week or two of the phone call.
5 Sometimes, within the same - - - you know, a day or
6 two of the same week, depending on what's going on
7 with us court-wise.

8 Q All right. So typically when someone calls in for
9 a will to be drafted, they come in, and the same
10 day, they have the will drafted?

11 A Not always.

12 Q Okay.

13 A If they're simple wills, he will sometimes do them
14 while they're here just so they don't have to make
15 another trip. If they're more complex and take - -
16 - will take awhile for us to draft, he will have
17 the person come back at a later time.

18 Q Okay. Do you know of any types of questions that
19 are asked of the potential client or a client that
20 comes in to determine whether or not they're
21 mentally capable of executing a will?

22 A I don't. We don't take part in any of that.

23 Q Did Ms. Broughton indicate why she would not have
24 gone to the attorney that Ms. Gaaney was employed
25 by for the will?

Deposition of Jennifer Collins

1 A I didn't ask her.

2 Q Do you know if Jill Gainey ever contacted the
3 office on behalf of Ms. Broughton to provide
4 details for the will?

5 A No, I do not know.

6 Q After the will was executed that day in 2007, did
7 you have any contact with Ms. Broughton?

8 A I did not.

9 Q Are you related to, by blood or marriage, or do you
10 have any close personal relationship with, or are
11 you familiar with any members of Ms. Janice
12 Broughton's family?

13 A I am not.

14 Ms. Henderson - All right. I believe those
15 are all the questions I have.

16 Mr. Bell - Just a few, Ms. Collins.

17 E X A M I N A T I O N - (By Mr. Bell)

18 Q Of course, as you've told the plaintiffs' attorney,
19 you've known me forever?

20 A I have.

21 Q In fact, your mama worked for me for many years?

22 A That's correct.

23 Q And you may have interned with us during the summer

24 - - -

25 A I have.

Deposition of Jennifer Collins

1 Q A long time ago?

2 A For about two years, actually.

3 Q All right. Well, you have told the plaintiffs'
4 lawyer that the defendant in this case, Jill
5 Gainey, called to tell you what about Ms.
6 Broughton?

7 A I didn't testify to that. She asked if Jill had
8 contacted us about the terms of the will, and I
9 said, no.

10 Q Now, I understand that. I ain't got that far.
11 Didn't you tell us that Jill alerted y'all to
12 expect a phone call from Ms. Broughton?

13 A She didn't ask me that.

14 Q Okay. Well, did you know Ms. Broughton was calling
15 for an appointment before she called for the
16 appointment?

17 A I did.

18 Q And you got that information from Jill?

19 A Yes.

20 Q All right. But during that conversation, did Jill
21 tell you what to put in the will?

22 A No, absolutely not.

23 Q Did Jill say anything about Ms. Broughton?

24 A She just said she had a cousin who wanted a will
25 drawn up, and she had sent her to us, and she would

- 1 be calling for the appointment.
- 2 Q And then Ms. Broughton called for an appointment?
- 3 A Correct.
- 4 Q And you don't remember when?
- 5 A I don't even remember if it was the same day I
- 6 talked to Jill or not. I don't recall. I just was
- 7 the one that answered the phone that day.
- 8 Q That's fine. You set the appointment. You don't
- 9 remember when?
- 10 A I don't.
- 11 Q She called?
- 12 A She called.
- 13 Q The appointment was for the day that the will was
- 14 done?
- 15 A Correct.
- 16 Q Because you've told us that you remember it was
- 17 done the same day she came?
- 18 A That's correct.
- 19 Q Nobody came with her?
- 20 A No, sir.
- 21 Q She met with Mr. Wright?
- 22 A She did.
- 23 Q And that's your normal procedure?
- 24 A Correct.
- 25 Q You did see her that day?

Deposition of Jennifer Collins

- 1 A I did.
- 2 Q Did you notice any physical difficulties of any
3 kind?
- 4 A No.
- 5 Q Did you notice any speech impediment of any kind?
- 6 A No.
- 7 Q Did you notice any episodes of dizziness or
8 anything that would indicate any type of problem?
- 9 A No, sir.
- 10 Q Did you have a conversation with her in any way?
- 11 A To the extent that we were in the same room, doing
12 her will.
- 13 Q Okay.
- 14 A Nothing but, hello, how are you?
- 15 Q Well, did you understand what she was saying?
- 16 A Absolutely.
- 17 Q Did y'all, as part of your procedure in a will
18 anyway, did y'all get a copy of her driver's
19 license?
- 20 A We did.
- 21 Q And do you remember who ran that copy?
- 22 A That, I don't.
- 23 Q Okay. Did she have any difficulty producing that
24 driver's license?
- 25 A No, sir.

Deposition of Jennifer Collins

1 Q Now, again, Mr. Wright will have to tell us what
2 went on behind his closed doors, but when you were
3 back with her, did you actually see her sign the
4 will?

5 A I did.

6 Q Did she have any difficulty signing the will?

7 A She did not.

8 Q Were you there when the will was explained to her
9 or either read by her, one or the other, or both?

10 A No.

11 Q Okay.

12 A Mr. Wright goes over the wills with them before we
13 come in the room to witness them.

14 Q All right. So you saw her sign it, and then you
15 and Ms. Boiling signed - - - And I'm going to just
16 hand you this. You've seen that before?

17 A I have.

18 Q And I don't expect you to remember the language,
19 but did you form an opinion that Ms. Broughton was
20 over the age of eighteen on December the 7th of - -
21 - or excuse me, the 6th of nineteen - - - or excuse
22 me, of 2007?

23 A I would.

24 Q And that's the day she signed it. Did you form the
25 opinion that she was of sound mind?

Deposition of Jennifer Collins

1 A Absolutely.

2 Q And did you form the opinion she was under no
3 constraint or undue influence?

4 A She was not.

5 Q Because you signed this affidavit saying that,
6 didn't you?

7 A That's correct.

8 Q Okay. Now, you are familiar - - - And you don't do
9 real estate either. But you are familiar that Mr.
10 Wright's office and his real estate staff did meet
11 with her again sometime several years later?

12 A Yes, sir.

13 Q And you are familiar, in reviewing all the files on
14 Ms. Broughton, that Mr. Wright had actually met her
15 before the will was done on another real estate
16 matter?

17 A Yes, sir.

18 Q But you - - -

19 A I learned that recently.

20 Q All right. But you weren't involved in either one
21 of those?

22 A I was not.

23 Q Okay. And did you ever have occasion to have any
24 business - - - And when Ms. Broughton came back for
25 the second real estate matter in maybe '09, did you

Deposition of Jennifer Collins

1 have any involvement in that?

2 A I did not.

3 Q So other than directly dealing with her on the day
4 of the will, can you tell any of us any further
5 remembrance of any dealings with her after the will
6 was done?

7 A That was my first and only experience with her.

8 Mr. Bell - Okay. Thank you, ma'am.

9 A You're welcome.

10 Ms. Henderson - Just a few follow-up
11 questions, not very many.

12 FURTHER EXAMINATION - (By Ms. Henderson)

13 Q Do you know whether Janice Broughton was literate?

14 A I don't.

15 Q Do you know whether she had discussed with Jill
16 Gainey the contents of the will or any - - - Do you
17 know of any conversations between Jill Gainey and
18 Janice Broughton as it relates to what should go
19 into Janice Broughton's will?

20 A I don't.

21 Q So you're not aware of any, or you don't know of
22 any?

23 A I'm not aware of any.

24 Q Okay. So you're not aware if there was any type of
25 influence between Jill Gainey and Janice Broughton?

Deposition of Jennifer Collins

- 1 A I wouldn't know that.
- 2 Q Did you have any assistance with Jill Gainey's
3 becoming employed where she now is employed?
- 4 A None.
- 5 Q Did you send her there?
- 6 A No. I didn't know her before she started working
7 there.
- 8 Q All right. And your position, at the time that the
9 will was executed, was what?
- 10 A I am the family court secretary.
- 11 Q Is there normally another staff member that assists
12 with wills?
- 13 A There are only two of us in the office, and it
14 typically would depend on which one of us has a
15 chance to do it when he needs it done. On that
16 particular day, it must have been me.
- 17 Q Okay. So your assessment of Ms. Broughton was for
18 less than thirty minutes on the date that the will
19 was executed?
- 20 A Yes, ma'am.
- 21 Q Was it less than twenty minutes?
- 22 A I was probably in the room with her for about ten
23 minutes, but her total visit was probably thirty to
24 forty-five. But my extent of visitation with her
25 was when she walked in the door, to greet her. She

Deposition of Jennifer Collins

1 went back into Mr. Wright's office. We did the
2 signing. She left.

3 Q So that was probably about ten minutes total that
4 you testified to?

5 A That I spent with her, yes.

6 Q Okay. Do you know whether the will was read to Ms.
7 Broughton or explained to her by Mr. Wright?

8 A I don't know.

9 Ms. Henderson - All right. I think those are
10 all the questions I have.

11 Whereupon - The deposition was concluded at
12 11:41 a.m.

Signing of Transcript Kelly Reiter
 Court Reporter/Notary Public
of Deposition By

Witness Waived

(Recorded deposition tapes retained for fifteen days
from date of certification or until transcript has been
signed in cases when signature is not waived)

Deposition of Jennifer Collins

CERTIFICATE OF REPORTER

State of South Carolina }
County of York }

I, Kelly Reiter, a Notary Public for the State of South Carolina, do hereby certify that I placed under oath the aforesaid deponent; that I reported the foregoing proceedings at the time and place herein designated and that the foregoing pages are a true, accurate and correct transcript of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, nor in anyway interested in the event of said cause.

In witness my hand and official seal this the 23rd day of Feb 2014, in the City of Rock Hill, County of York, State of South Carolina.

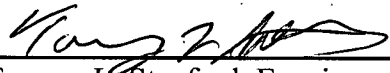
Kelly Reiter
Kelly Reiter
Court Reporter/Notary Public

My Commission Expires:
7-20-2022

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 4, 2014



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY

Court of Common Pleas

Brian M. Gibbons Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2014-000936

Janice Gregory, Grady Martin, Jr., Appellants,
Kevin Martin, Teresa B. Martin
and Williams D. Martin

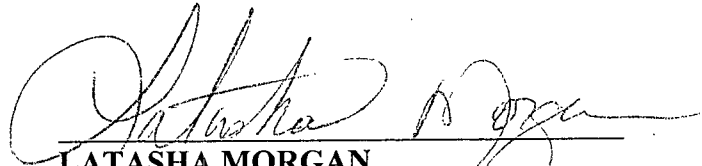
vs.

The Estate of Janice Broughton and Jill Gainey, as Personal Respondent
Representative of the Estate of Janice L. Broughton

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Francis L. Bell, Jr., attorney for the Respondents, P.O. Box 867 Lancaster, SC 29721-0867 by depositing a copy of it in the United States Mail, postage prepared on the 24th day of November, 2014.

November 24, 2014.



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