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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
ROBERT BONDS, CIRCUIT COURT JUDGE

Appellate Case No. 2021-001337

IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton Barringer Luzak, ...Appellant,

v.

Merrill U. Barringer, ...Respondent,

**RECORD ON APPEAL
VOLUME XIII OF XVII**

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1 STATE OF SOUTH CAROLINA
2 COURT OF COMMON PLEAS
3 COUNTY OF BEAUFORT
4 IN THE MATTER OF:
5 ESTATE OF PAUL BRANDON BARRINGER, II
6
7 HAMPTON B. LUZAK,
8
9 Plaintiff,
10
11 vs. C/A NO. 2016-CP-07-1919
12
13 MERRILL B. LIGHT, MERRILL U. BARRINGER,
14 AS PERSONAL REPRESENTATIVE OF THE ESTATE
15 OF PAUL BRANDON BARRINGER, II, J. RANDOLPH
16 LIGHT, JR., MERRILL B. LIGHT AS PUTATIVE
17 TRUSTEE OF THE PAUL B. BARRINGER, II
18 REVOCABLE TRUST DATED DECEMBER 4, 1998,
19 AND MERRILL B. LIGHT AS TRUSTEE OF THE
20 MERRILL BARRINGER LIGHT REVOCABLE TRUST,
21 Defendants.
22

13 STATE OF SOUTH CAROLINA
14 COURT OF COMMON PLEAS
15 COUNTY OF BEAUFORT
16 IN THE MATTER OF:
17 ESTATE OF PAUL B. BARRINGER, II
18 HAMPTON B. LUZAK,
19 Plaintiff,
20 vs. C/A NO. 2019-CP-07-01253
21 and 2019-CP-07-01254
22 MERRILL U. BARRINGER,
23 Defendants.
24 VIDEO
25 DEPOSITION OF: REBECCA L. BOSTICK

DATE/TIME: December 3, 2020 at 2:30 PM

(TITLE PAGE CONTINUED ON NEXT PAGE)

1 DATE: December 3, 2020
2 TIME: 2:30 PM
3 LOCATION: Jolley Law Group
4 99 Main Street
5 Suite 103
6 Hilton Head Island, SC
7
8 TAKEN BY: Counsel for the Plaintiff
9
10 REPORTED BY: Priscilla Nay,
11 Court Reporter
12
13
14
15
16
17
18
19
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21
22
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25

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2 ALSO PRESENT:

3 Kevin Ward, Videographer

4
5 (INDEX AT REAR OF TRANSCRIPT)

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1 (PLAINTIFF'S EXHIBIT 1, Plaintiff's
2 deposition notebook with 36 tabbed documents, was
3 marked for identification.)

4 THE VIDEOGRAPHER: Good afternoon.
5 We are going on record at 2:30 PM, December 3rd,
6 2020. This is Media Unit 1, recorded deposition
7 of Rebecca Bostick taken by Counsel for the
8 Plaintiff in the matter of Hampton B. Luzak
9 versus Merrill B. Light, et al filed in the Court
10 of Common Pleas, Case Number 2016-CP-07-1919.

11 This deposition is being held at Jolley
12 Law Group located at 99 Main Street, Hilton Head,
13 South Carolina 29926. My name is Kevin Ward from
14 the firm Veritext. I'm the videographer. The
15 court reporter is Priscilla Nay from the firm
16 Veritext. Would the court reporter please swear in
17 the witness.

18 REBECCA LYNN BOSTICK
19 being first duly sworn, testified as follows:

20 MS. KIRK: Jim, before you get
21 started -- this is Ariail Kirk. I just wanted to
22 say that we've got a copy of the August 23rd, 2017
23 order on the motions to quash and testamentary
24 exception. And in the witness' role at the
25 previous McNair Law Firm we are here in accordance

1 with this order and anything that she's going to
2 testify to would be limited to the decedent's
3 estate planning and communications related to
4 their preparation, execution and amendment as
5 provided for in that order.

6 MR. TWOMBLEY: And I -- I want to make
7 sure you guys agree that by allowing her to testify
8 in accordance with this order that we're not
9 waiving any attorney-client privilege.

10 MR. GILREATH: She's going to have
11 to testify to things with testamentary exceptions,
12 but I don't think I'm going to ask anything that's
13 outside the borders of that.

14 If you want to try to stop her I guess
15 you can insert your exceptions and instruct her --
16 do whatever you want to do at your own risk, but I
17 don't intend to ask anything that's not consistent
18 with the testamentary exception.

19 MR. TWOMBLEY: Okay. Well, I -- I am
20 agreeing to allow her to testify in accordance with
21 Judge Mullen's order and, you know, if I think you
22 are going outside of it I'll -- I'll object and
23 we'll just deal with it as it comes.

24 MR. GILREATH: That's fine.

25 MR. TWOMBLEY: But you -- I want to

1 make sure you agree that by allowing her to testify
2 about the preparation, execution and amendment of
3 Mr. Barringer's estate planning documents we are
4 not waiving the attorney-client privilege. Do you
5 agree to that?

6 MR. GILREATH: Just wait a minute.
7 I'll agree with that one. I agree you're not
8 waiving it, but she's going to be testifying
9 subject to the testamentary exception. So --

10 MR. TWOMBLEY: If you agree we're not
11 waiving it that's -- I'm not sure what you said
12 after that, but that's -- as long as we've got
13 your agreement that by allowing her to testify
14 about the preparation, execution or amendment of
15 Mr. Barringer's estate planning documents we're
16 not waiving the attorney-client privilege.

17 MR. GILREATH: Well, now you're
18 representing Mrs. Barringer. Right?

19 MR. TWOMBLEY: Yes, and the estate.

20 MR. GILREATH: Are you speaking for
21 everybody else?

22 MR. TWOMBLEY: I'm sorry?

23 MR. GILREATH: Are you speaking for
24 everybody else?

25 MR. TWOMBLEY: I don't know what you

1 mean everybody else. I'm speaking for --

2 MR. GILREATH: Last time I'm looking at
3 the picture there's some other people in the room
4 that are representing some other people, at least
5 on this screen.

6 MR. TWOMBLEY: Well, I don't know that
7 anybody else has got any interest in it other than
8 my client, but I'm -- I'm happy to hear what
9 everybody else's thoughts are. But as far as
10 I'm concerned me and Ms. Walters who represent
11 Mrs. Barringer are the only ones that matter.

12 MR. GILREATH: All right. Well, you
13 asserted your position. You've heard what I said.

14 MR. TWOMBLEY: Well, no. It's not a
15 matter of me asserting my position. It's a matter
16 of you agreeing on the record that by me allowing
17 Ms. Bostick to testify in accordance with Judge
18 Mullen's order you are agreeing that we are not
19 waiving the attorney-client privilege. I need you
20 to state that you are agreeing to that.

21 And if you don't state that you agree
22 to that we will have to go back to Judge Mullen
23 and get an order from her. I think she's -- she's
24 already found that it applies. I'm just asking you
25 to agree that this order applies to Ms. Bostick's

1 deposition.

2 MR. GILREATH: I -- I agree that
3 Judge Mullen's order applies to this deposition.

4 MR. TWOMBLEY: Okay.

5 THE VIDEOGRAPHER: Would the attorneys
6 and counsel please state their affiliation for the
7 record.

8 EXAMINATION

9 BY MR. GILREATH:

10 Q. All right. Good afternoon,
11 Ms. Bostick. Sorry we had so much --

12 A. Good afternoon.

13 Q. -- technological problems here. It's
14 the first time we've run into that. Hopefully
15 it doesn't happen again.

16 I'm Jim Gilreath from Greenville
17 sitting here with Bill Hogan of my firm and we
18 represent the Plaintiff, Hampton Luzak. There's
19 housekeeping stuff I need to go over in the
20 beginning and then I'll get to some questions.

21 At the beginning of each deposition the
22 rules require that I instruct you to ask the
23 opposing counsel -- myself -- rather than the
24 witness' own -- your counsel -- for clarification,
25 definitions, explanations to words, questions or

1 documents presented during the course of the
2 deposition and you are to -- to abide by these
3 instructions according to the rules.

4 Any objections except those which would
5 be waived if not made at the deposition under Rule
6 32(d)(3) of the South Carolina Rules of Civil
7 Procedure and those necessary to assert privilege
8 to enforce the limitations on evidence directed
9 by the Court or to present a motion pursuant to
10 Rule -- Rule 30(d) shall be preserved.

11 Counsel shall not direct or request
12 that a witness not answer a question unless that
13 counsel has objected to the questions on the ground
14 that the answer is protected by a privilege or
15 limitation on the evidence directed by the Court or
16 unless that counsel intends to present a motion
17 under Rule 30(d) of the South Carolina Rules of
18 Civil Procedure.

19 In addition counsel shall have
20 affirmative duty to inform you as the witness that
21 unless such objection is made the question must be
22 answered.

23 Counsel directing that a witness not
24 answer a question on those grounds or allowing a
25 witness to refuse to answer a question shall move

1 the Court for a protective order under Rule 26
2 of the South Carolina Rules of Civil Procedure
3 within -- or 30(d) of South Carolina Rules of Civil
4 Procedure within five business days of the
5 suspension or termination of the deposition.

6 Failure to file such a motion will
7 constitute waiver of the objection and the
8 deposition made. Counsel shall not make objections
9 or statements which might suggest an answer to a
10 witness.

11 Counsel's objections shall be
12 stated concisely and in a nonargumentative and
13 nonsuggestive manner stating the basis of the
14 objection and nothing more.

15 Counsel and the witness shall not
16 engage in private off-the-record conferences during
17 depositions or during breaks or recesses regarding
18 the substance of the testimony at the deposition
19 except for the purpose of deciding whether to
20 assert a privilege or to make an objection or to
21 move for a protective order.

22 Any conferences which occur pursuant
23 to or in violation of Section 5 of this rule
24 which I just went over are proper subjects for
25 inquiry by -- by me to ascertain whether there's

1 been any witness coaching and if so to what extent
2 and nature. I would ask that opposing counsel
3 avoid -- do you understand you're under oath,
4 ma'am?

5 A. Yes.

6 Q. Ms. Bostick.

7 A. Yes, sir.

8 Q. You understand you're under oath?

9 A. Yes, sir.

10 Q. I can't hear her.

11 MS. PAYLOR: She's muted.

12 MR. GILREATH: She needs to unmute.

13 How do we unmute her?

14 THE COURT REPORTER: Can you cut the
15 volume up over there? If I unmute here it's going
16 to echo again. That's why were trying to do it,
17 where we could see everyone.

18 MR. GILREATH: Ashley, you seem to be
19 running the show in there. Can you unmute the
20 witness.

21 THE VIDEOGRAPHER: Right here?

22 THE COURT REPORTER: Can you cut the
23 volume up there? If we unmute on the laptop then
24 it's going to create an echo. You're just going to
25 have to speak louder.

1 THE WITNESS: Okay.

2

3 THE WITNESS: Good. Yes, sir.

4 THE COURT REPORTER: You're just going
5 to have to speak really loud.

6 THE WITNESS: Okay. Can you can hear
7 me now?

8 BY MR. GILREATH:

9 Q. Yeah.

10 A. Okay.

11 Q. All right. So you can hear me now?

12 A. Yes, sir.

13 Q. Okay. You understand you are under
14 oath?

15 A. Yes, sir.

16 Q. And being under oath means you're sworn
17 to tell truth, correct?

18 A. Yes, sir.

19 Q. Do you understand that your responses
20 here will have the same force as in a courtroom
21 with a judge and a jury?

22 A. Yes.

23 Q. Are you prepared to answer my questions
24 today?

25 A. Yes, sir.

1 Q. Is there anything that would prevent
2 you from providing me your full attention?

3 A. No.

4 Q. And you aren't taking any medications
5 that will prevent your answering any questions?

6 A. No, sir.

7 Q. And you will let me know if you don't
8 understand one of my questions?

9 A. Yes.

10 Q. And if you need to take a break at any
11 time just let me know and we'll take a break. This
12 is not an endurance contest.

13 So can we agree that you'll give me
14 your -- we can agree that you will give me your
15 full attention and if you don't understand one of
16 my questions you will let me know, correct?

17 A. Yes, sir.

18 Q. All right. Okay. State your full name
19 for the record.

20 A. Rebecca L. Bostick.

21 Q. Have you ever used any other names?

22 A. Maiden name is Warren.

23 Q. Do you have any nicknames?

24 A. Becky and Becca.

25 Q. What is your date of birth?

1 A. May 20th, 1976.

2 Q. And where were you born?

3 A. New Castle, Pennsylvania.

4 Q. Okay. Can you give me your Social
5 Security number.

6 MS. KIRK: I object.

7 MR. TWOMBLEY: I object. Irrelevant.

8 BY MR. GILREATH:

9 Q. Do you have your driver's license with
10 you?

11 A. In my office.

12 Q. All right. What is your -- what is
13 your residence address?

14 A. 51 Sandy Pointe Drive, Bluffton, South
15 Carolina 29910.

16 Q. And how long have you lived there.

17 A. 14 years.

18 Q. Where did you live before that?

19 A. Crystal Beach Drive in Bluffton, South
20 Carolina.

21 Q. Are you married?

22 A. Divorced.

23 Q. Divorced. What is the name of your
24 ex-husband?

25 A. Joshua J. Bostick.

1 Q. Okay. And what is his occupation?

2 A. He's self-employed. He's a car
3 detailer.

4 MR. GILREATH: Can you hear her? Madam
5 Court Reporter, I am not hearing her with a lot of
6 clarity. Have you got a better mic connection or
7 something?

8 THE COURT REPORTER: We -- we can
9 either have her through the laptop where you can't
10 see everyone or we have it where it's on the big
11 screen so you'd have it both ways. But I'd have to
12 have the -- the mute on her microphone. Ma'am if
13 you could just speak louder. I think --

14 THE WITNESS: Yeah.

15 THE COURT REPORTER: -- we have volume
16 in the -- I mean we have audio in the room. It's
17 just if she could speak louder.

18 MR. GILREATH: Well, I'm having -- I'm
19 having trouble understanding her. So is Mr. Hogan.
20 Have you got something --

21 THE VIDEOGRAPHER: We'll go off the
22 record. It's 2:43 PM.

23 (Off-the-record conference.)

24 THE VIDEOGRAPHER: We are back on the
25 record. It is 2:45 PM.

1 BY MR. GILREATH:

2 Q. Okay. You've only been married one
3 time?

4 A. Yes, sir.

5 Q. Okay. Do you have any children?

6 A. Yes, sir.

7 Q. What are their names?

8 A. Zachary James Bostick and Jamison Page
9 Bostick.

10 Q. Are they old enough to be employed or
11 they're not?

12 A. No, sir. No.

13 Q. You said they're -- they're not
14 employed?

15 A. No.

16 Q. Too young to -- too young to work?

17 A. Yes, sir.

18 Q. Okay. And what -- give me your
19 educational background and work history --

20 A. Sure.

21 Q. -- before you went to work with the
22 McNair firm.

23 A. Okay. I went to school at Slippery
24 Rock University located in Pennsylvania. Following
25 that I went to work in New Jersey for an

1 architectural firm and then a marketing firm. And
2 then I returned or came down to South Carolina
3 and I worked for Michael Howe who is an attorney on
4 the island in estate planning and I waitressed.

5 And then I worked in the golf industry
6 for a while before joining Bethea, Jordan & Griffin
7 which eventually merged with McNair which was
8 eventually -- became part of Burr Forman McNair or
9 Burr and Forman now.

10 Q. I didn't catch all that. Can you slow
11 down a little bit.

12 A. Sure. Start from the beginning?

13 Q. You said something about merging with
14 the McNair firm or something. I didn't pick that
15 up.

16 A. Okay. Bethea Jordan and Griffin is the
17 firm I started with and then it merged with McNair
18 Law Firm which became a part of Burr & Forman and
19 now I work at Jolley Law Group.

20 Q. Okay. And are you still working there
21 or are you working for Mr. Jolley now?

22 A. I'm working for Mr. Jolley.

23 Q. But you're not associated with Burr,
24 Forman & McNair anymore, right?

25 A. No, sir.

1 Q. Have you ever been involved in any
2 business entity as an owner, part owner or officer
3 or director that's filed for bankruptcy?

4 A. I'm sorry. What was that?

5 Q. Have you ever been involved in any
6 business entity as an owner, part owner or officer,
7 director or manager that filed for bankruptcy?

8 A. No, sir.

9 Q. Okay. Have you ever testified in
10 court?

11 A. No, sir.

12 Q. Have you ever been a Plaintiff or a
13 Defendant in another lawsuit?

14 A. No, sir.

15 Q. Okay. Can you give me the telephone
16 numbers of all cell phone numbers you've had since
17 2010.

18 A. Personal numbers?

19 Q. Do what?

20 A. Personal numbers?

21 Q. Yes. Well, if you've got any -- what
22 other numbers would you have?

23 A. My direct line at work.

24 Q. No. I'm talking about cell phone
25 numbers now.

1 A. Okay. I've only had one.

2 (843)304-2190.

3 Q. Do you often use text messaging?

4 A. For personal use only.

5 Q. Do you delete texts off your phone or
6 are they still on there?

7 A. I delete them.

8 Q. Give me all the e-mail addresses you've
9 used since 2010.

10 A. Becky -- B-E-C-K-I -- Bostick,
11 B-O-S-T-I-C-K -- @gmail.com and Becky -- I'm sorry.
12 Becca -- B-E-C-C-A -- lbosc@gmail.com.

13 Q. Okay. What kind of computer do you use
14 other than the one at work, if you have one?

15 A. I do not have one.

16 Q. Are you on Facebook?

17 A. Yes, sir.

18 Q. And what is your address or whatever it
19 is?

20 A. Becca Bostick.

21 Q. Spell that. Is it B-E-C-C-A?

22 A. Yes, sir.

23 Q. Is that -- is that the only name you
24 use? I'm not a Facebook person. So --

25 A. I only have --

1 Q. -- this is --

2 A. -- one account.

3 Q. -- foreign territory?

4 A. -- account. Previously it was under
5 Becky Bostick, but it's the same account.

6 Q. Repeat that again.

7 A. Previously it's under Becky Bostick,
8 but I changed it. I updated it, but it's still the
9 same account.

10 Q. Okay. What is the name of it now?

11 A. Becca Bostick.

12 Q. Okay. Have you ever been arrested?

13 A. No, sir.

14 Q. Have you ever been -- well, I don't
15 guess you've ever been convicted of a crime if you
16 haven't been convicted --

17 A. Nope.

18 Q. -- or arrested. Have you ever been
19 involved in any legal claims or lawsuits?

20 A. No.

21 Q. Okay. Tell me what -- everything you
22 did to get ready for this deposition.

23 A. I reviewed the documents and I spoke
24 with my attorney.

25 Q. Who gave you the documents?

1 A. My attorney, Ariail.

2 Q. Okay. That's Ms. Kirk, right?

3 A. Yes, sir.

4 Q. Have you had any meetings with Ashley
5 Twombley?

6 A. No.

7 Q. When is the first time you ever met
8 Ashley Twombley?

9 A. I believe today and I think we may have
10 spoken on the phone earlier this year.

11 Q. Okay. But the first time you met him
12 was today?

13 A. I believe so. Otherwise it was just in
14 passing.

15 Q. Have you spoken to anyone other than
16 your counsel about this case?

17 A. No. Well, John.

18 Q. John?

19 A. Jolley.

20 Q. Talking about John Jolley?

21 A. Yeah, just generally.

22 Q. Tell me what you and Mr. Jolley talked
23 about.

24 A. Just how to present myself --

25 Q. Let me turn this --

1 A. -- and what to expect.

2 Q. All right. What -- what did you talk
3 about with Mr. Jolley?

4 A. What to expect in a deposition and how
5 to present myself.

6 Q. Okay. Anything else?

7 A. That's basically about it.

8 Q. Did he show you any of the documents
9 that we have in the exhibit notebook that I'm going
10 to be going through with you?

11 A. No, sir.

12 Q. Have you ever testified in court
13 before?

14 A. No. Well, I mean, for my divorce if
15 you count that.

16 Q. Other -- other than your divorce.

17 A. No, sir.

18 Q. Okay. And you've never been a
19 Plaintiff or a Defendant in another lawsuit?

20 A. No, sir.

21 Q. You may have already told me this, but
22 when -- when did you start working for Mr. Jolley
23 at the McNair Law Firm?

24 A. 2006. No. I'm sorry. 2005.

25 Q. 2005?

1 A. That's when we first started working
2 together.

3 Q. And what was the nature of the work you
4 did for him?

5 A. Estate planning. I -- I was his legal
6 assistant at the time.

7 Q. Okay. Could you -- did you take on
8 another position?

9 A. Yes, sir.

10 Q. What was that?

11 A. Paralegal.

12 Q. Okay. And what did -- what did you do
13 as a paralegal?

14 A. I became a bill keeper or a timekeeper
15 and I helped him more redacting documents and
16 meeting with clients and doing -- having more
17 responsibilities.

18 Q. And you said you became -- what did you
19 say? You said a gatekeeper or a timekeeper?

20 A. A timekeeper, so I can bill my work.

21 Q. Is -- is that a timekeeper for you or
22 for him?

23 A. For me.

24 Q. So they billed out your time?

25 A. Yes, sir.

1 Q. And you filled out a time sheet
2 every day?

3 A. Yes, sir. Well, we entered it into the
4 computer.

5 Q. Do what?

6 A. Yes. We entered it in the computer.

7 Q. You entered it in a computer?

8 A. Yes, sir.

9 Q. So all of your -- all of your time that
10 you spent on various matters would be on the
11 computer at the McNair firm? I'll just refer to
12 that firm as McNair.

13 A. Yes, sir.

14 MR. TWOMBLEY: Object --

15 MS. KIRK: Object to the form.

16 MR. TWOMBLEY: Object to the form.

17 BY MR. GILREATH:

18 Q. Did you put any time in for
19 Mr. Jolley or did he keep up with his own time?

20 A. He would often write it and I would --
21 I would enter it.

22 Q. I didn't -- you're going to have to
23 start over on that one. I didn't catch it.

24 A. Oh. He would often write out his time
25 and he and I would word process it.

1 Q. He -- he would write it out and then
2 you would edit it and put it in the computer?

3 MS. KIRK: Object to the form.

4 BY MR. GILREATH:

5 Q. Did I get that wrong?

6 A. I would just enter it.

7 Q. Okay. Do you know what happened to his
8 original notes on the time he -- he wrote out for
9 you? What happened to that?

10 A. I would leave them in my drawer at
11 work.

12 Q. Do you still have those -- those files?

13 A. I no longer work there.

14 Q. Do what?

15 A. I no longer work there.

16 Q. Okay. Were -- were they there when
17 you left?

18 A. I would keep them for a couple of
19 years.

20 Q. What did you do with them then?

21 A. Shred them.

22 Q. What happened -- when you leave were
23 there any there when you left?

24 A. There should have been.

25 Q. Did anybody ever call you about what to

1 do with them or anything?

2 A. No, sir.

3 Q. Is -- is -- has anybody from the
4 McNair firm asked you about where those papers may
5 be?

6 A. Nobody has contacted me about those.

7 Q. Okay. And what year did you leave
8 McNair?

9 A. I left Burr & Forman this past January.

10 Q. Is that when -- when Mr. Jolley left?

11 A. Yes. He would left right before me.

12 Q. Did you ever in the course of working
13 with Mr. Jolley meet my client's father, Paul
14 Barringer?

15 A. I sure did.

16 Q. Tell me what you remember about
17 Mr. Barringer.

18 A. Mr. Barringer, he -- excuse me. He
19 was a -- a very great businessman. He was just a
20 nice guy. He always acknowledged me when I came in
21 the room, which was nice.

22 Q. Okay. Anything else you can remember
23 about him?

24 MR. TWOMBLEY: Object to form of the
25 question.

1 BY MR. GILREATH:

2 Q. Do you understand my question?

3 A. Has he objected?

4 MR. TWOMBLEY: Yeah. Unless someone
5 tells you not to answer you can answer.

6 THE WITNESS: Oh, I'm sorry.

7 MR. TWOMBLEY: That's okay. I just --
8 I just said --

9 THE WITNESS: I'm sorry. Can you
10 repeat the question then.

11 BY MR. GILREATH:

12 Q. Well, I --

13 THE COURT REPORTER: Do you want me to
14 read that back?

15 THE COURT REPORTER: Would you read
16 that back to me, Madam.

17 (The Court Reporter read the question
18 commencing on page 28 line 21.)

19 MS. KIRK: Object to the form.

20 MR. TWOMBLEY: Same objection.

21 BY MR. GILREATH:

22 Q. Is there anything else particularly you
23 remember about him that you haven't told us?

24 MS. KIRK: Object to the form. I -- I
25 object to that to the extent you're asking for

1 anything outside of the testamentary exception.
2 It's such a vague question. I'm not really sure if
3 that's your intent or not.

4 MR. TWOMBLEY: Same objection.

5 MS. KIRK: So to the extent that that's
6 what you're asking I do object to it and would have
7 her not answer on the grounds of anything that's
8 privileged.

9 MR. TWOMBLEY: Yeah. Why don't you be
10 more specific with --

11 BY MR. GILREATH:

12 Q. Can you answer that question.

13 MR. GILREATH: I'm not looking for
14 anything privileged. It was a really simple
15 question. Can you read it back, Madam Court
16 Reporter.

17 THE COURT REPORTER: I'm sorry. The
18 same question.

19 (The Court Reporter read the question
20 commencing on page 28 line 21.)

21 MS. KIRK: And note our continuing
22 objection.

23 MR. TWOMBLEY: I -- I think -- I mean,
24 don't want to instruct her not to answer. I think
25 you're just asking for general information about --

1 about him. Right, Jim?

2 MR. GILREATH: I'm not -- I'd prefer
3 you not be making any speaking objections,
4 actually. It was a fairly simple question under
5 the English language as I understand it. I just
6 asked her what else she remembered about him, I
7 believe.

8 Is that right? It's certainly not
9 seeking anything privileged. Y'all let her answer
10 the question and let's get on with this thing.

11 MR. TWOMBLEY: Well, I mean, it's just
12 not that easy, Jim. I mean, you asked her what
13 else --

14 MR. GILREATH: It is easy.

15 MR. TWOMBLEY: What else she remembers.
16 What if she starts saying, well, I remember one --

17 MR. GILREATH: Quit making speaking
18 objections, Ashley.

19 MR. TWOMBLEY: Okay. Well --

20 MR. GILREATH: You're making
21 objections.

22 MR. TWOMBLEY: Well, look --

23 MR. GILREATH: Don't have a right to
24 say anything else.

25 MR. TWOMBLEY: This will be easy then.

1 I instruct -- it's my opinion that that question
2 could potentially invade the attorney-client
3 privilege and it -- it is not within the
4 testamentary exception to the attorney-client
5 privilege and I do not believe she should answer
6 it.

7 MS. KIRK: And based upon that
8 objection I will instruct her not to answer.

9 MR. TWOMBLEY: Now, if you want to ask
10 a better specific question you can do it, but if
11 you're going to just lob out insults to us and ask
12 these vague and ambiguous questions that's --
13 that's -- that's -- you know, that's how we're
14 going to handle it.

15 MR. GILREATH: Well, Madam Court
16 Reporter, so we've got the record straight would
17 you read out my question to her again so we all
18 understand what it is.

19 THE COURT REPORTER: Yes, sir. Give me
20 one second. The same question. Question --

21 MR. GILREATH: The same question.

22 THE COURT REPORTER: I'm sorry?

23 MR. GILREATH: The same question I
24 started with.

25 THE COURT REPORTER: Yes, sir.

1 (The Court Reporter read the question
2 commencing on page 28 line 21.)

3 MR. TWOMBLEY: And I am stating that
4 it is possible that a response to that question
5 could potentially require the witness to disclose
6 attorney-client privileged information. I doubt
7 it and I'd like to try to talk with you to work out
8 where she can respond.

9 But if you're going to refuse to let
10 me do that, accuse me of make -- making a speaking
11 objection and then insult me for not understanding
12 the English language then we'll just leave it at
13 that. However you'd like to proceed. It's your
14 deposition, Mr. Gilreath.

15 MR. GILREATH: It's a fairly simple
16 question, Ashley. It's not intended to seek out
17 anything that would be privileged. I'm just
18 asking her if there's anything in particular she
19 remembered about him that she hadn't told me.

20 MR. TWOMBLEY: Yeah. We got the
21 question. We've heard it three times now.

22 MR. GILREATH: Yes. It was a fairly
23 simple question Ashley, but you -- just so the
24 record is clear you are instructing her not to
25 answer it on the grounds of privilege, correct?

1 MR. TWOMBLEY: That is incorrect. What
2 I am doing --

3 MR. GILREATH: What is -- what is your
4 reason? Because you know what the rule says. I've
5 already gone through that --

6 MR. TWOMBLEY: Well --

7 MR. GILREATH: You know -- you well
8 know what the rule is. So what's your objection?

9 MR. TWOMBLEY: My objection is that
10 it is my opinion that that question is so broad
11 that it could potentially require the witness to
12 disclose attorney-client privileged information.
13 And it is my opinion that it goes outside the
14 scope of Judge Mullens' order that only allows
15 information to be disclosed related to the
16 preparation, execution or amendment of
17 Mr. Barringer's estate planning documents. If --
18 that's my opinion. Based on that opinion I believe
19 it was Ms. Kirk, the witness' lawyer, who
20 instructed her not to answer.

21 MS. KIRK: That is correct.

22 MR. TWOMBLEY: And so again, I am
23 offering to you to try to craft a question that
24 the witness can answer so that you can get the
25 information you are seeking and so we don't have

1 to have this -- delay the deposition. But if you
2 don't want to do that that -- that is your choice.

3 MR. GILREATH: I asked her, Ashley,
4 if there were any other observations of her in her
5 dealings with them that --

6 MR. TWOMBLEY: That is not what you
7 asked her. That is not what you asked her. That's
8 a different question.

9 MR. GILREATH: Not privileged. This is
10 something she saw or observed. Are you still
11 taking the deposition?

12 MR. TWOMBLEY: Yes.

13 MR. GILREATH: Well, I'm going to talk
14 to Judge Mullen about it. You file your motion or
15 do whatever you've got to do.

16 MR. TWOMBLEY: Well, what I'd like to
17 do is talk to you about what my objection is so you
18 can try to ask a better question and you can get
19 what you need and we won't have to bother the judge
20 with it.

21 But if you would like to handle it the
22 way you suggested then the record will speak for
23 itself and we will go see Judge Mullen.

24 MR. GILREATH: An observation Ashley
25 and Ms. Kirk is it's not -- it's an observation.

1 There's nothing privileged about an observation. I
2 just -- if that's your position then you've got the
3 right to take it and -- and -- but I just want to
4 be sure I understand what you're saying.

5 There's nothing in the world that I
6 know that could be privileged about an observation.
7 Now, do you still stick by your objection or are
8 you going to -- are we going to talk to the judge
9 about it later?

10 MR. TWOMBLEY: Well, would you like to
11 limit your question to time period of 2011 to 2015
12 which is the time that the testamentary documents
13 in -- in question were executed?

14 And would you also like to limit your
15 question to observations during the preparation and
16 the execution of the estate planning documents?

17 I mean, I -- I don't want to take the
18 deposition for you, Jim, but I don't want to go in
19 front of Judge Mullen and look like I'm trying to
20 be an obstructionist because I'm not. I --

21 MR. GILREATH: Well --

22 MR. TWOMBLEY: I want you to be able to
23 ask your questions.

24 MR. GILREATH: I'm not going to craft
25 my questions to suit your --

1 MR. TWOMBLEY: Well, then I stand by my
2 objection and --

3 MR. GILREATH: Go ahead and stand by --

4 MR. TWOMBLEY: And we can move on.

5 MR. GILREATH: You're standing -- I
6 want to be sure the record is clear. You're
7 standing by the fact that I've asked her for her --
8 about -- about some of her observations of Mr. --

9 MS. KIRK: I feel like you just kind of
10 changed -- that's a different question.

11 MR. TWOMBLEY: What was that, Ariail?
12 I didn't --

13 MS. KIRK: Isn't that a different
14 question?

15 MR. GILREATH: I don't think it was.

16 MR. TWOMBLEY: Well --

17 MS. KIRK: And I feel like that's a
18 question that you asked that she's answered.

19 MR. GILREATH: She hasn't answered my
20 question.

21 MR. TWOMBLEY: Why don't you try to ask
22 it a different way?

23 MR. GILREATH: I like the way I
24 asked it the first time, Ashley. You -- I'm not
25 going to let you get in here and make a bunch of

1 objections and get my mind off of what my questions
2 are and -- and I asked a very simple question
3 about her observations of Mr. Barringer and you
4 and Ms. Kirk have seen to fit to somehow fit that
5 in some cubbyhole of privilege.

6 And if that's what you're going to
7 stick by that's fine. Assert your privilege and --
8 and we'll go on if that's your position.

9 MR. TWOMBLEY: Jim, I respectfully
10 think my position is -- is pretty clear. And
11 again, I'm happy -- I mean, we can even dismiss the
12 witness from the room and I'm happy to talk to you
13 about it to try to work it out.

14 I mean, you know, that's what I've done
15 for 15 years when I practiced law is try to work it
16 out and let you ask the -- craft a new question and
17 try to move on with it.

18 But if you -- if your position is that
19 you're going to refuse to rephrase the question,
20 you're going to rephrase to limit it and --

21 MR. GILREATH: You --

22 MR. TWOMBLEY: I'm --

23 MR. GILREATH: Well --

24 MR. TWOMBLEY: I'm not finished.

25 Let -- let me finish. I'm speaking, Mr. Gilreath.

1 I'm speaking. If -- if you refuse to talk about it
2 and try to work it out in good faith, try to
3 recraft -- craft the question in a way that will
4 address these issues we'll -- we'll have to go to
5 the Court.

6 But, no. That is not the way I want to
7 handle it at all. I think it is ridiculous that we
8 would have to go bother Judge Mulllen about this.

9 I'll note for the record that it was
10 originally Ms. Kirk who pointed out the objection
11 to the question and I concur with it. So in any
12 event, just let us know how you'd like to proceed.
13 I'm happy --

14 MR. GILREATH: The attorney-client
15 privilege I'll remind you only applies to
16 communications. My question dealt with -- was
17 about her observations of Mr. Barringer and you
18 and Ms. Kirk have seen fit to apparently instruct
19 her not to answer that on the basis of some kind of
20 privilege.

21 MR. TWOMBLEY: All right. Well, I'd
22 like to take a break and I'll -- I want to talk
23 with Ariail for a moment about the best way to
24 handle this. So we'll go off.

25 THE VIDEOGRAPHER: We are going off the

1 record. It is 3:11 PM.

2 (A recess transpired.)

3 THE VIDEOGRAPHER: We are back on
4 record at 3:16 PM. Would counsels (sic) please
5 state their affiliation for the record. Jim.

6 MR. GILREATH: Jim Gilreath, Bill
7 Hogan, Greenville for the Plaintiff Hampton Luzak.
8 Alice, you're muted.

9 MR. MOLSTER: Charles --

10 MS. PAYLOR: Alice Paylor --

11 MR. MOLSTER: Charles --

12 MS. PAYLOR: -- for Merrill Light.

13 MR. MOLSTER: Thank you. Charles
14 Molster on behalf of Merrill Light.

15 MR. GHOM: Bijan Ghom on behalf of
16 Merrill Light.

17 MS. WALTERS: Lee Walters for Merrill
18 Barringer.

19 MR. TWOMBLEY: Ashley --

20 MR. MACLOSKIE: Mike Macloskie for
21 Hampton Luzak.

22 MR. TWOMBLEY: Ashley Twombley for
23 Merrill Barringer and --

24 MS. KIRK: And Ariail Kirk for the
25 witness, Ms. Bostick.

1 MR. GILREATH: Are we back on
2 the record?

3 THE VIDEOGRAPHER: Yep.

4 MS. KIRK: Yes, sir.

5 BY MR. GILREATH:

6 Q. I just want to make clear for the
7 record the thing we've been arguing about -- about
8 your observations with Mr. Barringer. And just so
9 the record is clear, when was the first time you
10 remember meeting him?

11 A. Approximately eight, ten years ago.

12 Q. And when was the last time you remember
13 seeing him before he died?

14 A. Probably about five years ago.

15 Q. Okay. That would be in 2015?

16 A. That sounds accurate.

17 Q. Over the course of that period of time
18 did you -- as he got older and towards the latter
19 part of your contact with him did you notice any
20 change in him? Anything that got your attention.

21 A. Maybe a little slower, but that's about
22 it.

23 Q. What do you mean by slower?

24 A. I'm sorry. Just maybe not moving quite
25 as fast. As people get older they slow down a

1 little bit.

2 Q. Was that mentally or physically?

3 A. Oh, physically.

4 Q. Did you notice anything about any
5 change in his mental condition?

6 A. No, sir.

7 Q. How much time would you see and/or
8 spend with him when he came in?

9 A. Usually an appointment lasts an hour,
10 hour and a half. I would go in towards the end of
11 the appointment.

12 MR. TWOMBLEY: I'm going to just
13 caution the witness to limit your testimony to
14 the preparation, execution or amendment of
15 Barringer's estate planning documents.

16 BY MR. GILREATH:

17 Q. Was most of your interaction with
18 Mr. Barringer involved in the preparation of
19 estate planning and related estate documents that
20 Mr. Jolley was doing for him?

21 A. I'm sorry. Can you repeat that.

22 Q. Was most of your interaction with
23 Mr. Barringer related to the estate planning work
24 that Mr. Jolley was doing for him on his will and
25 trust?

1 A. Yes. I assisted John with that.

2 Q. Okay. And when he came into the office
3 and he met with Mr. Jolley were you in on any of
4 those meetings?

5 A. Yes, sir.

6 Q. How long -- were you in on all of them?

7 A. Not every single one.

8 Q. Were you in on most of them?

9 A. Yes, sir.

10 Q. Okay. So -- so you were present in
11 the room with Mr. Jolley when he was meeting with
12 Mr. Barringer or with Mr. And Mrs. Barringer,
13 correct?

14 A. Yes, sir.

15 Q. Did you take notes during the meetings?

16 A. No, sir.

17 Q. During -- I didn't hear you.

18 A. No, sir.

19 Q. Okay. And how long would -- would a
20 typical meeting like that last?

21 A. A typical estate planning meeting would
22 be an hour to an hour and a half.

23 Q. And you would have been in there the
24 whole time?

25 A. Not the very beginning of the meeting.

1 Q. Not at the very beginning?

2 A. Correct.

3 Q. Oh. You -- now, what do you mean by
4 the very beginning?

5 A. Usually we would go and meet with a
6 client and they would discuss what they're going to
7 be talking about or the documents and then he'd
8 bring me in once he's had a chance to have that
9 preliminary discussion with him.

10 Q. Okay. Were you -- were you in on any
11 discussions before he drafted any documents?

12 MS. KIRK: Jim, can we just like agree
13 on the record that when you're generally asking
14 about these documents you're talking about estate
15 planning documents?

16 I'm trying to make the deposition
17 tedious. I just want to be clear that that's what
18 we're talking about.

19 MR. GILREATH: Yeah. That's what we're
20 talking about. That's what this lawsuit is about.

21 MR. TWOMBLEY: Well, the question --
22 the problem is that's not the way your question was
23 asked.

24 MR. GILREATH: Ashley, let -- let's
25 tone down the -- the speaking objections and let

1 her answer my question, please.

2 MR. TWOMBLEY: Well...

3 BY MR. GILREATH:

4 Q. Do you remember the first time he came
5 into the office?

6 A. No, sir.

7 MR. TWOMBLEY: Object to the form of
8 the question.

9 BY MR. GILREATH:

10 Q. Do you remember what year you first met
11 Mr. Jolley?

12 A. Mr. Jolley? I met him in 2005.

13 Q. I'm sorry. Do you remember what year
14 you first met Mr. Barringer?

15 A. I do not.

16 Q. You don't have any idea?

17 A. Approximately ten years ago.

18 Q. Okay. Okay. And -- and when was the
19 last time you remember seeing him?

20 A. Approximately five years ago.

21 Q. So we're in 2020 now. You met him --
22 would it be fair to say you met him sometime around
23 2010 and then the last time you saw him was
24 sometime around 2015?

25 MS. KIRK: Object to the form.

1 BY MR. GILREATH:

2 Q. Is that the time frame --

3 MR. TWOMBLEY: Same objection.

4 BY MR. GILREATH:

5 Q. -- bracket when you saw him and last
6 time you met him?

7 MS. KIRK: You can answer.

8 THE WITNESS: Mr. Barringer was a long-
9 time client of the firm. It is hard for me to
10 determine when exactly I met him.

11 BY MR. GILREATH:

12 Q. Do you have any recollection of the
13 last time you saw him?

14 A. Approximately five years ago. I'm not
15 sure of the exact date ever.

16 Q. According to the record in this case
17 Mr. Jolley I believe prepared a first, second,
18 third and fourth amendment to his revocable trust.
19 Do you remember working on those?

20 A. Yes, sir.

21 Q. And the first amendment was in February
22 of 2012 and the fourth amendment was in February of
23 2015. So that kind of brackets a three-year
24 period.

25 During that time especially towards the

1 end of it which would have been in February of 2015
2 did you notice any change in Mr. Barringer?

3 A. As far as --

4 Q. Just the way he handled himself, how he
5 remembered things, those kinds of things.

6 A. No. He was a very engaging gentleman.

7 Q. What?

8 A. He was a very engaging gentleman.

9 There was -- there was no issue there.

10 Q. A very engaging gentleman?

11 A. Yes.

12 Q. Tell me exactly what you mean by that.

13 A. That means that he and John had lengthy
14 conversations. There was no doubt that there
15 was -- he was fully competent and had no issues
16 whatsoever from my standpoint.

17 Q. That he was fully competent and had
18 what?

19 A. And that he -- he could certainly make
20 decisions.

21 Q. Okay. Are you -- were you around
22 or have anything to do with a certificate
23 of competency that Mr. Jolley prepared for
24 Mr. Barringer to sign?

25 MS. KIRK: Object to the form.

1 BY MR. GILREATH:

2 Q. Are you familiar that document?

3 A. I am familiar with the document.

4 Q. Look at Exhibit 27, which is an e-mail
5 to Mr. Jolley to Merrill Light dated August 28th,
6 2012 regarding a blank physician's certification of
7 competency.

8 Did you have anything to do with the
9 preparation of that document?

10 A. I don't recall.

11 Q. Did you ever -- do you have any
12 recollection of ever preparing such a form for
13 any client of Mr. Jolley's?

14 A. We have prepared forms for doctors to
15 sign before.

16 Q. Say that again. I didn't understand.

17 A. We have prepared forms for doctors to
18 sign before.

19 Q. Do you have any recollection now that
20 I've showed you this document of preparing that
21 form for -- for Mr. Barringer?

22 A. I don't recall. It's a very basic
23 form.

24 Q. Well, would it -- did Mr. Jolley
25 prepare this form for everybody he did a will for?

1 MS. KIRK: Object to --

2 MR. TWOMBLEY: Object to the form --

3 MS. KIRK: -- the form --

4 MR. TWOMBLEY: -- of the question.

5 MS. KIRK: -- and I object to anything
6 that's going again outside the scope of what we're
7 here for with the exception.

8 BY MR. GILREATH:

9 Q. Let me ask you this. Let me ask you
10 this another way. How many of these forms do you
11 remember working on, if you do?

12 A. Doctor's certifications? Well, it's
13 various kinds depending on what the circumstances
14 are and the type of form.

15 Q. Well, tell me if you can what the
16 circumstances were to the best of your recollection
17 that would have caused Mr. Jolley to prepare this
18 form and send it to Merrill Light with an e-mail
19 that says: This would be great. Let me know if
20 Dr. Long needs any help or has any questions.

21 Can you answer that question?

22 MR. TWOMBLEY: Object to --

23 THE WITNESS: You'd have --

24 MR. TWOMBLEY: -- the form.

25 THE WITNESS: -- to ask John.

1 BY MR. GILREATH:

2 Q. Okay. You don't have any other
3 knowledge about that?

4 A. No sir.

5 Q. Did you have ever have any discussions
6 with Mr. Jolley about anything relating to the
7 competency of Mr. Paul Barringer?

8 A. No.

9 Q. Would you agree with me that at least
10 it appears from this document that Mr. Jolley had
11 some questions about his competency? Correct?

12 MS. KIRK: Object --

13 MR. TWOMBLEY: Object --

14 MS. KIRK: -- to the form.

15 MR. TWOMBLEY: -- to the form of the
16 question. -

17 MS. PAYLOR: Object to the form.

18 BY MR. GILREATH:

19 Q. You can answer the question.

20 A. I'm sorry.

21 MR. GILREATH: Read that question back
22 to her, Madame Court Reporter.

23 (The Court Reporter read the question
24 commencing on page 50 line 8.)

25 THE WITNESS: I have no way of knowing

1 what Mr. Jolley thought.

2 BY MR. GILREATH:

3 Q. And you have absolutely no recollection
4 of preparing this form, typing it or having any
5 discussions with Mr. Jolley about Paul Barringer's
6 competency, correct? Is that your testimony --

7 MS. KIRK: Object --

8 BY MR. GILREATH:

9 Q. -- under oath today?

10 MS. KIRK: Object to --

11 MR. TWOMBLEY: Object to the form.

12 MS. KIRK: -- the form.

13 MR. GILREATH: I didn't hear what she
14 said.

15 MS. KIRK: We objected to the form.
16 She hasn't answered.

17 MR. GILREATH: Oh.

18 BY MR. GILREATH:

19 Q. You can answer it, ma'am.

20 THE WITNESS: Can you repeat the
21 question.

22 THE COURT REPORTER: I'm going to --

23 MR. GILREATH: Not the way I wanted it.
24 I'll try to remember it again.

25 THE COURT REPORTER: I'm sorry. Would

1 y'all like me to read the question back again for
2 the witness? I think she's requesting that I read
3 the question.

4 MR. GILREATH: Yes.

5 THE COURT REPORTER: Okay.

6 THE WITNESS: Thank you.

7 (The Court Reporter read the question
8 commencing on page 50 line 8.)

9 MR. TWOMBLEY: Object to the form.

10 MS. PAYLOR: Object to the form.

11 MS. KIRK: Object to the form.

12 THE WITNESS: Now answer?

13 MS. KIRK: Yes.

14 THE WITNESS: Okay. I have no idea
15 what Mr. Jolley thought.

16 BY MR. GILREATH:

17 Q. Okay. Was it normal for Mr. Jolley to
18 get this type of form for everybody he did a will
19 for?

20 MR. TWOMBLEY: Object to the form.

21 MS. KIRK: Object to the form.

22 MS. PAYLOR: Object to the form.

23 MS. KIRK: And to the extent you're
24 asking about interactions with other clients I'm
25 also objecting to that if that's how I'm

1 understanding your question.

2 MR. GILREATH: I'm not asking about any
3 specific client. I'm asking about what his normal
4 procedure was. The question is really simple: Did
5 he normally get this form filled out for everybody
6 he did a will for? Yes or no.

7 MS. PAYLOR: Object to the form.

8 MR. TWOMBLEY: Same objection.

9 MS. KIRK: Object to the form.

10 THE WITNESS: Now I answer?

11 MS. KIRK: Yes.

12 THE WITNESS: No.

13 BY MR. GILREATH:

14 Q. You said no, correct?

15 A. No.

16 Q. All right. All right. Flip over to
17 Tab 28, which is a signed version of that form
18 signed by Dr. Paul Long.

19 A. Uh-huh.

20 Q. Have you ever seen that document
21 before?

22 A. I have.

23 Q. When did you -- tell me about the first
24 time you remember seeing it.

25 A. Probably when we received it in the

1 mail or received it back to firm and I don't
2 recall how.

3 Q. You received -- is it your testimony
4 if I hear you right that you received this in the
5 mail from Dr. Long?

6 A. I corrected myself. I'm not sure how
7 we received it, but when we received it back to --
8 to the firm that's when I saw it.

9 Q. And it was signed, correct?

10 A. Yes.

11 Q. And -- and what did -- can you tell me
12 if you remember who sent it to you.

13 A. I do not recall.

14 Q. And what did you do when you got it?

15 A. I put it in the file.

16 Q. Did you talk with Mr. Jolley about it?

17 A. Yes.

18 Q. And tell me everything you can remember
19 that Mr. Jolley said about that.

20 A. I said it wasn't notarized and he said
21 not to worry about it. It doesn't matter.

22 Q. Not to worry about it? It doesn't
23 matter? That's what he said, correct?

24 A. Not verbatim, but that's basically what
25 he said.

1 Q. Okay. And can you give me a time frame
2 when that came back in.

3 A. I do not recall.

4 Q. Did Mr. Jolley -- do you have any
5 recollection of Mr. Jolley asking you to send that
6 to Merrill Light or Randy Light?

7 A. No.

8 Q. Do you know -- you know Merrill Light,
9 correct?

10 A. Yes, sir.

11 Q. You know Randy Light?

12 A. I knew him. Yes, sir.

13 Q. And when Mr. Barringer come to see
14 Mr. Jolley about these estate planning matters
15 would Randy or Merrill Light accompany him on those
16 visits?

17 A. It's not uncommon for people to
18 accompany on visits.

19 Q. Ma'am, what did you say?

20 A. I'm sorry. I couldn't hear you. I'm
21 sorry.

22 Q. My question is -- I'm still having
23 to -- I don't -- it's not your fault. There's
24 something wrong with the mic over there or
25 something. I'm having a really --

1 THE COURT REPORTER: The air --

2 MR. GILREATH: I'm having the hardest
3 time hearing.

4 THE COURT REPORTER: The air
5 conditioner just cut on and it's really loud in the
6 room. The heat or something.

7 BY MR. GILREATH:

8 Q. I'm having trouble with an echo. It's
9 the worst reception I've ever had in this kind of
10 thing. I will never use this outfit again unless
11 they can assure me it will never happen again and I
12 apologize to you. It's not your fault.

13 It's somebody's fault, whoever is
14 running this deposition on the technical side. But
15 I think my question was -- Mr. Hogan's trying to
16 remind me and apparently his hearing is better than
17 mine. You said you put it in the file, correct?

18 A. Yes. We keep a file of all of our
19 clients.

20 Q. And -- and Mr. Jolley said don't worry
21 about it?

22 MR. TWOMBLEY: Object --

23 MS. KIRK: Object to form.

24 MR. TWOMBLEY: -- to the form.

25 MS. PAYLOR: Object to the form.

1 BY MR. GILREATH:

2 Q. What did Mr. Jolley say?

3 MR. TWOMBLEY: Object to the form.

4 Repeat the question, Jim.

5 MR. GILREATH: Do what?

6 MR. TWOMBLEY: Repeat the question.

7 BY MR. GILREATH:

8 Q. I said, when it came back in you said
9 you put it in the file. Correct?

10 A. Yes. I -- we put it in the file.

11 Q. And Mr. Jolley said don't worry about
12 it, correct?

13 MS. KIRK: Object to the form.

14 MR. TWOMBLEY: Object to the form.

15 BY MR. GILREATH:

16 Q. Is that what he said?

17 A. Yes.

18 Q. Don't worry about it. Did you ever do
19 anything with it after that or did you not worry
20 about it?

21 MR. TWOMBLEY: Object to the form.

22 MS. KIRK: Object.

23 MS. PAYLOR: Object to the form.

24 THE WITNESS: No. It stayed in the
25 file.

1 BY MR. GILREATH:

2 Q. Did you ever have any discussions with
3 John Jolley about it after you put it in the file?

4 A. Well, that's a matter of timing. I'm
5 not sure if I put it in the file before or after we
6 spoke.

7 Q. I don't understand your answer. Can
8 you clarify it a little better.

9 MR. TWOMBLEY: I don't understand the
10 question. But if you do, God bless you.

11 THE WITNESS: Can you repeat the
12 question then.

13 BY MR. GILREATH:

14 Q. You said you put it in the file,
15 correct?

16 A. We include everything in a client's
17 file, yes.

18 Q. Do -- do you recall any conversations
19 with Mr. Jolley about that form after you put it in
20 the file?

21 A. Just the conversation that we
22 discussed.

23 Q. And that was the one where he said
24 don't worry about it, correct?

25 MS. KIRK: Object to the form.

1 MR. TWOMBLEY: Same objection.

2 THE WITNESS: Yes.

3 BY MR. GILREATH:

4 Q. Is that correct?

5 A. Yes.

6 Q. Did you ever see that form again until
7 you saw it here today?

8 A. Possibly.

9 Q. Possibly? Tell me about that.

10 A. When we were gathering the files when
11 they were requested I could have possibly seen it
12 then and that was after Mr. Barringer's death.

13 Q. Was that in connection with -- with our
14 subpoena?

15 A. Yes.

16 Q. You don't think you saw it again until
17 you were going through the file to respond to the
18 subpoena. Is that correct?

19 A. Well, it was in the files. Any time I
20 had the file if I needed to look at something I
21 could have -- possibly have seen it. That's kind
22 of open-ended.

23 It was included in the file. So it's
24 very possible I saw it. That's why we keep it in
25 the file.

1 Q. Had you done anything with it
2 before then?

3 MS. KIRK: Object to the form.

4 THE WITNESS: What do you mean exactly?
5 BY MR. GILREATH:

6 Q. I -- I didn't understand. What did you
7 say?

8 A. What do you mean exactly. What I --
9 what did I do with it?

10 Q. All right. Let's go back. You got the
11 form in?

12 A. Yes.

13 Q. Correct?

14 A. Yes.

15 Q. It came in the mail, right? Correct?

16 A. I -- I don't know.

17 Q. But it came in to your desk, correct?

18 A. It came into the firm, yes.

19 Q. Did -- did you open up that piece of
20 mail or did Mr. Jolley open it up and give it to
21 you?

22 MS. KIRK: Object to the form.

23 THE WITNESS: I have no -- I have no
24 recollection of how it was received.

25 BY MR. GILREATH:

1 Q. But -- but if -- but Mr. -- but
2 you put it in the file after Mr. Jolley said if
3 I understood you correctly, don't worry about it.
4 Correct?

5 MS. KIRK: Object to the form.

6 MR. TWOMBLEY: Object to form.

7 BY MR. GILREATH:

8 Q. Correct?

9 A. Yes. We -- we included it in the file
10 after we think it was an issue.

11 Q. Did -- do you recall or have any
12 knowledge of Mr. Jolley sending a copy of that
13 signed form from Dr. Long to Merrill Light?

14 A. I have no idea.

15 Q. Do you have any explanation of why
16 Mr. Jolley would have seen fit to not forward that
17 form to Merrill Light after he sent it to her in
18 blank?

19 MS. KIRK: Object --

20 MS. PAYLOR: Object.

21 MS. KIRK: -- to the form.

22 THE WITNESS: I'm sorry. Can we repeat
23 that.

24 THE COURT REPORTER: Would you like me
25 to read that back again?

1 MR. GILREATH: What did she say?
2 Ma'am, could you read -- Court Reporter, could you
3 read the question back.

4 THE COURT REPORTER: Yes.

5 (The Court Reporter read the question
6 commencing on page 61 line 14.)

7 MR. TWOMBLEY: I object to the -- to
8 the form of the question. I mean, I'm not --

9 MS. PAYLOR: Object to the form.

10 MS. KIRK: Yeah.

11 MR. TWOMBLEY: I'm not sure --

12 MS. KIRK: Object to the form.

13 MR. TWOMBLEY: I'm not sure that's got
14 anything to do with the preparation --

15 MR. GILREATH: No comments, Ashley.

16 MS. TWOMBLEY: No. This isn't a
17 comment. This is an objection.

18 MR. GILREATH: Yeah. It's a speaking
19 objection, is the way I'm hearing it.

20 MR. TWOMBLEY: Well, I -- I mean, I
21 guess technically you're -- you're right. If
22 you just want me to state the basis for my
23 objection and have Ariail instruct her not to
24 answer we can -- we can go do that again or we
25 can try to work it out in good faith.

1 BY MR. GILREATH:

2 Q. What I'm trying to find out,

3 Ms. Bostick --

4 A. Yes, sir.

5 Q. -- is did you or Mr. Jolley or anybody

6 at the -- at the McNair Law Firm ever take that

7 form out of there and send it to anybody or have

8 any -- or do you have any knowledge of any

9 discussions about it with Merrill Light --

10 MS. PAYLOR: Object to form.

11 BY MR. GILREATH:

12 Q. -- or Lindsay Light?

13 MS. KIRK: Object to the form.

14 MR. TWOMBLEY: Same objection.

15 THE WITNESS: I can only speak for
16 myself, but I don't recall ever doing anything or
17 sending it to anybody.

18 BY MR. GILREATH:

19 Q. Okay. Did you ever send it to Ashley
20 Twombley?

21 A. Not that I'm aware of. I've no reason
22 to.

23 Q. But your testimony here under oath
24 today is you don't have any recollection or
25 knowledge of sending it to Ashley Twombley,

1 correct?

2 A. Correct.

3 Q. Did you ever send it to Mrs. Merrill
4 Barringer? Mrs. Barringer's wife.

5 MR. TWOMBLEY: Now, I'm going to -- I
6 mean, I'm happy to talk about it. But I just don't
7 see how that's got any connection to the claims and
8 defenses in the case. I don't -- also don't -- I'm
9 I'm just trying to think as to whether or not it --

10 MR. GILREATH: Quit thinking out loud
11 and either voice your objection and instruct her
12 not to answer or let her answer the question. It's
13 a simple question, Ashley. I know you don't like
14 it because you objected to it, but she's going to
15 have to answer some questions you don't like.

16 MR. TWOMBLEY: It's got nothing to do
17 with whether or not I like them.

18 MS. KIRK: She's also already
19 answered --

20 MR. TWOMBLEY: Yeah. She --

21 MS. KIRK: -- whether or not she sent
22 it anywhere.

23 MR. TWOMBLEY: She's already -- plus
24 this is a -- the -- this is my client's lawyer's
25 assistant and you don't get to ask her just

1 anything you want to ask her. And I'm going to
2 take as much time as I need for each question and
3 determine how I'm going to handle it and it's going
4 take a long --

5 MR. GILREATH: Look here.

6 MR. TWOMBLEY: It's going to take a
7 long time if you don't want to talk about it and
8 try to work it out. So I -- I agree with Ariail.
9 She has already asked and answered the question
10 and so --

11 MR. GILREATH: We'll -- we'll just take
12 her answer. We -- we like it. We'll -- we'll deal
13 with her answer.

14 THE WITNESS: I'm supposed to answer?

15 MS. KIRK: No.

16 THE WITNESS: Okay.

17 BY MR. GILREATH:

18 Q. Do you have any recollection of how
19 many -- if you can say so -- of these type forms
20 you dealt with over the years you worked with
21 Mr. Jolley?

22 Was it -- did he use them a lot or was
23 it a rare occasion that he used them?

24 A. Well, rare is kind of hard to say
25 because we meet with so many clients a year.

1 They're not used for -- they're not typically used.

2 Q. Okay. If he sent one out and didn't
3 get an answer back or a signed version back would
4 he typically move forward with getting the estate
5 planning documents signed anyway if you know?

6 MR. TWOMBLEY: Object --

7 MS. KIRK: Object to --

8 MR. TWOMBLEY: -- to the form.

9 MS. KIRK: -- the form.

10 MS. PAYLOR: Object to form.

11 BY MR. GILREATH:

12 Q. Do you understand the question?

13 A. I'm sorry. Can you repeat that? I'm
14 sorry.

15 THE COURT REPORTER: I'm going to read
16 the question back for the witness. Is that okay?

17 MR. GILREATH: Do what?

18 THE COURT REPORTER: The witness wanted
19 me to read the question back.

20 MR. GILREATH: That will be fine.

21 THE COURT REPORTER: Okay.

22 (The Court Reporter read the question
23 commencing on page 66 line 1.)

24 MS. PAYLOR: Object to the form.

25 MS. KIRK: Object to the form.

1 MR. TWOMBLEY: Same objection.

2 THE WITNESS: I have no idea how
3 Mr. Jolley would react.

4 BY MR. GILREATH:

5 Q. Okay. So you can't really answer that
6 question, correct?

7 MS. KIRK: Objection to form.

8 MR. TWOMBLEY: Object to form.

9 THE WITNESS: Yes. I -- I don't know
10 how Mr. Jolley would react.

11 BY MR. GILREATH:

12 Q. All right. Do you know when John
13 Jolley started representing Merrill and Randy
14 Light?

15 MS. KIRK: Object --

16 MR. TWOMBLEY: Object to the form.

17 THE WITNESS: I do not recall.

18 BY MR. GILREATH:

19 Q. Would it be fair to state that he was
20 their estate planning lawyer when he started
21 representing Mr. Barringer?

22 MR. TWOMBLEY: Object to the form.

23 MS. KIRK: Object to form.

24 THE WITNESS: I'm not sure who
25 represented them first. Again, they were long-

1 time clients of the firm.

2 BY MR. GILREATH:

3 Q. Do you know who referred Mr. Barringer
4 to John Jolley?

5 A. I do not.

6 Q. What was your ability to write for the
7 Barringer estate planning matters?

8 MR. TWOMBLEY: Object to form of the
9 question --

10 MS. PAYLOR: Object to form.

11 MR. TWOMBLEY: -- and --

12 MS. KIRK: I didn't hear the question.
13 What was the question?

14 MR. GILREATH: If she knows, what was
15 her billing rate for Mr. Barringer's estate
16 planning matters?

17 MS. KIRK: Object to form.

18 THE WITNESS: At the beginning when I
19 was an assistant I did not have a billing rate.
20 After that it changed over the years. I want to
21 say at the end I was at 175.

22 BY MR. GILREATH:

23 Q. 175. Do you know what Mr. Jolley's
24 billing rate was?

25 A. When we left McNair -- Burr Forman

1 McNair that would have been 375.

2 Q. 375?

3 A. Yes, sir.

4 Q. Is that right?

5 A. Yes. I don't know what his billing
6 rate was when he started.

7 Q. Tell me how -- did you actually draft
8 the estate planning documents?

9 A. Yes. I assisted in the drafting
10 process.

11 Q. Do what?

12 A. Yes. I assisted in the drafting
13 process.

14 Q. Well, tell me how the drafting process
15 works. You're not -- you're not a lawyer, correct?

16 A. That is correct. Yes, sir.

17 Q. Do you have any kind of formal training
18 in -- in drafting complicated wills and trusts?

19 MR. TWOMBLEY: Object to the form --

20 MS. KIRK: Object to the form.

21 MR. TWOMBLEY: -- of the question.

22 THE WITNESS: John and I worked closely
23 for a very long time and I had a great work ethic
24 and I produced -- he taught me and I produced a lot
25 of documents, good documents. So he thought it

1 would be a good idea for me to be a billing
2 timekeeper. So I became paralegal. And within
3 McNair we had training every year, required
4 courses.

5 Some of the courses were McNair, but
6 we were also allowed to do the courses in our
7 field, to substitute. And so I always like --
8 any time I could I would do courses outside to --
9 within my field.

10 BY MR. GILREATH:

11 Q. Did -- would you bill for discussions
12 that you had with Mr. Jolley about the estate plan?

13 MS. KIRK: Object to the form.

14 MS. PAYLOR: Object to the form.

15 MR. TWOMBLEY: Object to the form.

16 THE WITNESS: If it was directly
17 related, yes.

18 BY MR. GILREATH:

19 Q. Would Mr. Jolley also be billing for
20 that same on discussion if you know?

21 MR. TWOMBLEY: Same objection.

22 MS. KIRK: Me, too.

23 THE WITNESS: I don't know how he did
24 his timekeeping.

25 BY MR. GILREATH:

1 Q. Did you say he put his time in?

2 MS. KIRK: Object to the form.

3 THE WITNESS: I would enter it, yes,
4 but I -- I don't know how he decided what to and
5 what not to.

6 BY MR. GILREATH:

7 Q. Do you remember any discussions you had
8 with Mr. Jolley about Mr. Barringer's estate?

9 A. Do I have any -- I'm sorry. Can you
10 repeat that, sir.

11 Q. Do you recall any discussions that you
12 had with Mr. Jolley about drafting documents for
13 Mr. Barringer's estate?

14 MR. TWOMBLEY: Object to the form.

15 MS. KIRK: Object to the form.

16 THE WITNESS: We would generally
17 discuss the scope of the work.

18 BY MR. GILREATH:

19 Q. Repeat that, please. I didn't hear
20 you.

21 A. Oh. We would generally discuss the
22 scope of the work.

23 Q. Were you present when Mr. Jolley
24 discussed Mr. Barringer's estate plan with him?

25 A. Often times I would be in the room when

1 they discussed the estate plan.

2 Q. Well, tell me what you recall about
3 those discussions.

4 A. John would review the documents with
5 them to make sure they fully understood them and
6 make sure that he allowed time for questions.
7 That's it.

8 Q. Was anybody else present other than you
9 and Mr. Jolley when you had that discussion?

10 A. Which --

11 MR. TWOMBLEY: Object.

12 THE WITNESS: -- discussion?

13 MR. TWOMBLEY: Object to the form.

14 BY MR. GILREATH:

15 Q. The discussion about Mr. Barringer's
16 estate plan.

17 MS. KIRK: Object to the form.

18 MR. TWOMBLEY: Same objection.

19 THE WITNESS: There would be no reason
20 to.

21 BY MR. GILREATH:

22 Q. Were you or Mr. Jolley aware of the
23 dementia diagnoses Mr. Barringer started receiving
24 in 2011?

25 MS. KIRK: Object to the form.

1 MS. PAYLOR: Object to the form.

2 THE WITNESS: No.

3 BY MR. GILREATH:

4 Q. Did you ever have hear any discussions
5 between Mr. Jolley and Ms. Merrill Light or Randy
6 Light talking about Mr. Barringer's dementia or his
7 cognitive problems?

8 MS. KIRK: Objection.

9 MR. TWOMBLEY: Objection to the form --

10 MS. PAYLOR: Objection.

11 MR. TWOMBLEY: -- of the question.

12 MR. MOLSTER: Objection. Instruct not
13 to answer.

14 MS. PAYLOR: You're asking for
15 attorney-client communications there and Merrill
16 Light is not subject to the testamentary exception.

17 BY MR. GILREATH:

18 Q. I'm not talking about Merrill Light.
19 I'm talking about Mr. Barringer.

20 MS. PAYLOR: You asked about a
21 communication between Mr. Jolley and Mrs. Light.

22 MR. GILREATH: It dealt with
23 Mr. Barringer's estate plan. Your lawyer -- about
24 Merrill Light's estate plan. I'm trying to get --

25 MR. MOLSTER: He was -- he was her

1 lawyer.

2 MR. PAYLOR: He was her lawyer also at
3 the time.

4 MR. GILREATH: I understand that.

5 MS. PAYLOR: Why don't you ask her if
6 she ever heard them talk about his estate plan
7 first.

8 MR. GILREATH: I'll form my own
9 questions. I don't need any help from you and I
10 appreciate you -- you not making these speaking
11 objections or whatever and telling her what you
12 want me to ask her.

13 MR. PAYLOR: Well, you can find out
14 without going into a communication, is what I was
15 trying to say. But you do it your way, Jim. I
16 mean, not instructing you what --

17 MR. GILREATH: I'll do it my way, but
18 you and Ashley are making it pretty darn difficult.

19 MR. TWOMBLEY: Object to the form of
20 the statement.

21 MR. GILREATH: There's nothing funny
22 about this at all.

23 MR. TWOMBLEY: Well --

24 MR. GILREATH: I'm very serious.

25 MR. TWOMBLEY: The idea that you would

1 accuse us of making it confusing and more difficult
2 is very funny because you in my respectful opinion
3 are the sole cause and reason of this being
4 confusing.

5 MR. GILREATH: You keep your opinions
6 to yourself, Ashley.

7 MR. TWOMBLEY: Well, when you get to
8 state yours, Jim, and I don't get to respond to
9 it --

10 MR. GILREATH: I don't want this all on
11 the record.

12 MR. TWOMBLEY: You may be able to bully
13 people around like that, but you're not going to
14 bully me around like that. You say --

15 MR. GILREATH: I think --

16 MR. TWOMBLEY: Something about me like
17 that I'm going to respond to it every time. And if
18 you want to go in front of Judge Mullen about it
19 I'm happy to do it. But don't you call me down and
20 tell me I'm being funny and then don't expect me to
21 respond to it because I'm going to do it every
22 time.

23 MR. GILREATH: I think the last
24 question I asked was: Were you -- were you
25 present when John Jolley had any discussions with

1 Merrill Light about Mr. Barringer's cognitive
2 problems or dementia?

3 MS. PAYLOR: Can you instruct --

4 THE COURT REPORTER: I'm sorry. Can
5 you repeat what you just said, Mr. --

6 MS. PAYLOR: I'm trying to understand
7 the question is. I'm not sure I do.

8 MR. GILREATH: Well, would you please
9 read the question back, ma'am. I think I've got it
10 the way I wanted it.

11 THE COURT REPORTER: I'm sorry. The
12 very last question?

13 MR. GILREATH: Yes. Can you read it
14 back.

15 THE COURT REPORTER: The last question
16 I have is...

17 (The Court Reporter read the question
18 commencing on page 73 line 17.)

19 THE COURT REPORTER: Was it the one
20 before that?

21 BY MR. GILREATH:

22 Q. I don't want to know anything you were
23 in on when he was talking to Merrill Light about
24 any of her estate work. I want to know. Were you
25 in on any conversations or meetings where Merrill

1 Light was meeting with John Jolley and they were
2 discussing Mr. Barringer's mental condition or
3 dementia?

4 MR. TWOMBLEY: All right. I --

5 MR. PAYLOR: I object and instruct
6 her --

7 MR. MOLSTER: She can answer yes or no,
8 whether or not she was there. She cannot divulge
9 the substance of it. Now --

10 MR. PAYLOR: That's fine.

11 MS. KIRK: I object to the form.

12 BY MR. GILREATH:

13 Q. Yes or no.

14 MS. KIRK: Yes or no.

15 THE WITNESS: No.

16 BY MR. GILREATH:

17 Q. You said no, correct?

18 A. Correct.

19 Q. You have no recollection of any such
20 conversation?

21 A. No, sir.

22 MR. TWOMBLEY: Object to form.

23 MS. KIRK: Asked and answered.

24 MR. GILREATH: All right. I'll move
25 on.

1 BY MR. GILREATH:

2 Q. Are you aware of any procedure that
3 Mr. Jolley had for ensuring himself that an estate
4 planning document -- I mean an estate planning
5 client had capacity to do a will or trust?

6 A. Can you repeat the question, sir.

7 Q. Are you aware of any procedure or
8 process that Mr. Jolley went through to ensure
9 himself that an estate planning client had capacity
10 to execute a will or trust he was preparing for
11 them?

12 A. Absolutely.

13 Q. He did?

14 A. Yes, sir.

15 Q. All right. Well, tell me what he
16 did.

17 A. He would ask the client questions
18 and have a conversation with them, make sure they
19 are -- understand what they're signing and that
20 they are aware of what's going on.

21 And he'll also ask them questions of
22 personal -- not personal questions but like about
23 the family, where they met their spouse, things
24 like that to determine whether or not they are
25 capable of signing through interaction with the

1 client.

2 Q. Did he have any process for ensuring
3 that the client was free from undue influence?

4 MR. TWOMBLEY: Object to the form.

5 THE WITNESS: Again, he would have a
6 conversation with them to see if there was anything
7 that would limit them from being able to sign.

8 BY MR. GILREATH:

9 Q. How often if you recall did Mr. Jolley
10 represent a husband or wife, their daughter and
11 her spouse and the family company with other
12 shareholders while also serving as a fiduciary
13 under the estate planning documents he was drafting
14 for them?

15 MR. PAYLOR: Object to the form.

16 MS. KIRK: Object to the form.

17 MR. TWOMBLEY: Same objection.

18 THE WITNESS: I do not know.

19 BY MR. GILREATH:

20 Q. You don't know. Do you have any
21 recollection of him obtaining a conflict waiver or
22 confidentiality agreements in such situations?

23 MR. PAYLOR: Object to the form.

24 MS. KIRK: Object to the form.

25 THE WITNESS: Since what situation?

1 BY MR. GILREATH:

2 Q. The situation I just determined
3 where he's -- he's representing the husband, the
4 wife, their daughter, the daughter's spouse, the
5 family company and other shareholders while he's
6 also a fiduciary under some of the estate planning
7 documents he's drawing up.

8 MS. KIRK: Object to form.

9 MR. TWOMBLEY: Object to the form.

10 MR. PAYLOR: Object to the form.

11 BY MR. GILREATH:

12 Q. Can you answer that question?

13 A. No.

14 Q. Do you ever remember Mr. Jolley
15 obtaining conflict waivers in these family-related
16 situations?

17 MS. PAYLOR: Object --

18 MS. KIRK: Object to the form.

19 MR. PAYLOR: -- to the form.

20 THE WITNESS: Are you asking generally
21 or for this particular case?

22 BY MR. GILREATH:

23 Q. Well, I guess both really.

24 A. I -- I do not know for this particular
25 case, this particular matter. He has in the past

1 did conflict letters, but this -- this was an
2 ongoing matter --

3 Q. You said in the past --

4 A. So I don't know.

5 Q. --- you've seen conflict waivers?

6 A. Excuse me.

7 Q. You said in the past you've seen him
8 get conflict waivers?

9 A. Yes, sir.

10 Q. Are you aware of any conflict waivers
11 that he got involving Paul Barringer and the work
12 he was doing for him?

13 MS. KIRK: Object to the form.

14 MR. PAYLOR: Object to the form.

15 THE WITNESS: I do not know.

16 BY MR. GILREATH:

17 Q. Do you recall any discussions with him
18 about conflict waivers on the Barringer work?

19 MS. KIRK: Object to the form.

20 MS. PAYLOR: Object to the form.

21 MR. TWOMBLEY: Jim, I don't see how
22 this has got anything to do with the testamentary
23 exception to the attorney-client privilege. I
24 mean, can you explain to me why you think you're
25 entitled to ask this witness.

1 MR. GILREATH: Ashley, I'm not --
2 you're not -- I'm not going to put myself under
3 oath and I'm not going to answer any of your
4 questions.

5 So you don't need to ask any more
6 questions. I'm trying to ask her a question and
7 would appreciate y'all letting her have the time
8 to answer it.

9 MR. TWOMBLEY: Well, just move on to
10 your next question.

11 MR. GILREATH: That's what I'm trying
12 to do. I don't think she's answered that question.

13 MR. TWOMBLEY: What is the question
14 again?

15 MS. PAYLOR: What is the question?

16 THE COURT REPORTER: Give me one second
17 to find it.

18 MR. GILREATH: If y'all -- if y'all
19 would quit interrupting me we could move on with
20 this thing a little quicker. I asked her a fairly
21 simple question. And can you read that back to
22 her, Madame Court Reporter.

23 THE COURT REPORTER: Yes, sir.

24 (The Court Reporter read the question
25 commencing on page 81 line 9.)

1 MR. TWOMBLEY: I'm going to -- it's my
2 opinion that the way that question is worded that
3 a response could elicit attorney-client privileged
4 work product information that's outside the scope
5 of Judge Mullens' order and I believe answering
6 it -- unless we can talk about it I believe
7 answering it would be improper.

8 MR. GILREATH: You instructed her not
9 to answer that?

10 MR. TWOMBLEY: I didn't -- I didn't
11 instruct her not to answer. I think only her
12 lawyer can do that, but I -- I think based on the
13 way you asked the question that it could elicit
14 that information.

15 MS. KIRK: Jim, in the interest of
16 moving forward I think what I'd like to do is
17 instruct her not to answer anything outside the
18 scope of Judge Mullen's order and to have her
19 answer subject to that caveat.

20 MR. GILREATH: I asked her a fairly
21 simple question. It wasn't directed to anybody in
22 particular. Y'all -- y'all are going to tell her
23 not to answer it. Tell her and let's move on.

24 MR. TWOMBLEY: Well, why don't we take
25 a break and we'll talk about it? It's a good time

1 for a break anyway.

2 THE VIDEOGRAPHER: We're going off the
3 record. It is 4:16 PM.

4 (A recess transpired.)

5 THE VIDEOGRAPHER: We are back on
6 record. This is the beginning of Media Unit 2. It
7 is 4:26 PM.

8 BY MR. GILREATH:

9 Q. Would you usually have a conversation
10 with Mr. Barringer every time you saw him in the
11 office?

12 A. Every time I saw him in the office,
13 yes.

14 Q. Did you ever notice that he seemed to
15 have trouble finding words?

16 A. No, sir.

17 Q. You didn't notice anything funny about
18 his speech or unusual?

19 A. No.

20 Q. Okay. Was it Mr. Jolley's practice to
21 have sophisticated estate plans signed in his
22 office?

23 MR. TWOMBLEY: Object to the form of
24 the question.

25 THE WITNESS: He would always --

1 or he would definitely sign estate planning in his
2 office.

3 BY MR. GILREATH:

4 Q. So he always had them signed in his
5 office?

6 MR. TWOMBLEY: Object.

7 MS. KIRK: Object to the form.

8 MR. TWOMBLEY: Object to the form.

9 MR. PAYLOR: Object to the form.

10 THE WITNESS: Not always.

11 BY MR. GILREATH:

12 Q. How often did he allow his clients to
13 sign sophisticated estate plans away from the
14 office?

15 MS. KIRK: Object to the --

16 MR. PAYLOR: Object to the form.

17 MS. KIRK: -- form and to the extent
18 you're seeking anything that's privileged amongst
19 other clients.

20 THE WITNESS: It was our general
21 practice to sign estate planning documents with him
22 present.

23 BY MR. GILREATH:

24 Q. Hold on just a minute. Let me get a
25 number to a document here. Look at Tab 16 of the

1 exhibit book you've got there.

2 A. Yes, sir.

3 Q. This is the second amendment and
4 restatement of trust agreement dated July the 20th
5 of 2012 --

6 A. Yes, sir.

7 Q. -- between Mr. Barringer, estate
8 planner, and Mr. Barringer -- Barringer Light as
9 the trustee.

10 A. Yes, sir.

11 Q. And look over at Page 26. Excuse me.
12 27. I'll call your attention to 27, 28 and maybe
13 29. Can you find your way there?

14 A. Yes, sir.

15 Q. Okay. Look at Page 27. Is that your
16 signature there on the last witness line?

17 A. Yes, sir.

18 Q. And then on Page 29 you signed as a
19 notary public?

20 A. Yes, sir.

21 Q. And do you see where this document
22 was signed by Paul Barringer both as settlor and
23 individual trustee down in the State of Alabama?
24 Do you see that?

25 A. Yes, sir.

1 Q. So that's one instance where a fairly
2 complicated trust -- this one being some 26 pages
3 long -- 27 -- was signed by Mr. -- Mr. Jolley's
4 client down in Alabama, correct?

5 MS. PAYLOR: Object to the form.

6 MS. KIRK: Object to the form.

7 MR. TWOMBLEY: Object to form.

8 THE WITNESS: I can't determine if
9 it's a complicated document or not, but, yes.
10 Mr. Barringer did sign it when he was out of town.
11 BY MR. GILREATH:

12 Q. Okay. Look on Page 27. There's -- the
13 first four lines of witnesses -- appears to be two
14 different people. They look like they signed --
15 they witnessed his signature both as settlor and
16 individual trustee. Do you know any of those
17 people?

18 A. No, sir.

19 Q. Do you remember anything about this
20 thing getting signed down in Alabama?

21 A. I do not recall.

22 Q. Any mention about that?

23 A. I do not recall.

24 Q. You don't have any recollection about
25 that?

1 A. No, sir.

2 Q. And you don't know who those people
3 are, correct?

4 A. Correct.

5 Q. Do you have any recollection about how
6 this document got to Alabama?

7 A. No, sir.

8 Q. Do you know -- you see on Page 28 where
9 it was signed down in Alabama on July the 20th and
10 it was witnessed by Carolyn Mace Snipes I believe
11 it is or Skipper maybe. But then you notarized it
12 being signed by Merrill Barringer Light on Page 27
13 but you didn't notarize it.

14 You signed -- you witnessed Merrill
15 Barringer Light's signature on Page 27, correct?

16 A. Yes, sir.

17 Q. And you also acknowledged her signature
18 as individual trustee on Page 29, correct?

19 A. Yes, sir.

20 Q. And all of that happened on July the
21 20th, correct?

22 A. Yes, sir.

23 Q. Do you have any explanation of how
24 this document got all the way from Hilton Head to
25 Alabama and back to Hilton Head in one day?

1 MS. KIRK: Object to the form.

2 MS. PAYLOR: Object to the form.

3 MR. TWOMBLEY: Same objection.

4 THE WITNESS: Well, I don't know when
5 the document actually got to Alabama.

6 BY MR. GILREATH:

7 Q. Say that again.

8 A. I don't know when the document got to
9 Alabama.

10 Q. Well, you don't question that it was
11 signed in Alabama on July the 20th, correct?

12 MR. TWOMBLEY: Object to the form.

13 MS. PAYLOR: Object to --

14 MS. KIRK: Object to form.

15 MS. PAYLOR: -- the form.

16 BY MR. GILREATH:

17 Q. Do you agree?

18 A. Yes, sir.

19 Q. And you don't question that you signed
20 it on July the 20th, correct?

21 A. Yes, sir.

22 Q. Have you ever been to Alabama?

23 MR. TWOMBLEY: Object to the form.

24 MS. PAYLOR: Object to the form.

25 THE WITNESS: I have not spent

1 significant time in Alabama. I -- we drove
2 through it.

3 BY MR. GILREATH:

4 Q. You've been through it?

5 A. Yes, sir, but not -- I haven't
6 actually --

7 Q. There's testimony here --

8 A. -- visited Alabama.

9 Q. Your testimony here as you're sitting
10 here today and you're under oath that you did not
11 have -- you did not have -- you did not have
12 anything to do with taking this thing -- this
13 document -- Exhibit 16 I believe it is -- to
14 Alabama. Correct?

15 A. I did not physically take the document
16 to Alabama. No, sir.

17 Q. And do you have any knowledge of how it
18 got from Hilton Head to Alabama and back to Hilton
19 Head all on the same day?

20 MS. KIRK: Object to the form.

21 MS. PAYLOR: Object to the form.

22 THE WITNESS: Again, I don't know when
23 it actually got to Alabama.

24 BY MR. GILREATH:

25 Q. Well, it was certainly there on July

1 the 20th or somebody's committing perjury.

2 Correct?

3 MR. TWOMBLEY: Object to --

4 MS. PAYLOR: Object to the form.

5 MS. KIRK: Object to the form.

6 MR. TWOMBLEY: -- the form.

7 BY MR. GILREATH:

8 Q. Correct?

9 A. Correct. It would have been present in
10 Alabama on July 20th, 2012. I don't know when it
11 got to Alabama. That's my --

12 Q. Do you have any knowledge or have you
13 seen any documents or had any discussions with
14 anybody other than your lawyer about how this
15 document mysteriously gets signed in Hilton Head
16 or in South Carolina and Alabama on the same day?
17 Do you know anything about that?

18 MS. KIRK: Object to the form.

19 MS. PAYLOR: Object to the form.

20 THE WITNESS: I do not know.

21 BY MR. GILREATH:

22 Q. You don't know? You don't have any
23 recollection of any discussions with Mr. Jolley,
24 correct?

25 A. No.

1 Q. And I believe you just testified it was
2 normally not his procedure on -- on a complicated
3 estate planning document to not have it signed with
4 him present, correct?

5 MR. TWOMBLEY: Object to the form.

6 MS. KIRK: Object to the form.

7 MS. PAYLOR: Object to the form.

8 THE WITNESS: I'm not one to determine
9 if it's a complicated document and Mr. Barringer
10 was not in town. So I don't know who he signed it
11 with.

12 BY MR. GILREATH:

13 Q. You said Mr. Barringer wasn't in town?

14 A. Correct. He was in Alabama.

15 MS. PAYLOR: Object to the form.

16 MS. KIRK: I didn't hear the question,
17 if there was one.

18 BY MR. GILREATH:

19 Q. I believe she said Mr. Barringer wasn't
20 in -- did you say Mr. Barringer wasn't in town?

21 A. Correct. He signed it in Alabama.

22 Q. Did you or anybody that you know at
23 the McNair firm have anything to do with getting
24 this document back and forth to Alabama if that, in
25 fact, happened on July the 20th of 2012?

1 MS. KIRK: Object to the form.

2 MS. PAYLOR: Object to the form.

3 MR. TWOMBLEY: Object to the form.

4 THE WITNESS: I'm sorry. Can you
5 repeat that, sir.

6 BY MR. GILREATH:

7 Q. Did you or anybody you know at the
8 McNair firm have anything to do with getting
9 this document down to Alabama to be signed by
10 Mr. Barringer?

11 MS. KIRK: Object to the form.

12 MR. TWOMBLEY: Same objection.

13 MS. PAYLOR: Object to form.

14 THE WITNESS: I do not know how the
15 document got to Mr. Barringer.

16 BY MR. GILREATH:

17 Q. You don't know?

18 A. No, sir. I do not recall.

19 Q. And you don't recall any discussions
20 with Mr. Jolley about how this thing got back and
21 forth to Alabama on what appears to be the same
22 day?

23 MR. TWOMBLEY: Object to the form.

24 MS. KIRK: Object to the form.

25 MR. TWOMBLEY: Asked and answered.

1 THE WITNESS: I do not know.

2 BY MR. GILREATH:

3 Q. Do you know where the original of this
4 document would be?

5 A. Typically we leave original
6 documents -- current original documents in the
7 vault and that would have been at McNair -- now
8 Burr & Forman -- but I don't know since I don't
9 work there who has the originals at this point.

10 Q. You still work for Mr. Jolley, correct?

11 A. Yes, sir.

12 Q. Did he take the original of any
13 documents that were in his vault from the McNair
14 firm to his new firm when he left?

15 MS. KIRK: I object to that question on
16 the grounds that that relates to other clients and
17 their files. That's completely outside the scope
18 of this.

19 BY MR. GILREATH:

20 Q. I'm talking about Mr. Barringer's
21 documents, ma'am.

22 MS. KIRK: As long as you're talking
23 about Mr. Barringer's estate planning documents
24 that's fine.

25 MR. TWOMBLEY: That's not what the

1 question was, but that's fine.

2 MS. KIRK: I'm happy for her to answer
3 as it relates to Mr. Barringer's estate planning
4 documents.

5 THE WITNESS: Unless the client
6 specifically -- in this case it would be Mrs.
7 Barringer specific --

8 MR. TWOMBLEY: I don't -- I mean, you
9 don't want to talk about Mrs. Barringer. I'm
10 instructing you not to answer anything about her.

11 She's -- her -- she's not deceased and
12 her documents are not at issue and I'm instructing
13 you not to answer anything about Merritt Underwood
14 Barringer. I think his question dealt with Paul
15 Brandon Barringer and his documents.

16 THE WITNESS: Okay. Unless Mr.
17 Barringer requested his documents to be sent here
18 they should still be in the vault at McNair. So
19 I --

20 BY MR. GILREATH:

21 Q. Okay. All right. Do you know this --
22 ever heard of -- know anything about this -- this
23 woman? I guess it's Carolyn -- Carolyn Marie
24 Skipper? Does that ring any bells with you?

25 A. No, sir.

1 Q. You don't have any knowledge or
2 explanation about how this document got from
3 South Carolina to Alabama and back to South
4 Carolina on the same day, correct?

5 MS. KIRK: Object to form. She's
6 answered that countless times.

7 MR. TWOMBLEY: Same.

8 THE WITNESS: I do not know when the
9 document got to Alabama. So I cannot -- I don't
10 know.

11 BY MR. GILREATH:

12 Q. If Mr. Jolley would send the document
13 down to Alabama to be signed would he normally --
14 would it be accompanied by a letter of transmittal?
15 Would that be his normal procedure?

16 MR. TWOMBLEY: Objection to the form.

17 MS. PAYLOR: Object to the form.

18 MS. KIRK: Object to the form.

19 THE WITNESS: I don't know how
20 Mr. Jolley would have addressed that.

21 MR. GILREATH: Well, wouldn't you have
22 been involved in helping him get it down there

23 MR. TWOMBLEY: Object to the form.

24 MS. PAYLOR: Object to the form.

25 MS. KIRK: Object to the form. She

1 already answered that question.

2 THE WITNESS: It could have been done
3 a number of different ways. It could have been --
4 it could have been mailed. It could have been
5 e-mailed. It could have been hand-delivered.

6 It could have been done different ways.
7 I mean, we don't know -- we honestly don't know
8 when it got there.

9 BY MR. GILREATH:

10 Q. If you sent this e-mail or
11 hand-delivered or sent it by FedEx what kind of
12 documentation or paper trail would there be at the
13 McNair firm that showed how this thing got down to
14 Alabama? Because it certainly didn't grow legs and
15 walk down there.

16 MR. TWOMBLEY: Object to the form.

17 MS. PAYLOR: Object to the form.

18 MS. KIRK: Object to form.

19 THE WITNESS: I don't know.

20 BY MR. GILREATH:

21 Q. Would there -- would there be a --
22 would something about the transmittal of this form
23 and how it got to Alabama would that typically be
24 part of the file at McNair --

25 MR. TWOMBLEY: Object to form.

1 MS. KIRK: Object to the form.

2 BY MR. GILREATH:

3 Q. -- maintained for this document?

4 A. I don't -- I don't know how this
5 document got there. I don't know.

6 Q. You don't -- all of this I've talked
7 about with this document is not ringing any bells?

8 You don't have any recollection or any
9 memory of any of that, correct?

10 A. No.

11 MS. KIRK: Object to the form.

12 MR. TWOMBLEY: Object to the form.

13 THE WITNESS: No, sir.

14 BY MR. GILREATH:

15 Q. And you're telling me that you think
16 there may still be a file at McNair that's got this
17 document in it, correct?

18 MS. KIRK: Object to the form.

19 MS. PAYLOR: Object to the form.

20 MR. TWOMBLEY: Object to the form.

21 THE WITNESS: It's possible that it
22 could still be in a wheel vault there.

23 BY MR. GILREATH:

24 Q. Okay. I want to put on the record --
25 y'all have been talking about Judge Mullens' order.

1 I've got a copy of it right here where I can --

2 MR. TWOMBLEY: Well, we've got it, too.
3 I've got it right here. Tell us what page you want
4 me to look at and paragraph.

5 MR. GILREATH: I don't want to look at
6 the page. I just want to put on the record I want
7 to be sure we're all talking about the same order.
8 The one I've got is electronically filed and dated
9 August 23rd, 2017 filed at 2:14 PM and it consists
10 of -- well, I don't know the pages -- six pages.

11 And there's an electronic signature
12 page for Judge Mullen that's unnumbered. Is that
13 the same -- are we talking about the same thing?

14 MS. KIRK: Mine matches your
15 description, Jim, except for -- the electronic
16 signature for Judge Mullen is numbered and it's
17 electronically signed and it's numbered Page 7
18 of 7.

19 MR. TWOMBLEY: Are those --

20 MR. GILREATH: It's seven pages total.

21 MR. TWOMBLEY: Are you just --

22 MR. GILREATH: You're correct.

23 MR. TWOMBLEY: Are you just asking us
24 if this is --

25 MR. GILREATH: It was signed on 2017,

1 8/23, Page 77.

2 MS. KIRK: Yes, sir. That's the order
3 that I've referenced.

4 MR. GILREATH: Okay. I just want to
5 make sure we're all singing off the same page and
6 hymnal. I don't think I need to put that in the
7 record. It's already part of the record down
8 there.

9 MR. TWOMBLEY: I mean, if there's
10 any other order that you think would be applicable
11 to Ms. Bostick testifying just please let us know.
12 BY MR. GILREATH:

13 Q. Okay. Did the McNair firm typically
14 require engagement letters when undertaking
15 representation of clients on fairly complicated
16 estate planning matters?

17 MR. TWOMBLEY: Object to the form--

18 MS. KIRK: Object to the form.

19 MS. PAYLOR: Object to the form.

20 THE WITNESS: Again, I -- I can't
21 attest this -- this is a complicated estate
22 planning document or documents. But, yes, we do
23 use engagement letters.

24 BY MR. GILREATH:

25 Q. Say that again. You said they would --

1 they would get engagement letters? You're aware
2 of that, right?

3 MS. KIRK: Object to the form.

4 MR. TWOMBLEY: Same objection.

5 THE WITNESS: Yes. We typically used
6 engagement letters.

7 BY MR. GILREATH:

8 Q. Did Mr. Jolley do engagement letters
9 for clients on complicated estate planning matters?

10 MR. TWOMBLEY: Object to the form.

11 MS. KIRK: Object to the form.

12 THE WITNESS: Again, I can't say if
13 it's a complicated estate planning matter. But,
14 yes, he often or we did do engagement letters.

15 BY MR. GILREATH:

16 Q. And -- and where would those engagement
17 letters be filed?

18 A. It would be in the file.

19 Q. Was there just one file or is it more
20 than one file?

21 A. More --

22 MS. KIRK: Object to the form, other
23 than you're asking about anything other than
24 Mr. Barringer's estate planning documents.

25 MR. TWOMBLEY: Absolutely. She said it

1 before I could.

2 BY MR. GILREATH:

3 Q. If you could go back to the McNair firm
4 today or tomorrow morning and you were looking for
5 an engagement letter on Mr. Barringer where would
6 you start looking?

7 MR. TWOMBLEY: I object to that
8 question.

9 MS. PAYLOR: Object to the form.

10 MS. KIRK: Object to the form.

11 MR. TWOMBLEY: I'll be happy to talk to
12 you about it. I think we can get her to answer the
13 question that you really want, but --

14 THE COURT REPORTER: I just realized it
15 looks like Mr. Macloskie has -- has dropped off and
16 it looks like he may be trying to get admitted
17 there on the screen here.

18 MR. GILREATH: I can't hear what she --

19 MR. TWOMBLEY: Well, it looks like Mike
20 Macloskie dropped off. We're trying to get him
21 back on.

22 THE WITNESS: I'm sorry. I didn't
23 even know.

24 MR. GILREATH: Who dropped off?

25 THE WITNESS: Good eye.

1 MR. GILREATH: It came back on? Let's
2 get him back on.

3 MS. PAYLOR: He's on now, looks like
4 it.

5 BY MR. GILREATH:

6 Q. Can you give me any help on where I
7 could ask the McNair firm to go look for an
8 engagement letter if such exists on Mr. Barringer?

9 MR. TWOMBLEY: I'm going to --

10 MS. PAYLOR: Object to the form.

11 MR. TWOMBLEY: -- object and I'm going
12 to instruct you not to answer unless he wants to
13 limit it to matters dealing with his estate.

14 MR. GILREATH: I limited it, Ashley.
15 Either tell her not to answer it or put your
16 objection in and instruct her not to answer and
17 file your motion.

18 MR. TWOMBLEY: You didn't -- you didn't
19 limit it.

20 MR. GILREATH: Let's get on with it.

21 MR. TWOMBLEY: You didn't limit it.
22 You just said Mr. Barringer. That's all you said.
23 You did not limit it. You may think that you did,
24 but you did not.

25 MR. GILREATH: Well, if didn't I --

1 I'll limit it to Mr. Barringer.

2 MR. TWOMBLEY: Well, you -- will you
3 limit it to his -- the preparation and execution of
4 his estate planning documents and engagement letter
5 related to that? Because I wouldn't object to
6 that.

7 MR. GILREATH: We can get more --

8 MR. TWOMBLEY: So you do agree to --

9 MR. GILREATH: I want her to tell me
10 where she thinks it would be at the McNair firm.

11 MR. TWOMBLEY: If it's related to the
12 preparation and execution of estate planning
13 documents, correct?

14 MR. GILREATH: Ashley, my question
15 is fairly simple and I think I've asked it. If I
16 haven't I'll ask it now.

17 BY MR. GILREATH:

18 Q. Did he sign an engagement letter that
19 you can recall?

20 MR. TWOMBLEY: I'm going to object and
21 instruct you not to answer.

22 MR. GILREATH: You're going to instruct
23 her not to --

24 MS. KIRK: To the extent your question
25 exceeds the scope of estate planning matters for

1 Mr. Barringer, I object to it and that's the issue
2 we keep coming back to.

3 MR. GILREATH: That's what I'm limited
4 to. Y'all can't under -- I -- I -- I know I've got
5 a bad southern drawl, but I'm speaking pretty clear
6 I think about Barringer and an estate planning
7 engagement letter.

8 MR. TWOMBLEY: You never said that,
9 Jim. I'm -- I'm sorry. You didn't. You did not
10 say that.

11 MR. GILREATH: Maybe that's not what I
12 said.

13 MR. TWOMBLEY: But if you --

14 MR. GILREATH: That's what I meant.

15 MR. TWOMBLEY: Okay. Well, if you
16 agree that it's limited to that question and if
17 you can answer that question I'm fine with you
18 answering it.

19 MS. KIRK: You're welcome to answer.

20 MR. GILREATH: If she can answer you
21 what?

22 MR. TWOMBLEY: I said --

23 MR. GILREATH: You're fine with her
24 answering.

25 BY MR. GILREATH:

1 Q. So can you answer that question?

2 Ashley and I finally agreed on something.

3 A. I do not know.

4 Q. You don't know?

5 A. I don't know.

6 Q. Well, I've got to call up -- what's
7 his name -- Nick Felix and see if he can find
8 that and I'd like for you to tell me where I can
9 ask Mr. Felix to go on his search --

10 MS. KIRK: Asked --

11 BY MR. GILREATH:

12 Q. -- if you'll give me any help.

13 MS. KIRK: Asked and answered.

14 MR. TWOMBLEY: And -- and I want to
15 state for the record that if you're going to be
16 talking to that firm about the work they did for
17 my client I want to be present and you can send --
18 you can -- you know, anyway, I'll -- I'll handle
19 that with the McNair Law Firm.

20 MR. GILREATH: Ashley, you know what
21 I'm asking for. Let me get on with this deposition
22 and quit -- just -- anyway...

23 BY MR. GILREATH:

24 Q. Can you give me any help or you can't?

25 A. I do not know where it would be.

1 Q. Okay. Can you tell me if you recall
2 how often Merrill and/or Randy Light would be in
3 meetings with Mr. Barringer at the McNair firm when
4 he was working on his estate planning matters.

5 A. I don't know.

6 MR. MOLSTER: Objection. Instruct not
7 to answer. Allison --

8 THE COURT REPORTER: I'm sorry.

9 MS. PAYLOR: Objection. Don't answer.

10 MR. GILREATH: Do what?

11 MS. PAYLOR: We instructed her not to
12 answer.

13 MR. GILREATH: So what's privileged
14 about that? That's all right. You'll -- you'll
15 have to explain that one to the judge. All I'm --
16 the question is very simple.

17 It's got nothing to do with Merrill
18 Light. It's to ask her how often Merrill Light --
19 was there a meeting with Mr. Barringer. Are y'all
20 going to instruct her not to answer that? I want
21 to be sure I've got the record clear.

22 MS. PAYLOR: All right. Let's go off
23 the record for a minute.

24 MR. MOLSTER: We'll take --

25 MR. GILREATH: We're not going off the

1 record.

2 MS. PAYLOR: Well --

3 MS. MOLSTER: Jim, we need to talk
4 about whether -- about the privilege issue. So,
5 please, be courteous. We'll go off the record and
6 we'll talk about it and see whether or not we'll
7 resolve it. Could the court reporter please read
8 back the question so we can make sure we got it.

9 MR. GILREATH: Is that you talking,
10 Chip?

11 MR. MOLSTER: Yes, sir.

12 MR. GILREATH: Your lips aren't moving.

13 MR. MOLSTER: We're going to try and
14 resolve it. We're going to try to resolve it.
15 It's because I'm out in the country, Jim. I've got
16 a bad connection here.

17 We're going to try and resolve it for
18 you, if the court reporter could please read back
19 the question so we make sure we've got it. We'll
20 take a quick break and we'll --

21 MR. GILREATH: We've got it resolved.

22 THE COURT REPORTER: I'm sorry. One
23 second.

24 MR. MACLOSKIE: We need to excuse the
25 witness.

1 THE VIDEOGRAPHER: We are going off the
2 record. It is 4:55 PM.

3 (A recess transpired.)

4 THE VIDEOGRAPHER: We are back on the
5 record. It is 4:58 PM.

6 MR. GILREATH: All right. Y'all tell
7 her what she said. I mean, you said she can answer
8 the question. Right?

9 MS. PAYLOR: Yes. Yes.

10 THE WITNESS: Can you remind me what
11 the question is.

12 BY MR. GILREATH:

13 Q. Do you remember the question, ma'am?

14 THE COURT REPORTER: I think the
15 witness wants me to read back the last question.
16 Is that correct? Mr. Gilreath.

17 MR. GILREATH: Yeah. That's fine.
18 Yeah. Read the question to her.

19 (The Court Reporter read the question
20 commencing on page 106 line 25.)

21 BY MR. GILREATH:

22 Q. That's the question.

23 A. I don't know.

24 Q. Well, were they -- would it be fair to
25 say they were there some?

1 MS. PAYLOR: Object to the form.

2 MS. KIRK: Object to the form.

3 THE WITNESS: I honestly don't
4 remember.

5 BY MR. GILREATH:

6 Q. You have no recollection of that?

7 A. No, sir.

8 Q. Okay. Let me ask you this. Are you
9 aware of any reason why Mr. Barringer needed to
10 sign the July 2012 trust amendment while he was in
11 Alabama?

12 A. I do not know why.

13 Q. Look at Tab 13 in my document book,
14 Page 235 of 236, the top entry there. I'll read it
15 into the record, July 18th of '2012: The prepared
16 restatement of Paul Barringer irrevocable trust
17 agreement, telephone conference with Randy Light.

18 Do you have any explanation of why
19 Mr. Jolley would be having a telephone conference
20 with Randy Light about anything related to Paul
21 Barringer's irrevocable trust agreement?

22 MR. TWOMBLEY: Object to form of the
23 question.

24 MS. KIRK: Object to the form.

25 MS. PAYLOR: Object to the form.

1 THE WITNESS: I don't know generally
2 why he would have a telephone conference with Randy
3 Light. I wasn't there.

4 BY MR. GILREATH:

5 Q. Look at Tab 1 in the book, assignment
6 of shares, dated the 11th day of September of 2012.

7 MR. TWOMBLEY: What was the tab again?

8 THE WITNESS: One.

9 MR. TWOMBLEY: One. Okay. Sorry.

10 BY MR. GILREATH:

11 Q. It's a three-page document. Do you
12 have any recollection of this document or have any
13 knowledge of anything dealing with its preparation
14 or execution?

15 A. I don't recall.

16 Q. You don't recall. Do you recognize
17 whose handwriting's in the dateline on Page 224?
18 That's Tab 1.

19 A. I don't know.

20 Q. How about Page 226 where somebody wrote
21 in 11? Is that -- do you recognize that
22 handwriting?

23 A. No, sir.

24 Q. Have you ever seen or been made aware
25 of Mr. Jolley backdating a document?

1 MS. KIRK: Object to the form.

2 MS. PAYLOR: Object to the form.

3 THE WITNESS: No.

4 BY MR. GILREATH:

5 Q. You understand what I mean by
6 backdating, correct?

7 MS. KIRK: Object to the form.

8 MR. TWOMBLEY: Same objection.

9 THE WITNESS: Yes, sir.

10 BY MR. GILREATH:

11 Q. And it's your testimony here under oath
12 today that you have never seen or been made aware
13 of Mr. Jolley ever backdating a document, correct?

14 MR. TWOMBLEY: Object to the form.

15 MS. KIRK: Object to the form.

16 MS. PAYLOR: Object to form.

17 THE WITNESS: Not that I'm aware of.

18 BY MR. GILREATH:

19 Q. Did he ever give you any instructions
20 as a paralegal or assistance -- assistant about
21 backdating?

22 MS. KIRK: Object to the form.

23 MS. PAYLOR: Object to the form.

24 THE WITNESS: No.

25 BY MR. GILREATH:

1 Q. Did the McNair firm have any kind of
2 interim policy that you were aware of that would
3 condone the backdating of a client's document?

4 MS. PAYLOR: Object to the form.

5 MS. KIRK: Object to the form.

6 MR. TWOMBLEY: Same objection.

7 THE WITNESS: I don't know.

8 BY MR. GILREATH:

9 Q. Did anybody at the McNair firm ever
10 instruct you or comment on or make any
11 conversations with you about backdating documents?

12 MS. KIRK: Object to the form.

13 MS. PAYLOR: Objection to the form.

14 THE WITNESS: No.

15 MR. GILREATH: What is your opinion on
16 backdating?

17 MS. PAYLOR: Object to the form.

18 MS. KIRK: Object to the form.

19 THE WITNESS: There's no purpose for
20 it. So...

21 BY MR. GILREATH:

22 Q. Can you answer that. Do you have an
23 opinion?

24 A. There's no purpose for it.

25 Q. Do what?

1 A. I don't see a purpose in it.

2 Q. No purpose for backdating?

3 A. Uh-huh.

4 Q. Okay. What would you do or have done
5 if a client came in and wanted to backdate a
6 document? Would you let them do it?

7 MR. TWOMBLEY: Object to the form.

8 MS. KIRK: Object to the form.

9 MS. PAYLOR: Object to the form.

10 THE WITNESS: No.

11 BY MR. GILREATH:

12 Q. Do you remember a board meeting of
13 the CFRC? That's Coastal Forest Resources
14 Corporation which was Mr. Barringer's corporation.

15 Do you have any recollection or memory
16 about a June 28th, 2012 board of directors meeting
17 held in Mr. Jolley's office at the McNair firm?

18 MS. KIRK: Object to the form and I
19 object to the fact that it exceeds the exception of
20 the scope of the testamentary privilege.

21 BY MR. GILREATH:

22 Q. Can you answer my question.

23 MS. KIRK: I'm going to instruct
24 her not to answer it to the extent that you're
25 seeking -- your entire question sounds like it is

1 asking for information about a different entity.

2 MR. GILREATH: It's Coastal Forest
3 Resources Corporation, ma'am, and it's very much
4 involved in this lawsuit.

5 MR. TWOMBLEY: Well, let --

6 MR. GILREATH: The board of directors
7 can't --

8 MS. KIRK: It's not a decedent in this
9 lawsuit.

10 MR. GILREATH: Do what?

11 MS. KIRK: It's not the decedent in
12 this lawsuit. It's a different entity.

13 MR. TWOMBLEY: Jim, let's -- let me
14 talk with Ariail about that. I think I can get her
15 comfortable with allowing the witness to answer,
16 but --

17 MR. GILREATH: You better get her
18 comfortable. She's going to be explaining to
19 the judge about it.

20 MR. TWOMBLEY: Well, I think your
21 threatening, bullying comments are not helpful
22 and they're disrespectful. But I'll be happy to
23 talk with Ms. Kirk and we'll be back in a moment.

24 MR. GILREATH: All right. Take a
25 break.

1 THE VIDEOGRAPHER: We are going off the
2 record. It is 5:11 PM.

3 (A recess transpired.)

4 THE VIDEOGRAPHER: We are back on
5 record. It is 5:15 PM.

6 MS. KIRK: Jim, to the extent your
7 question is general I'm okay with the witness
8 answering. But to the extent you want to get into
9 any privileged communications that may have taken
10 place during the meeting I will object to that and
11 have her not -- instruct her not to answer.

12 MR. GILREATH: All I asked her was
13 that -- I think was the June 28, 2012 CFRC Board of
14 Directors meeting held at the -- Mr. Jolley's
15 office at the McNair firm.

16 THE WITNESS: I do not recall that
17 specific meeting, but they -- we often let people
18 use our conference rooms without us present.

19 BY MR. GILREATH:

20 Q. Do you know whether -- did you ever see
21 Randy Light at any CFRC Board of Directors meetings
22 held at the McNair firm?

23 A. I don't know. I don't attend them.

24 Q. You would know they were going on,
25 though. Wouldn't you?

1 MR. TWOMBLEY: Object to the form.

2 MS. KIRK: Object to the form.

3 MS. PAYLOR: Object to the form.

4 THE WITNESS: I would know when they
5 were scheduled, but I would not have any
6 involvement in it.

7 BY MR. GILREATH:

8 Q. Where -- where would the board meeting
9 be? How far would it be from Mr. Jolley's office?

10 A. On the other side of the building.

11 Q. Okay.

12 A. It's in a general area of the building
13 when we were in our work spaces.

14 Q. You said the general area of the
15 building?

16 A. Yeah.

17 Q. How far away was that from your office?

18 A. Well, the general area is closed off by
19 doors and then my office and John's office were in
20 the back corner. So I would say it would be a
21 minute-or-two walk --

22 Q. Minute-or-two walk. Okay.

23 A. -- depending on which conference room
24 they used as well.

25 Q. Well, let me ask you this. Do you have

1 any knowledge of Randy Light being in a CFRC Board
2 of Directors meeting that was held in McNair's
3 office at any time?

4 A. I do not know.

5 Q. All right. Are you aware of John
6 Jolley ever obtaining any medical records on
7 Mr. Barringer?

8 MS. KIRK: Object to the form.

9 MR. TWOMBLEY: Object to the form of
10 the question. If you'd like to limit it to the --
11 related to the preparations, execution or amendment
12 of estate planning documents I'll allow her to
13 answer.

14 BY MR. GILREATH:

15 Q. That's what he was doing for them
16 when you -- when he was working on Mr. Barringer's
17 estate planning documents are you aware of whether
18 Mr. Jolley ever attempted in any way from either
19 Merrill or any other way to get any medical records
20 on Mr. Barringer?

21 MR. TWOMBLEY: Object to the form of
22 the question.

23 MS. KIRK: Object to form.

24 THE WITNESS: I would have -- no. I --
25 I don't know.

1 BY MR. GILREATH:

2 Q. Okay. Do you remember any
3 discussions with Mr. Jolley where he was discussing
4 Mr. Barringer's health situation?

5 MR. TWOMBLEY: Object to the form.

6 MS. KIRK: Object to the form.

7 MR. TWOMBLEY: Asked and answered.

8 THE WITNESS: I don't know.

9 BY MR. GILREATH:

10 Q. Did -- are you aware of Merrill Light
11 and/or Randy Light discussing with John Jolley any
12 health issues involving Mr. Barringer?

13 MS. PAYLOR: Asked and answered.

14 MS. KIRK: Object to the form.

15 MR. MOLSTER: Object to the form. I'll
16 also instruct her not to answer because --

17 MR. TWOMBLEY: Limit it to estate
18 planning and --

19 MS. PAYLOR: She's already answered and
20 said that she was not aware of it. So...

21 BY MR. GILREATH:

22 Q. Is that your answer?

23 MR. TWOMBLEY: Well, I think you need
24 to rephrase the -- reask the question.

25 BY MR. GILREATH:

1 Q. Are you aware that on or about
2 February 21st of 2011 that Kevin Luzak which is my
3 client's husband e-mailed the deceased -- he
4 received an e-mail from Randy Light and I -- I'll
5 read from it.

6 MS. PAYLOR: Object to the form. Se
7 hasn't -- why would she have seen that?

8 MR. GILREATH: Please, ma'am, could you
9 please have the common decency, Alice, to let me
10 get through with my question? And then you're free
11 to object all you want to.

12 Now, I've got the right to ask my
13 questions without you interrupting me. I don't
14 interrupt your questions. Could we have an
15 agreement on that maybe anyway?

16 MS. PAYLOR: No. No.

17 MR. GILREATH: Okay.

18 MS. PAYLOR: No.

19 MR. GILREATH: I'll play that back to
20 the judge, too. All right. Are you aware that --
21 that on February 21st of 2011 Randy Light sent an
22 e-mail to Merrill -- Kevin Luzak and said, quote --
23 this is -- what exhibit is this? Exhibit 34.

24 It's not in the book. I haven't got it
25 in there yet. What -- Kathie you say. It's not in

1 the exhibit book. I e-mailed it to you. I'll read
2 the e-mail. And he said: I feel it would be
3 advantageous for the four of us -- talking about
4 Randy and his wife and Kevin and his wife -- to
5 discuss the future plans -- present and future
6 with CFRC.

7 It is evident to Merrill and I that
8 PBB -- that being Paul Barringer -- is starting to
9 experience different health issues that affect his
10 judgment regarding everyday decisions personally
11 and business-wise. It appears that this makes it
12 harder for you to exercise your authority as
13 President of CFRC if he will not listen.

14 Merrill and I have absolutely no
15 say in the operations of CFRC which PBB has made
16 clear on many occasions. Merrill and I have total
17 confidence in your ability to guide the company in
18 a direction that will benefit stockholders most.

19 Our fear is that PBB -- being Mr.
20 Barringer -- is going to attempt some irrational
21 move that will harm the profitability of the
22 company simply to satisfy his desire to underwrite
23 Victor or keep the stockholders graveling. Any
24 thoughts? Signed RL, which is Randy Light.

25 Do you have any knowledge of that or

1 that being brought to the attention of Mr. Jolley?

2 MR. TWOMBLEY: Object to the form of --

3 MS. KIRK: Is this the document that --

4 MR. TWOMBLEY: Object to the form of
5 the questions.

6 MS. KIRK: -- you e-mailed while we
7 were setting up? Is this one of those documents?

8 MR. GILREATH: Yes.

9 MS. KIRK: Okay. Well, to the extent
10 that you want to ask questions about documents that
11 we got while we were trying to get online for the
12 deposition I'll need to take a break and discuss it
13 with my client.

14 Do you want to save this for the end or
15 do you want us to do the break now?

16 MR. GILREATH: If you want to take a
17 break and talk to your client you've got the right
18 to. We were late getting that to you.

19 MR. TWOMBLEY: I mean, if she doesn't
20 know anything about it wouldn't that alleviate the
21 need for it, the conference about it?

22 MS. KIRK: Yes.

23 MR. TWOMBLEY: So do you know anything
24 about this e-mail?

25 THE WITNESS: No.

1 MR. TWOMBLEY: Well, just answer.

2 MR. GILREATH: Did she say she didn't
3 know anything about it?

4 MR. TWOMBLEY: Yeah.

5 MS. KIRK: Correct.

6 THE WITNESS: Correct.

7 MR. GILREATH: That's all I needed.

8 BY MR. GILREATH:

9 Q. Do you know whether Mr. Jolley had any
10 knowledge of a visit that Mr. Barringer had with --
11 over at St. Joseph's/Candler Health System where
12 he was seen by Dr. Jessica F. Carter where she said
13 he was aphasiac and he had difficulty following
14 two-step commands but eventually gets it right with
15 being able to touch his right hand to his left ear?

16 When I asked him to show my two fingers
17 he does have some difficulty with this. Are you --
18 are you aware of the fact that -- that that
19 happened over at St. Joseph's with Mr. Barringer
20 May the 3rd of 2012?

21 MR. KIRK: Object to form, but you may
22 answer.

23 MR. TWOMBLEY: Object to the forms of
24 the questions.

25 THE WITNESS: I have no idea.

1 MS. PAYLOR: Object to the form.

2 BY MR. GILREATH:

3 Q. Are you aware of that?

4 A. No.

5 MR. TWOMBLEY: Same objection.

6 BY MR. GILREATH:

7 Q. Have you ever had any discussions with
8 Mr. Jolley or are you aware of anything he may know
9 about that?

10 MR. TWOMBLEY: Same objection.

11 MS. KIRK: Same objections and she's
12 already answered that.

13 MR. GILREATH: What did you say?

14 MS. KIRK: I said, same objection and
15 she's already answered it.

16 BY MR. GILREATH:

17 Q. Well, answer it again. I didn't -- I
18 didn't get the answer --

19 A. I don't know.

20 Q. -- to that. You don't know anything
21 about that. Okay.

22 Do you think this medical record
23 that I'm reading from would have been something
24 Mr. Jolley would have been interested in in that
25 it's dated May the 3rd of 2012 which is just right

1 before Mr. Barringer signed this second amendment
2 on July the 20th?

3 MR. TWOMBLEY: Object to the form.

4 BY MR. GILREATH:

5 Q. Signed over --

6 MS. PAYLOR: Object to the form.

7 BY MR. GILREATH:

8 Q. -- on September 11th?

9 MS. KIRK: Object to the form as well.

10 MR. TWOMBLEY: Same here.

11 THE WITNESS: I don't know what
12 Mr. Jolley would be interested -- I -- I have no
13 idea.

14 BY MR. GILREATH:

15 Q. Okay. Did you ever have any
16 conversation with Mr. Jolley's about Mr.
17 Barringer's health or how he was doing mentally or
18 cognitively?

19 MR. TWOMBLEY: Object to the form.

20 MS. KIRK: Object to the form. She's
21 answered this a couple of times as well as it
22 relates to his health and estate planning
23 documents.

24 BY MR. GILREATH:

25 Q. Well, answer it again, please, ma'am.

1 A. No.

2 Q. All right. I do. I get to go through
3 these documents. That's all simple. All right.
4 Let me look at these documents here a minute. Have
5 you ever heard of a guy named Travis Bryant?

6 A. Yes, sir.

7 Q. You have?

8 A. Yes, sir.

9 Q. Did Mr. -- did he ever come in to see
10 Mr. Jolley?

11 MS. KIRK: I object to the question to
12 the extent that you're going after some other
13 entities, privileged communications.

14 MR. TWOMBLEY: I think --

15 MR. GILREATH: Can she answer that
16 question?

17 MS. KIRK: Do you want to narrow the
18 question?

19 MR. GILREATH: I just asked if she ever
20 meet Mr. Travis Bryant, did he ever come in and
21 meet with Mr. Jolley.

22 MR. TWOMBLEY: That is not what you
23 asked.

24 MR. GILREATH: I'll tell you he was
25 an executive with Coastal Forest Resources which

1 is Mr. Barringer's company which apparently you're
2 not aware of that.

3 MS. KIRK: I'm aware that the company
4 is not the decedent that has the testamentary
5 exception to the attorney-client privilege and to
6 the extent you're asking her about a separate
7 entity and privileged communications regarding that
8 entity I cannot let her answer.

9 If you're asking something else and
10 want to clarify that we can move forward.

11 MR. GILREATH: Hold on a minute.
12 You've got an estate planning form. You going to
13 give up that easy? All right. We won't have to.
14 BY MR. GILREATH:

15 Q. Look at Tab -- Tab 5. There's some
16 stock certificates there, Coastal Forest Resources
17 Company.

18 A. Uh-huh.

19 Q. Look over on the third page. This is
20 Number 14. Somebody had written canceled on it.
21 Do you recognize that writing?

22 A. No, sir. No.

23 Q. Did you have anything to do with the
24 preparation of those stock certificates?

25 A. I don't recall.

1 Q. Look at -- look at 6-A. Look at
2 Tab 6-A, Certificate Number 15. It says the date
3 of issue is 12/31/2012 for one share. Do you see
4 that entry? It's on Page 2.

5 A. Yes, sir.

6 Q. The stock registry. Do you recall
7 having anything to do with working on that stock
8 register or dating that certificate that date?

9 A. I don't recall.

10 Q. Did you ever -- did you ever do stock
11 certificates for corporate entities that Mr. Jolley
12 was involved with?

13 A. On occasion.

14 Q. I couldn't hear you.

15 A. On occasion I do or did.

16 Q. On occasion. Okay. Look at Tab 7.
17 There is an e-mail. Is that an e-mail that you
18 sent to Travis Bright with some stock certificates?

19 A. Yes, sir.

20 Q. Thursday, January the 24th of 2013.

21 A. Yes, sir.

22 Q. Do you have any recollection of sending
23 that?

24 A. Not this particular e-mail.

25 Q. And look at the next document which is

1 a letter dated January the 24th of 2013 --

2 MS. KIRK: Are you still --

3 BY MR. GILREATH:

4 Q. -- Travis Bryant Jolley enclosing
5 Certificates Number 15 and 16. Is that a letter
6 that you would have written for Mr. Jolley?

7 A. Yes. My initials are on it.

8 Q. Okay. Look at the certificates that
9 are behind that letter. There's several of them
10 front and back.

11 Would those have been certificates
12 that you would prepared under the direction of
13 Mr. Jolley?

14 A. I don't know about these particular
15 certificates.

16 Q. Do what?

17 A. I do not know about these particular
18 certificates.

19 Q. We asked about -- does that start on
20 14? Go to Tab 14. It starts on 27. Right?

21 I may have already asked you this. If
22 I did I apologize. There's your signature as a
23 witness on Page 27 and there's a notary on Page 28
24 and 29.

25 A. Yes, sir.

1 Q. Okay. Look over at Number 15. Is that
2 your signature on Page 7 of that document? Last
3 will and testament.

4 A. Yes, sir.

5 Q. Talking about 16. Look at Number 17,
6 Page 29. Who is Sheree Morris?

7 A. Sheree Morris is HR person at McNair,
8 operations manager.

9 Q. At where?

10 A. At the time at McNair. Now it's Burr
11 and Forman.

12 Q. What is her position?

13 A. Operations manager, HR. Human
14 Resources.

15 Q. Have you got any explanation of why
16 she would have been witnessing Mr. Barringer's
17 signature as settlor or trustee of the third
18 amendment that was executed on June 12th, 2014?

19 A. Yes, sir.

20 Q. You have no recollection of that?

21 A. No. I know exactly why.

22 Q. You know?

23 A. Yes, sir.

24 Q. Tell me.

25 A. Because Mr. Jolley is named in the

1 document as somebody that can appoint a successor
2 trustee and that is on Page 13. And whenever
3 John is named in a document we don't like him
4 to witness. So we brought in Sheree Morris as a
5 third witness just so there is two disinterested
6 witnesses.

7 Q. I can't understand what you're saying.
8 Let me see if Bill understood it. Hold on a
9 minute. All right. Was that a matter of policy
10 at the firm?

11 MR. TWOMBLEY: Object to the form.

12 MS. KIRK: Object to the form.

13 MS. PAYLOR: Object.

14 THE WITNESS: I can't say for the firm,
15 but I do know it's policy for John.

16 BY MR. GILREATH:

17 Q. Okay. What about this one? Nothing
18 there. She signed there, too. Yeah.

19 All right. On to 19. Nothing on 19.
20 She -- yeah. She -- she signed all of them. Is
21 that your signature at Tab 19 on Pages 20 as the
22 witness?

23 A. Yes, sir.

24 Q. Okay. And your notary signature on
25 Page 30?

1 A. Both of them, yes.

2 Q. All right. At Tab 20, Page 8, is that
3 your signature as a witness and as a notary?

4 A. Yes, sir.

5 Q. Wait a minute. Number 21, is that
6 your signature on page -- on the second to third
7 page of that? The revocation, power of attorney.

8 A. Yes, as a witness and as notary.

9 Q. Okay. Page 20, Tab 22. Is that
10 your signature on Page 9 there right below
11 Mr. Jolley's when you signed as a notary?

12 A. Yes, sir, witness and notary.

13 Q. On page -- Page 23 -- Tab 23, Page 9,
14 is that your signature?

15 A. Yes, as witness and notary.

16 Q. And Tab 24, is that your signature as a
17 notary on Page 2 a revocation of the power of
18 attorney?

19 A. On Page 2, witness and notary, yes,
20 sir.

21 Q. And on Page 3, correct?

22 A. Yes, sir, as witness and notary. I
23 think you missed one. Tab 22 on Page 8 as witness
24 and notary. It was before Page 9. It may have
25 been Tab 23, one of the two. I'm sorry.

1 MR. GILREATH: We need to take a break
2 for a minute.

3 THE VIDEOGRAPHER: We are going off
4 record. It is 5:53.

5 (Off-the-record conference.)

6 THE VIDEOGRAPHER: We are back on
7 record. It is 5:54 PM.

8 BY MR. GILREATH:

9 Q. Tab 25, Page 4, affidavit. Is that
10 your signature as a witness and a notary?

11 A. Yes, sir.

12 Q. Tab 26, is that your signature on
13 Page 4?

14 A. Yes, as witness and notary.

15 Q. As a witness and notary?

16 A. Yes, sir.

17 Q. Tab 27 -- I think I've been through
18 27 and 28 Bill says. Going to 29. Look at Number
19 30 -- Tab 30.

20 Do you know why Randy Light would be
21 directing Mr. Jolley to send Paul Barringer's
22 estate documents to be executed to somebody at
23 Wells Fargo?

24 MR. TWOMBLEY: Object to the form.

25 MS. KIRK: Object to form.

1 THE WITNESS: It is not uncommon for us
2 to send documents to a financial institution for
3 their records that holds assets there for the
4 client.

5 BY MR. GILREATH:

6 Q. Do you have any independent knowledge
7 about this e-mail or why it occurred?

8 A. No.

9 MR. GILREATH: On 31, Bill.

10 BY MR. GILREATH:

11 Q. Do you have any independent
12 recollection about Randy Light sending e-mails
13 in to Mr. Jolley wanting to know about when the
14 voting shares that were going to Merrill Light
15 that were going to be prepared? Do you have any
16 recollection of anything about that?

17 MS. KIRK: Object to the form.

18 MR. TWOMBLEY: Object to the form.

19 MS. PAYLOR: Object to form.

20 MR. MOLSTER: It could (inaudible) --

21 THE COURT REPORTER: I'm sorry. I
22 didn't hear what Mr. Molster said.

23 MS. PAYLOR: It could elicit
24 attorney-client privilege. We instruct her not
25 to answer.

1 MR. GILREATH: You take the position
2 that that has got to do with attorney-client
3 privilege and you instructed her not to answer?

4 MR. MOLSTER: That's correct.

5 MS. PAYLOR: Yes.

6 MR. MOLSTER: Communication with the
7 lawyer. Communications with the lawyer, her
8 lawyer. His lawyer. Yes.

9 MR. GILREATH: Yeah, about a stock
10 transfer to Merrill Light from Paul Barringer which
11 is the subject of this lawsuit. I just want to be
12 sure this is straight on the record and y'all don't
13 think I can go into that. Is that correct? Y'all
14 instructed her not to --

15 MS. PAYLOR: Yes. Well, I doubt she
16 knows anything about it. But, yeah. It's going
17 into -- it could potentially go into
18 attorney-client --

19 MR. GILREATH: Well, you know, if you
20 can object on stuff that --

21 MS. PAYLOR: We --

22 MR. GILREATH: If y'all are going to
23 instruct her not to answer why don't -- we'll move
24 on -- we'll move on to other -- bigger and better
25 things.

1 MR. MOLSTER: Well, jim, why don't we
2 do this. Why don't we see if we can work this out.
3 So if you -- if you ask her -- let her answer to
4 yes or no, do you know anything about this e-mail?
5 Let her answer that question.

6 Depending on the answer to that then we
7 can deal with the next question as to whether or
8 not we're going to let her ask -- answer anything
9 more. So we'll go one step at a time and --

10 MR. GILREATH: These relate to the
11 e-mails at Tab 32. I'm still trying to figure out
12 how you're talking without moving your lips. I
13 can't see your lips.

14 MR. MOLSTER: I can't answer that.
15 It's -- I can only say the explanation is Reva,
16 Virginia. But -- all right. So -- so are you
17 okay if she answers just yes or no to your question
18 as to whether or not she knows anything about this
19 e-mail and then we go from there?

20 MR. GILREATH: If she doesn't know --
21 we'll just ask her. All right.

22 So I'm asking her does she know
23 anything about that e-mail or the fact that Randy
24 and Travis were inquiring of Mr. Jolley in a series
25 of e-mails that are found at Tab 32 about where was

1 this -- the stock certificates, signing the lost
2 waiver.

3 BY MR. GILREATH:

4 Q. Do you have any knowledge of that?

5 A. I wasn't directly involved with this.

6 MR. GILREATH: What did she say?

7 THE WITNESS: I was not directly
8 involved with this.

9 BY MR. GILREATH:

10 Q. You said you were not involved in that,
11 correct?

12 MR. TWOMBLEY: Object to the form.

13 Calls --

14 MR. GILREATH: All right. We'll move
15 on.

16 MR. TWOMBLEY: Did you get my
17 objection?

18 THE COURT REPORTER: Yes.

19 BY MR. GILREATH:

20 Q. I've got one document here that I want
21 to show to you. It's not in the book. I just want
22 you to --

23 MR. HOGAN: Share the screen.

24 MR. GILREATH: I need to share the
25 screen, Madam Court Reporter. I'm going to put

1 this --

2 MR. HOGAN: She hasn't enabled to the
3 share the screen. She hasn't enabled the share
4 screen yet.

5 MR. TWOMBLEY: She's working on it.

6 MR. GILREATH: Have we got it?

7 THE COURT REPORTER: I know how to
8 share my screen. I've forgotten how to do this.
9 Give me a second. I apologize. I think I found
10 it. I found it. Can you see if it works now?

11 MR. GILREATH: Try it.

12 MR. HOGAN: Okay. There we go.

13 MR. TWOMBLEY: Just tell us what the
14 document is, Bill.

15 MR. HOGAN: Just one second here.

16 BY MR. GILREATH:

17 Q. Okay. Voila. Can you see that
18 document, ma'am?

19 A. Yes, sir.

20 Q. These are -- I'll represent these were
21 handwritten notes on a legal pad that were produced
22 to us.

23 MS. KIRK: Can -- can you e-mail that
24 to me, please.

25 MR. GILREATH: Do what?

1 MS. KIRK: Could you please e-mail that
2 to me?

3 MR. GILREATH: You can't see it on
4 your screen?

5 MS. KIRK: I can, but if I need to talk
6 to my client about it I can't leave the room with
7 the screen.

8 MR. GILREATH: Well, it's several
9 documents.

10 BY MR. GILREATH:

11 Q. All I want to know is, can you identify
12 for me the handwriting on that -- on the -- on
13 the -- on these sheets of paper. They're all the
14 same.

15 MS. KIRK: I mean, we can only see the
16 first page.

17 MR. GILREATH: Well, we're going to
18 show you the next page in a minute. Go ahead. You
19 want me to flip over to the other one so you can
20 see the rest of them? We'll e-mail them to you,
21 too.

22 MS. KIRK: Okay. I'll pull up my
23 e-mail.

24 MR. GILREATH: Yeah. I want to know
25 about the e-mail on that one. What is the next

1 one? Yeah. I want to know whose handwriting is on
2 all these pages. They're -- they're not all the
3 same it looks like.

4 MR. TWOMBLEY: Well, I want you to
5 identify them. I --

6 MS. KIRK: Yeah. I don't have an
7 e-mail yet.

8 MR. HOGAN: They're coming. The
9 secretary is down --

10 MR. GILREATH: They're getting ready to
11 e-mail them.

12 MS. KIRK: Okay. Thank you.

13 MR. GILREATH: You want me to identify
14 them, Ashley? Somebody produced them to me. I
15 didn't find them out on the street.

16 MR. TWOMBLEY: Well, Jim, I don't know
17 about you. But, you know, since I've been
18 practicing law for 15 years normally you might say
19 something like this document is Bates Stamp 151 out
20 of 236 which is part of the September the 27th,
21 2017 McNair Subpoena Response, can you identify
22 this document.

23 That way then we all know what you're
24 talking about and it's clear on the record. Have
25 you ever seen anything like that?

1 MR. GILREATH: I'm not answering your
2 questions. What do you -- are you -- are you
3 trying to question me? I'm showing y'all a
4 document. We've e-mailed it to you. You produced
5 it.

6 MS. KIRK: We don't have an e-mail yet
7 or I don't.

8 MR. TWOMBLEY: And you're showing us
9 one page of a document, but you've got ten and
10 you're flipping through them and we can't see them
11 all. I mean, I'm trying to help you out, Jim.

12 So, Bill, can you go back through them,
13 please. Start with the first one, 25.

14 MR. GILREATH: They're all produced.
15 Let me hold the thing, Bill. I'll read it into the
16 record. This right here.

17 MR. TWOMBLEY: Bill, will you just tell
18 us the Bates Stamp pages.

19 MR. HOGAN: It's right here.

20 MR. GILREATH: Bill will just read in
21 the record what it is.

22 MR. HOGAN: It's right here. Okay.
23 First document up is -- just straightened out --
24 okay. Document -- Bates Number 92217, McNair
25 Subpoena Response 25 of 236.

1 MR. TWOMBLEY: All right.

2 EXAMINATION

3 BY MR. HOGAN:

4 Q. Do you recognize the handwriting on
5 that document?

6 MR. KIRK: I --

7 MR. TWOMBLEY: No. We're not going
8 to let two lawyers do the same deposition now.
9 I mean, we've got to draw the line somewhere.

10 MR. GILREATH: Look, Ashley. We're
11 trying to get the thing over with. I'll be glad to
12 pick it up. Bill's just trying to cut through all
13 the flak you're trying to throw up. If you want me
14 to ask them I'll be glad to. I know how to ask the
15 questions.

16 MR. TWOMBLEY: All right.

17 MR. GILREATH: I've been doing this
18 long before you were ever born.

19 MR. TWOMBLEY: Go -- go ahead.

20 BY MR. GILREATH:

21 Q. So the question, ma'am -- we're going
22 to show you these documents and we want to know
23 if you can identify the handwriting on them. And
24 apparently there's several different pages. So --

25 MS. KIRK: Okay. Jim --

1 BY MR. GILREATH:

2 Q. I'm going to read into the record
3 where it was. How well -- I'll have to lean over a
4 little further to see it because the camera is at
5 the other end of the table.

6 MS. KIRK: Jim, this is Ariail. I'm
7 happy for the witness to tell you whether or not
8 she can identify the handwriting, but if you want
9 to go any further than that with these documents
10 I'm going to take a break.

11 MR. GILREATH: I just want to know if
12 she can identify the handwriting. Does she know
13 who it is? Yes or no. It's kind of a simple
14 exercise there.

15 MS. KIRK: You can answer.

16 THE WITNESS: Yes.

17 BY MR. GILREATH:

18 Q. Did you say you can identify the
19 handwriting.

20 A. Yes, sir.

21 Q. And whose handwriting is it?

22 A. It appears to be Mr. Jolley's.

23 MR. GILREATH: Mr. Jolley's. Okay.

24 That's on which one? Let's get the Bates number on
25 it, the one she identifies. Is that the first

1 page?

2 MR. HOGAN: Yeah. It's 25 of 236.

3 BY MR. GILREATH:

4 Q. 25 of 236 is Mr. Jolley. Okay. Next
5 one is 26 of 236. Who is that if you recognize it?

6 A. The top line appears to be Mr. Jolley.
7 I am not sure about underneath.

8 Q. Okay. The next one is 27 of 236. It
9 says Barringer.

10 A. That appears to be Mr. Jolley's.

11 Q. That's Mr. Jolley? Okay. 58 of 236.

12 A. That was a combination of --

13 Q. 2014.

14 A. That's a -- sorry. Give me one second.
15 Can you hear me now? That's a combination of two
16 people.

17 The majority of it is -- appears to be
18 Mr. Jolley's and where -- underneath where it says
19 share for Hampton and -- and there's an arrow and
20 then there's a block with writing underneath it
21 where it says: Incoming and discretionary. Yeah.
22 Discretionary SPOA, that's me. That's my writing
23 and then on the very bottom with the arrow --

24 Q. So that's your writing where it says,
25 Victor's share in trust? Discretionary trust, that

1 part's your writing?

2 A. No. No, sir. Under the: Share for
3 Hampton.

4 Q. It's who?

5 A. Under the: Share for Hampton.

6 Q. Yeah.

7 A. There is small writing.

8 MS. PAYLOR: Y'all lie. It's up on the
9 page.

10 THE WITNESS: Yes, there. That's my
11 writing and then on the very, very bottom that's
12 my writing.

13 BY MR. GILREATH:

14 Q. Is the rest of it John Jolley?

15 A. It appears to be John Jolley's.

16 Q. Okay. Now -- now, who -- who was
17 telling Mr. Jolley to write this down and told
18 you to write down what you wrote down?

19 MS. KIRK: Do you want us to take a
20 break now?

21 MR. GILREATH: I just want to know
22 where she was getting her instructions from.

23 MR. TWOMBLEY: I think you're --

24 MS. KIRK: Well, if you're going to
25 go into any more questions about the documents

1 we're going to take a break to discuss them if
2 you're going into details about it. We can go off
3 the record.

4 THE VIDEOGRAPHER: We are going off the
5 record. It is 6:15 PM.

6 (A recess transpired.)

7 BY MR. GILREATH:

8 Q. We'll we can come back to that one.
9 We'll come back to that and move along. The next
10 one is Document 151 of 236 dated 2/30/2015.

11 A. That appears to be Mr. Jolley's.

12 Q. And -- wait a minute. That's who?

13 A. John Jolley's.

14 Q. That's Jolley's. Okay. How about
15 152 of 236?

16 A. That appear to be -- appears to be
17 John Jolley's.

18 Q. Okay. All right. That's all of it.
19 Didn't I have a question I want to ask that day --
20 the one -- let's go back to this one. This is
21 that -- the one you wrote on. This is Barringer
22 58 of 236.

23 A. That's -- my writing is on that.

24 MS. KIRK: I think it's P. Barringer
25 113 and the 58 of 236 is a subpoena response

1 number.

2 MR. GILREATH: Okay. So whatever it
3 is, P. Barringer, 113. Just so we've got --is
4 that -- are we all on the same page on that?

5 MS. KIRK: We're on Page 113 on the
6 screen.

7 BY MR. GILREATH:

8 Q. Okay. And it's Page 58 of 236 on their
9 subpoena response. My question to you is, you
10 were apparently in the room when that was being
11 discussed because you wrote some notes on it down
12 at the bottom. Right?

13 MS. KIRK: We're going to take a break
14 to discuss the document if you're going into the
15 details about it so we can go off the record.

16 THE VIDEOGRAPHER: We are going off the
17 record. The time is 7:5 PM.

18 MR. GILREATH: 'All.

19 (Off-the-record conference.)

20 THE VIDEOGRAPHER: This is the
21 beginning of Media Unit 3. The time is 6:19. We
22 are back on record.

23 BY MR. GILREATH:

24 Q. We have got on the screen P. Barringer,
25 000113, 58 of 236 to the subpoena response. And

1 you identified just for -- so the record is clear
2 Bill was pointing to that part up about the middle
3 of the page that's -- it's underneath: In trust
4 for Ray Wade. Is that your writing?

5 A. Yes.

6 Q. Can you --

7 A. I'm sorry. Yes.

8 Q. Tell me what you're trying to say there
9 or what that abbreviation means if you remember.

10 A. Yes. INC stands for income and slash
11 D-I-S-C would be discretionary principal.

12 Q. Okay.

13 A. SPOA is special power of appointment
14 and the Y wide open. In default of that it would
15 go to the issue.

16 Q. Okay. Then you wrote the part down at
17 the bottom that -- he's got that pointed to that --
18 says -- what -- something -- points -- underneath
19 Victor as trustee. You've got something about a
20 successor. Is that what that says?

21 A. Yes.

22 Q. What about the part over to the left?
23 Did you write or that or is that his writing?

24 A. That's his.

25 Q. Okay. Now, my question is, who was in

1 the room with you when you were writing these notes
2 and getting these instructions?

3 A. When I was writing the notes it was
4 just me and John.

5 Q. Just you and John?

6 A. When I was writing my notes. Yes, sir.

7 Q. And he was telling you to do that,
8 correct?

9 A. Yes. We were discussing the scope of
10 the work.

11 Q. Now, up at the top it says: Barringer,
12 5/1/2014. Would that be a date that he had a
13 meeting with them?

14 A. Yes, sir.

15 Q. Were you in that meeting?

16 A. No, sir.

17 Q. Do you know who he met with?

18 A. Barringer at the top indicates that he
19 met with the client named Barringer.

20 Q. If Randy or Merrill were in that
21 meeting would he typically make a note of that?

22 A. I can't say what he would do.

23 Q. All right. Okay. Can you tell me what
24 the -- what is the -- you've got Victor with an
25 arrow and then Hampton with an X through -- through

1 Hampton. What does that X mean?

2 MR. TWOMBLEY: Object to form of the
3 question.

4 BY MS. KIRK: Object to the form.

5 BY MR. GILREATH:

6 Q. Do what? Can you answer my question.

7 A. Yes, sir. So you're talking about the
8 top. It says: Change order, successor trustee.
9 The X across Hampton would be not to include her.

10 Q. Successor trustee. So in other words
11 you were saying not to make Hampton a successor
12 trustee. Right?

13 MS. PAYLOR: Object to the form.

14 MS. KIRK: Object to form.

15 BY MS. GILREATH:

16 Q. Somebody told you that, right?

17 MS. KIRK: Object to the form.

18 MS. PAYLOR: Object to form.

19 BY MS. GILREATH:

20 Q. Did somebody tell you that?

21 A. It -- it's on his notes. He didn't
22 necessarily tell me that.

23 Q. All right. That's John Jolley's
24 writing?

25 A. Yes --

1 Q. We'll --

2 A. -- sir.

3 Q. -- talk to Mr. Jolley about that. What
4 about the part over this where it says MBL? Which
5 I assume is Merrill Barringer Light --

6 A. Uh-huh.

7 Q. -- as trustee. And then you've got:
8 Not Victor. What is that?

9 MS. KIRK: Object to the form.

10 MR. TWOMBLEY: Same objection.

11 MS. PAYLOR: Objection to the form.

12 THE WITNESS: I don't see how you're
13 saying not Victor.

14 BY MR. GILREATH:

15 Q. Do what?

16 A. Why did you say not Victor?

17 Q. That's what it says. It says: MBL as
18 trustee. Line underneath trustee -- abbreviation
19 for trustee. Then it says: Not Victor, S-T-T-E-E.

20 A. Oh, down at the bottom. I'm sorry. I
21 was looking in the middle of the page. Thank you.
22 I don't recall what that means.

23 Q. Is that Mr. Jolley's writing?

24 A. Yes, sir. Okay. Actually, I think I
25 understand now what that means.

1 Q. Say what? They --

2 A. It appears to me that they didn't want
3 Victor to be trustee of his share of the trust.

4 Q. They did not want Victor's trustee of
5 his share, right?

6 MR. TWOMBLEY: Object to the form.

7 MS. KIRK: Object to the form.

8 THE WITNESS: That is what I would take
9 that to -- that's how I would interpret John's
10 notes.

11 BY MR. GILREATH:

12 Q. I've got you. I couldn't hear you
13 good. Do -- do you have any understanding of why
14 they didn't want Victor as trustee of his own
15 trust?

16 A. It's a discretionary --

17 MS. PAYLOR: Object to --

18 THE WITNESS: Trust --

19 MS. KIRK: Object to the form.

20 THE WITNESS: -- which means it's
21 discretionary income and principal and so they
22 don't want to give him power over that discretion.

23 BY MR. GILREATH:

24 Q. All right. What does this say here?
25 And that date up at the top is 5/1/2014. Correct?

1 A. Yes. It appears to be 5/1/2014.

2 MR. GILREATH: Okay. All right.

3 Everybody hold on one minute. All right. Let
4 me -- let me talk to my troops here one more time
5 and I think I'm through.

6 MS. KIRK: I really want him to put
7 a picture of his house up because I want to know
8 if his whole thing's got lights or if it's just
9 the one tree. I think way too much about people's
10 like decor and stuff when I'm sitting here looking
11 at it for too long.

12 THE WITNESS: It could have been a
13 lanai as well.

14 THE COURT REPORTER: Are we still on
15 the record?

16 MR. TWOMBLEY: No. Let's not --
17 sorry.

18 THE COURT REPORTER: We need to go off
19 then.

20 MR. TWOMBLEY: We'll just stop talking.

21 MS. KIRK: I apologize. I thought we
22 were off the record.

23 MR. GILREATH: All right. We're ready
24 to the shut it down. Y'all got any questions?

25 MS. PAYLOR: I have no questions.

1 MR. TWOMBLEY: I don't have anything.

2 MR. GILREATH: Mr. Molster, you got any
3 questions?

4 MR. MOLSTER: No, sir.

5 MR. GILREATH: Ashley.

6 MR. TWOMBLEY: I --

7 MR. MACLOSKIE: No questions.

8 MR. TWOMBLEY: I have one.

9 MR. MOLSTER: Thank you for asking.

10 MR. TWOMBLEY: The only question I have
11 for you, Jim, is do you -- do you want us to -- I'm
12 not a hundred percent sure if you think we got
13 around the privilege issues and you -- you've got
14 the answers or do -- do you want us to file a
15 motion or -- I think what Bill and I did last time,
16 Bill, was you -- you got the transcript and
17 reviewed it and then you were going to let me know
18 if you wanted us to file a motion.

19 And I'm fine doing, that, too but I
20 know there's like a timing deadline on doing it.

21 I think you've got what you wanted to.
22 But, you know, it's up to y'all.

23 MR. GILREATH: Well, you think I've got
24 everything you wanted -- I wanted.

25 MR. MOLSTER: I've got the same

1 question, Jim. I've got the same question. I
2 think we worked around all of the instructions,
3 but if you don't think so and we need to file a
4 motion just let us know and we'll do it.

5 MS. KIRK: And one other issue that
6 comes up with that, too, Jim was that you had asked
7 for her Social Security number. Are you still
8 seeking that or have you abandoned that question?

9 MR. GILREATH: I'll probably let you
10 get away with that.

11 MR. TWOMBLEY: Bill, why don't you just
12 review the transcript and, you know, just let us
13 know. If you -- you want us to file one we'll file
14 it.

15 MR. GILREATH: I'm going to push on
16 the Social Security question; so that's resolved.
17 But I don't -- I don't know. The rest of them,
18 y'all had so many I could write a book about them.
19 I'm certainly not --

20 MS. PAYLOR: There weren't that many.
21 There weren't that many.

22 MR. MACLOSKIE: I haven't said much,
23 but let's wait for everybody to get the transcript
24 and decide what to do after that. In the meantime
25 everybody have a Merry Christmas. Be safe.

1 MS. PAYLOR: Thank you, Mike.

2 MS. KIRK: I just want to make sure
3 it's clear on the record. The only thing that
4 I think has been marked as an exhibit is this
5 notebook which has 33 tabs in it. Is that correct?

6 MR. GILREATH: It's got -- we e-mailed
7 them to you. It's not 37 tabs I'm told.

8 MS. KIRK: I've got 33.

9 MR. GILREATH: Well, you'll get the
10 rest of them.

11 THE COURT REPORTER: I need to know.

12 MR. MACLOSKIE: There's 33 in the
13 original ones and we e-mailed some -- I think three
14 more today or I believe yesterday.

15 MS. KIRK: Well, those are the
16 documents I think that she hadn't seen. So I'm
17 just confused about what everybody thinks is on the
18 record and --

19 MR. GILREATH: Those are exhibits to
20 33. The book I've got now -- I think when you get
21 them all and put the tabs in them there will be 36.
22 Right, Bill? There will be three more. It's 36.

23 MS. KIRK: The court reporter hasn't
24 been provided with any of that I don't believe.

25 MR. GILREATH: We'll send that to her.

1 I think we'll sent it all to y'all. There ain't
2 any secrets to any of that. We sent it all.

3 THE COURT REPORTER: I can e-mail him
4 and find out, but --

5 MR. TWOMBLEY: It's not a matter of it
6 being a secret. We want to make sure the record is
7 straight. If you don't care if it's straight I
8 certainly don't care, 33 plus these three that are
9 out there in Never Never Land in the -- in the
10 e-mails. So sounds good to me.

11 THE COURT REPORTER: I'm sorry. Will
12 there be three more they're sending me? And I
13 don't know what they are.

14 MR. TWOMBLEY: Allegedly.

15 MS. KIRK: I don't know.

16 MR. TWOMBLEY: Neither do I. Please
17 put that on the record, your question and my
18 answer.

19 THE COURT REPORTER: I'm just trying to
20 find out if --

21 MR. TWOMBLEY: I know. I'm trying to,
22 too. I'm just trying to help. I'm trying to help
23 her. I want that on the record.

24 MS. PAYLOR: Are we done?

25 MR. TWOMBLEY: I'm serious. I

1 want that --

2 MS. PAYLOR: Bye, everybody.

3 MS. TWOMBLEY: All right. Thank you.

4 THE COURT REPORTER: I need to get
5 order information before we hang up.

6 MR. GILREATH: Mr. Macloskie.

7 MR. MACLOSKIE: Yeah.

8 THE VIDEOGRAPHER: This concludes the
9 deposition of Rebecca Bostick. The time is 6:38
10 PM. We are now off the record.

11 THE COURT REPORTER: Reading or
12 waiving?

13 MS. KIRK: We'll read. You can send
14 that to my e-mail.

15 (The witness, after having been advised
16 of her right to read and sign this transcript, does
17 not waive that right.)

18 (The deposition was concluded at 6:38
19 PM.)

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, Priscilla Nay, Court Reporter and
Notary Public for the State of South Carolina, do
hereby certify that the foregoing transcript is a
true, accurate, and complete record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal this 11th day of December,
2020 Charleston, Charleston County, South Carolina.



Priscilla Nay,
Court Reporter
My Commission expires
December 2, 2021

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1 Ariail B. Kirk

2 akirk@jolleylawgroup.com

3 December 11, 2020

4 RE: Luzak, Hampton v. Light, Merrill

5 12/3/2020, Rebecca Lynn Bostick (#4337918)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 litsup-ga@veritext.com.

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21
22 Yours,
23 Veritext Legal Solutions

Luzak, Hampton v. Light, Merrill

Rebecca Lynn Bostick (#4337918)

E R R A T A S H E E T

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REASON_____

Rebecca Lynn Bostick

Date

1 Luzak, Hampton v. Light, Merrill

2 Rebecca Lynn Bostick (#4337918)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Rebecca Lynn Bostick, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Rebecca Lynn Bostick

_____ Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16
17
18 _____
19 NOTARY PUBLIC
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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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HAMPTON B. LUZAK vs MERRILL B. LIGHT and MERRILL U. BARRINGER
2016-CP-07-1919 - PAUL LONG, M.D.

1 IN THE COURT OF COMMON PLEAS
2 STATE OF SOUTH CAROLINA
3 COUNTY OF BEAUFORT

4 IN THE MATTER OF ESTATE OF PAUL
5 BRANDON BARRINGER, II,
6 HAMPTON BARRINGER LUZAK,
7 Plaintiff,

8 vs. CIVIL ACTION NUMBER
9 2016-CP-07-1919

10 MERRILL B. LIGHT, MERRILL U. BARRINGER, AS
11 PERSONAL REPRESENTATIVE OF THE ESTATE OF
12 PAUL BRANDON BARRINGER, II, J. RANDOLPH LIGHT,
13 JR., MERRILL B. LIGHT AS PUTATIVE TRUSTEE OF THE
14 PAUL B. BARRINGER, II REVOCABLE TRUST DATED
15 DECEMBER 4, 1998, AND MERRILL B. LIGHT AS
16 TRUSTEE OF THE MERRILL BARRINGER LIGHT REVOCABLE
17 TRUST,
18 Defendants.
19 -----/

20 IN THE MATTER OF ESTATE OF PAUL
21 BRANDON BARRINGER, II,
22 HAMPTON BARRINGER LUZAK,
23 Plaintiff,

24 vs. CIVIL ACTION NUMBER
25 2019-CP-07-01253
 2019-CP-07-01294

26 MERRILL U. BARRINGER,
27 Defendant.
28 -----/

29 VIDEO DEPOSITION OF
30 PAUL M. LONG, M.D.
31 JANUARY 13, 2021



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The videotaped deposition of PAUL M.
LONG, M.D., a witness in the above-entitled
cause, taken pursuant to Notice and agreement,
before Amanda Bowen, Stenographic Reporter and
Notary Public and Charles
Nussbum, Video-Technician at Heritage Medical
Partnership, 89 North Main Street, Hilton Head
Island, South Carolina, on the 13th day of
January 2021, commencing at or about the hour of
3:44 p.m.



HAMPTON B. LUZAK vs MERRILL B. LIGHT and MERRILL U. BARRINGER
2016-CP-07-1919 - PAUL LONG, M.D. 3

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2016-CP-07-1919 - PAUL LONG, M.D. 4

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HAMPTON B. LUZAK vs MERRILL B. LIGHT and MERRILL U. BARRINGER
2016-CP-07-1919 - PAUL LONG, M.D. 7

1 (Whereupon, Defendant's Exhibit
2 Number 1 was marked for
3 identification.)

4 PAUL LONG, M.D.,
5 having been produced and first duly sworn as a
6 witness, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. TWOMBLEY:

9 Q Would you please introduce yourself for
10 the record?

11 A I'm Paul Long. I'm a board-certified
12 internist. I've practiced internal medicine on
13 Hilton Head for the last 46 years.

14 Q Okay.

15 A I'm 75 years old.

16 Q Okay. Thank you.

17 Dr. Long, my name is Ashley Twombley.
18 We met before. I represent Merrill Barringer,
19 along with Lee Walters, in a lawsuit that has
20 been brought by Mr. and Ms. Barringer's
21 daughter, Hampton Luzak, and we're here today to
22 take your deposition.

23 Have you ever had your deposition
24 taken?

25 A Many times.



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HAMPTON B. LUZAK vs MERRILL B. LIGHT and MERRILL U. BARRINGER
2016-CP-07-1919 - PAUL LONG, M.D.

8

1 Q Okay. So you know the ground rules,
2 but you've obviously been placed under oath and
3 swore to tell the truth. And even though we're
4 not in the courtroom, the oath you were
5 administered is the same as if we were in a
6 courtroom.

7 You realize that?

8 A I do.

9 Q Okay. I'm going to ask you questions
10 and the court reporter is going to take down my
11 question and your answer. If you will try to
12 let me finish my question and complete it before
13 you answer, that will make it a lot easier for
14 the court reporter. Okay?

15 A That will be fine.

16 Q If you have a question about my
17 question, you just let me know. If you don't
18 understand them, I can rephrase them. We'll be
19 happy to try to do our best to make sure you
20 understand all the questions.

21 Is that fair enough?

22 A It is.

23 Q Okay. Great. Could you start, please,
24 by telling us a little bit about your formal
25 education?



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HAMPTON B. LUZAK vs MERRILL B. LIGHT and MERRILL U. BARRINGER
2016-CP-07-1919 - PAUL LONG, M.D.

9

1 A Graduated from high school in Dallas in
2 1964. Graduated from North Texas State
3 University in 1968. I graduated from the
4 University of Health Sciences in Chicago in
5 1973. I did a straight medical internship and
6 a -- followed by a residency in internal
7 medicine at the Tucson Hospital's Medical
8 Education Program, which included the University
9 of Arizona Pima County Hospital and Tucson
10 Medical Center.

11 Q Okay. And when did you start formally
12 practicing as a doctor?

13 A 1976.

14 Q Okay. And where did you first
15 practice?

16 A Here.

17 Q Okay. So you've been in Hilton Head
18 since 1976?

19 A I have.

20 Q Okay. And you've been an internal
21 medicine doctor that entire time?

22 A That's all I practice, is internal
23 medicine.

24 Q Okay. All right. I don't want to go
25 back to the very beginning in 1976, but, say,



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1 for the past 30 years, can you tell us the names
2 of the medical practices that you've practiced
3 under?

4 A Well, it's been a variety, but let's
5 see. I practiced on my own for several years
6 and then 1990 -- let's say 1991, I joined
7 Southeast Healthcare Associates. We had 61
8 doctors, 21 clinics around Georgia and South
9 Carolina. And I was -- my office was here.
10 They recruited me to join their group. In 2000,
11 that broke up and we started Heritage Medical
12 Center on Hilton Head and we had six internists.
13 Five --

14 MR. GILREATH: Ashley? Ashley,
15 this is Jim Gilreath. I hate to
16 interrupt, but this mike, I'm having
17 the worst time hearing him than I could
18 on the one we had here not too long ago
19 that we had a bad mike on. I don't
20 know how you guys are hooked up over
21 there or whether he's on a computer or
22 something, but I can't understand
23 anything he's saying hardly.

24 Can you, Bill?

25 THE VIDEOGRAPHER: We're going off



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1 the video.

2 MR. TWOMBLEY: We're going to go
3 off the record.

4 (Whereupon, we were off the record
5 at 3:48 p.m.)

6 THE VIDEOGRAPHER: Back on video.

7 THE WITNESS: Okay. So I joined
8 the -- we built a clinic in 2000,
9 called it The Heritage Medical
10 Partners. And then seven, eight years
11 ago now, that broke up and we all kind
12 of went on our own. I'm in private
13 practice by myself now at this
14 location.

15 BY MR. TWOMBLEY:

16 Q Okay. So I guess from roughly about
17 2000 until 2011 or so, you were at Heritage
18 Medical Partners?

19 A Correct.

20 Q Okay. And then for the past seven or
21 eight years, you've been in a private practice?

22 A Correct.

23 Q Okay. All right. And do you treat
24 elderly patients here on Hilton Head?

25 A The majority of my patients are



1 elderly.

2 Q Okay.

3 A I mean, currently.

4 Q Has that always been the case?

5 A No. When I was -- back in 1976, I
6 probably had -- I treated elderly patients, 20
7 percent, maybe. Now, the great -- the great
8 majority of my patients are in their 70s, 80s,
9 90s.

10 Q Okay. How long would you say that the
11 majority of your patients have been elderly?

12 A Thirty years.

13 Q Okay. Do you treat --

14 A I don't know what the word "elderly"
15 means, I don't like the word, but Medicare age,
16 I should say.

17 Q Okay. All right. Do you have
18 experience treating elderly people who have
19 dementia, Alzheimer's Disease?

20 A I do, yes.

21 Q Have you been treating those patients
22 for --

23 A Long time.

24 Q Over 30 years?

25 A Absolutely.



1 Q Okay. Is treating elderly patients
2 with cognitive disorders, is that a routine part
3 of your practice?

4 A It is.

5 Q You obviously were the doctor for Paul
6 Barringer, who we are here about today.

7 Can you please tell me when you met
8 Paul Barringer, if you remember?

9 A I can't remember the day I met him. He
10 came in to my practice sometime prior to that.
11 I knew about Paul Barringer. He is one of the
12 local icons here and I saw him around the island
13 and then he became my patient. And the exact
14 date or week, I'm not sure of when that was, but
15 a long time I've known Paul Barringer.

16 Q I think you previously testified he was
17 your patient for decades. Is that consistent --

18 A Long time, yeah.

19 Q Okay. All right. Do you have a
20 concierge medical practice or is it --

21 A I didn't back then. I do now.

22 Q Okay. When did you make that switch?

23 A I made the switch four years ago.

24 Q Okay. All right. Did you know Paul
25 Barringer socially or just professionally as a



1 patient?

2 A I saw him at different things, chamber
3 ball, all these things that happen on the
4 island. And most people, I think, in my group
5 that I socialize with either knew Paul Barringer
6 or knew of him.

7 Q Okay.

8 A And so we saw him a lot of different
9 places.

10 Q Okay. All right. I have marked as
11 Exhibit 1 in this black binder in front of you,
12 some of Mr. Barringer's medical records from
13 your office and some other providers, and I'd
14 ask that you get this notebook in front of you.
15 I got one in front of me, as do the other
16 attorneys, and we're going to be talking about
17 some of those documents and I'll be referring to
18 the tabs on the right-hand side.

19 If you would turn to Tab 1, and this
20 appears to be a December 2nd, 2010, note from
21 you about Paul Barringer; is that correct?

22 A It appears to be that, yes.

23 Q Okay. And I think I said 2001, it is
24 2010. I misspoke.

25 Anyway, I started with this note



1 because it would appear that this was around the
2 time that Paul found out he had prostate cancer.

3 Do you remember that?

4 A I do remember him having prostate
5 cancer.

6 Q Okay. And is your memory consistent,
7 that that would have been around December 2010?

8 A Yes.

9 Q Okay. During this visit, I don't see
10 any note or reference about Mr. Barringer having
11 any type of cognitive disorder or any type of
12 memory problem at all.

13 Do you know or do you remember whether
14 or not Mr. Barringer was experiencing any type
15 of memory problem in 2010?

16 A He didn't have any memory problem.

17 MR. GILREATH: Object to the form
18 of the question.

19 THE COURT REPORTER: Who was that?

20 MR. TWOMBLEY: That was Jim
21 Gilreath.

22 THE WITNESS: Yeah, he doesn't
23 have -- he didn't have, to my
24 knowledge, any memory problems.

25 BY MR. TWOMBLEY:



1 Q Okay. Let me rephrase the question
2 since there was an objection.

3 Tell me about the medical problems
4 Mr. Barringer was having in December 2010.

5 A Prostate cancer.

6 Q Okay. Was there anything else of note?

7 A That particular day he came in, I
8 remember, he was very interested -- he had seen
9 other people and he had had a biopsy, and he had
10 a Gleason score of 3.4. He was concerned about
11 that because, you know, the Gleason score, the
12 majority of the people with Gleason scores have
13 a Gleason score of six. He wanted to know
14 about -- what's the difference between a six and
15 a seven and what was treatment.

16 Q Okay. And did you explain those things
17 to him?

18 A I did.

19 Q Let's turn to Tab 2, which is a
20 December 28, 2010 record of -- do you remember
21 seeing Mr. Barringer on the 28th of 2010, in
22 December?

23 A Right.

24 Q Okay. Do you remember having
25 discussions with him about the options for his



1 prostate cancer?

2 A Roughly, I did. Yeah, we went over the
3 same thing again.

4 Q Okay. And in this note, it says that
5 he's been all over and he's talked to many
6 urologists, and basically we decided, after a
7 long detailed session, that he would have
8 radioactive implants; is that correct?

9 A Right.

10 Q All right. And do you remember
11 discussing that with him?

12 A In a general way, I do remember that.

13 Q Okay. Other than the prostate problem,
14 do you recall Mr. Barringer have any other
15 problems?

16 A No.

17 Q Okay. All right. How was
18 Mr. Barringer, how would you describe his
19 cognition at that point in time?

20 A Excellent.

21 Q Okay. If we turn to Tab 3, this is a
22 March 24, 2011 record from your office regarding
23 Mr. Barringer; is that correct?

24 A This says 5/17/11.

25 Q You may have skipped one by accident.



1 A Let me see. March 24th.

2 Q Okay. All right. You saw
3 Mr. Barringer in your office on March 24, 2011?

4 A Apparently I did, yeah.

5 Q Is this your record from that visit?

6 A It appears to be that.

7 Q Okay. How was Mr. Barringer's
8 cognition at that point in time?

9 A I don't think there was a question of a
10 problem.

11 Q Okay. All right. If you'll turn to
12 the next record, which is Tab 4, this is a May
13 17th of 2011 record, and I would note, this one
14 says that he is going to have radiation at the
15 University of Virginia.

16 Do you see that?

17 A Mm-hmm.

18 Q Okay. Do you recall Mr. Barringer
19 having radioactive treatment for his prostate
20 cancer at the University of Virginia?

21 A Yes. Radium implants, as I remember.

22 Q Okay. Again, at this point in time,
23 how would you describe Mr. Barringer's
24 cognition?

25 A Fine.



1 Q Okay. The next record is November the
2 1st of 2011. It would appear, from your record,
3 that he has -- by this time, he has now had the
4 seeds implanted.

5 Is that consistent with your memory?

6 A He had had the seed implants, yeah.

7 Q Okay. And these are -- well, tell us
8 what -- generally, what -- how radioactive seeds
9 treat prostate cancer?

10 A Well, it kills the prostate cells. I
11 mean, you put a radioactive material anywhere,
12 it -- the key to radium implants is the
13 placement of the seeds. You get them off -- it
14 was in -- it was in vogue at this particular
15 time, to do implants.

16 Q Okay.

17 A Seed implants. It's not in vogue now,
18 but it was at the time.

19 Q Okay.

20 A And he had that, he had the seeds
21 implanted. The details of implantation, you'll
22 have to get from the urologist -- from a
23 radiation specialist.

24 Q Okay. Generally speaking, though, it
25 is my understanding you actually insert a



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1 radioactive material into the body within --

2 A That's correct.

3 Q -- close proximity -- within close
4 proximity to the prostate cancer; is that right?

5 A That's correct, yeah.

6 Q Now, later in this record, number
7 three, it discusses complications with the
8 prostate surgery.

9 Tell me what you remember about
10 complications Mr. Barringer had for the prostate
11 surgery.

12 A Well, he had a lot of complications.
13 He had urinary incontinence at this point in
14 time, but it got much worse.

15 Q Okay.

16 A In the months and ahead.

17 Q Okay. What is your urinary
18 incontinence?

19 A That's where you're urinating --
20 basically, urinating in your pants.

21 Q Okay.

22 A When you're not trying to. Leakage of
23 urine.

24 Q Okay.

25 A It's a complication of all the



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1 different treatments of prostate cancer.

2 Q Okay. Is that a known complication --

3 A Yes.

4 Q -- of a procedure like this?

5 A It is.

6 Q Okay. Now, it says here, the patient
7 has some potency problems. He has no urine
8 incontinence, but he is -- he has had trouble
9 urinating sometimes and he is somewhat
10 debilitated.

11 Does that refresh your memory as to the
12 specific complication Mr. Barringer was having?

13 A That is what the note says, and I have
14 to believe that that's what was going on.

15 Q Okay. So is it fair to say he was
16 having trouble urinating as opposed to leaking
17 urine?

18 A I think the leaking came, to my memory,
19 a little later. But at this particular time, it
20 says no leakage of urine, but he had potency
21 problems.

22 Q Okay. All right. What is a potency
23 problem?

24 A Difficulty getting an erection.

25 Q Okay.



1 A Which is a complication of all the
2 types.

3 Q Okay. It also says he has trouble
4 urinating sometimes and it is somewhat
5 debilitating.

6 Why would trouble urinating have a
7 debilitating effect on someone?

8 A Well, it depends on the trouble you're
9 having. I had prostate surgery five weeks ago
10 and I urinate basically every hour around the
11 clock, that's a complication of that. It
12 happens to a lot of different people. What
13 happens is they urinate in small amounts and
14 they have to do it all the time. They get
15 urgency incontinence, and I'm not sure what I
16 was referring to in that statement, but that is
17 not a uncommon complication.

18 Q Okay. He's clearly having some type of
19 problem with his urinary function?

20 A Yes, mm-hmm.

21 Q Okay. All right. If we turn to the
22 next record on Tab 6, this is the November 23rd,
23 2011 record. Now, in this record, I -- this is
24 the first reference I saw to dementia or any
25 type of cognitive dysfunction.



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1 Do you have any memory Mr. Barringer
2 having any type of memory problem or cognitive
3 dysfunction prior to November 23, 2011?

4 A No. I don't have any memory of that.
5 Prior to this?

6 Q Correct.

7 A No.

8 Q Okay. All right. Now, it says, number
9 one, dementia.

10 Tell me what it means or what you meant
11 when you wrote dementia here?

12 A Well, dementia is a spectrum, and you
13 can use a scale of 1 to 10. Some people leave
14 their keys in the car and can't remember
15 people's names, that's very common. 50 percent
16 of people over the age of 85 have some dementia.
17 Maybe two and a half percent of the population
18 gets dementia at an early age. It can go up to
19 number ten, they can't remember anything, they
20 don't time, place, and person, they don't know
21 anybody around them. So it is spectrum.

22 Q Okay.

23 A And, you know, back at this time, it
24 was more like leaving the keys in the car and
25 not remembering somebody's name at a cocktail



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1 party.

2 Q Okay.

3 A You know, that kind of deal. So I
4 would classify that back here -- I mean, it -- I
5 didn't think it was critical back here.

6 Q Okay. It says here next that you sent
7 him down to the mind center, briefly tell us
8 what -- what is the mind center and why did you
9 send Mr. Barringer there?

10 A We had -- we were getting very busy at
11 this particular time in our office and so we set
12 up a clinic just to have our patients that had
13 dementia, and we treated a lot of patients with
14 dementia, and we had a -- you know, consults
15 with neurologists if we needed it. And just to
16 handle their medication and explain to the
17 family what's going on.

18 Q Okay.

19 A We also had a spot where people that
20 were obese, that we would send them and talk
21 about diets and things.

22 Q Okay. What age -- would a urinary
23 problem or inability to urinate, could that
24 affect someone's cognition?

25 A Absolutely.



1 Q Okay. Why is that and how is that?

2 A If somebody comes into my office and
3 they are, let's say, 80, and they have become
4 demented in some form, the first thing you do is
5 a urinalysis.

6 Q And why is that?

7 A Because urine infections in elderly
8 people cause dementia.

9 Q Okay.

10 A It's a -- we see that -- I mean, I bet
11 I see it five, six, eight times a week.

12 Q Okay.

13 A People coming in from a nursing home or
14 from the home and they're demented, we treat the
15 urinary infection and the dementia goes away.

16 Q Okay. On November 23rd of 2011, did
17 you know exactly why Mr. Barringer was
18 exhibiting these signs of dementia?

19 A No.

20 Q Okay. And let's go back to the note.
21 The note says you sent him to the mind center
22 and they inscribed 31 percentile, 30th
23 percentile, and a 55th percentile and a 15th
24 percentile. This gives him a prediction that he
25 has significant dementia in the 60 percent



1 range.

2 I've been trying to do this math for a
3 while, can you tell me what you mean by or how
4 you came up with that 50 percent number?

5 A That is a good question. I don't have
6 a clue. That was in vogue at this time to do a
7 test called CANS-MCI, computer -- C-A-N --
8 assisted neurological testing something, mild
9 cognitive impairment, and that -- it didn't tell
10 you if you had dementia. A mini medical exam
11 tells if have you dementia, but this gives it
12 the percentage of chance that you might have
13 dementia.

14 Q Okay.

15 A That's why it fell out of vogue.

16 Q Okay.

17 A I didn't -- I don't put much weight in
18 it.

19 Q Okay.

20 A It was done, it was in vogue to do it.
21 Came out of the state of Washington and
22 everybody did it, but I'm not sure anybody does
23 it now. I don't know.

24 Q Okay. Thank you for clarifying that.

25 The note says, this gives him a prediction that



1 he had significant dementia in a 60 percent
2 range.

3 Do you know how you came up with the
4 60 percent number?

5 A Yeah. Basically, I did a
6 miscalculation there. He's got -- there are
7 three things that checks executive function and
8 two others, and one was 30 and the other was 30
9 and I think I added them together. Well, you
10 can't do that.

11 Q Okay.

12 A It is 30 percent for executive function
13 and 30 percent for cognitive. What are the
14 percentage chance that an individual has
15 dementia? It's 30 for executive function and
16 30 percent for cognitive. I'd have to look at
17 the test again, but that is my rec -- remember.

18 Q Okay. So if I heard you correctly --
19 do you need to take that?

20 A Can I get this?

21 Q Sure. We'll go off the record.

22 THE VIDEOGRAPHER: Off the video.

23 (Whereupon, a break was taken at
24 4:10 p.m.)

25 THE VIDEOGRAPHER: Back on video.



1 (Back on the record at 4:10 p.m.)

2 BY MR. TWOMBLEY:

3 Q Okay. So if I understood you
4 correctly, the 60 percent number is a
5 miscalculation?

6 A It has to be because it wasn't -- as I
7 recall, and what it says here, it's 30 percent.

8 Q Okay. All right.

9 A As I recall. Do you have a copy of
10 that test?

11 Q No. That was going to be my next
12 question to you. We --

13 A A year ago, whenever the -- we were
14 looking at this, I tried my best to find it and
15 I -- we don't have it.

16 Q Okay. All right. Well, let me just
17 ask you based on your memory and your -- you
18 know, the time you spent evaluating
19 Mr. Barringer in November of 2011, did
20 Mr. Barringer have significant dementia, in your
21 opinion, by any criteria?

22 A I don't think he had significant
23 dementia, he clearly had Swiss cheese, being
24 great for a while and occasionally, like I said,
25 he forgot things, he forgot people's names on



1 occasion. They call that swiss cheese because
2 it comes and goes.

3 Q Okay. All right. It says here under
4 the -- under the -- under the P for soap, I told
5 him, since he really cannot calculate or do
6 anything with short-term memory, we will start
7 him on Aricept or Namenda. He is to see Will
8 Garret, who is a neurologist.

9 What did you mean by he was not able to
10 calculate?

11 A Well, generally, we ask people to count
12 backwards from 100 by sixes or sevens or fives
13 or whatever, and, you know, he had a difficult
14 time doing that.

15 Q Okay. Other than that, were you able
16 to have an intelligent conversation with
17 Mr. Barringer?

18 A I had many. I mean, the guy was a
19 genius. He was one of the brightest people I've
20 ever talked to. We had long talks about
21 airplanes and airplane engines. As a
22 licensed -- I have an airplane. And we spent a
23 lot of time talking about aviation. You know,
24 he -- he had a very deep understanding of a lot
25 of very complicated things.



1 Q Okay.

2 A Excuse me.

3 Q And would you describe -- I mean, do
4 you remember having those conversations --

5 A I do.

6 Q -- with Mr. Barringer during this
7 period of time?

8 A I can take ten patients over the last
9 40 years that I remember having discussions
10 with, and these are people that are out of the
11 mainstream, they are like Paul. He was amazing.

12 Q Okay.

13 A I do remember talking with him.

14 Q It says, down at the bottom, that you
15 prescribed him Cipro.

16 What was the Cipro for?

17 A Urinary tract.

18 Q Okay. And did you believe he may have
19 had a urinary tract infection?

20 A That's why I gave it to him.

21 Q Okay.

22 A I thought that may have been the case.

23 Q Okay. And that --

24 A Because he -- can I go back?

25 Q Sure.



1 A Says he had to urinate all the time,
2 six to ten times a night. So that means he's
3 not getting much sleep, he's sleep deprived.
4 His urinary tract was a mess. It was a mess.

5 Q Okay. Okay. Let's turn to the next
6 tab, Tab No. 7. This is the first note I was
7 able to find in 2012. It says at the top,
8 you'll note, it says second note.

9 Do you know why it says second note?

10 A I don't have any idea.

11 Q Okay. If you -- if you read this note
12 for a moment, down about three quarters of the
13 way down, now you say that he scored a 37
14 percentile above the dementia scale.

15 What does that mean? Says we checked
16 three different scales and this took us about an
17 hour.

18 A Yeah. This was another CANS-MCI thing,
19 test, and basically, I can imagine that this is
20 37 percent chance of having significant
21 dementia.

22 Q Okay. All right. Down at the bottom,
23 it says, he can now pass a mini mental with a
24 perfect score of 30 so I do not see where we
25 need to do anything more than what we are doing.



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1 Do you remember administering the mini
2 mental to Mr. Barringer during this time period?

3 A I can't put myself that day and what
4 chair, but I did mini mental exams and I was
5 surprised that he had a perfect score of 30.

6 Q Okay. All right. But you wouldn't
7 have put this in your record unless you had
8 actually performed the test and he scored a 30?

9 A Absolutely would not have done that.

10 Q Okay.

11 MR. GILREATH: Objection to the
12 form of the question.

13 THE COURT REPORTER: Who was that?

14 MR. TWOMBLEY: That was Jim
15 Gilreath.

16 BY MR. TWOMBLEY:

17 Q Why did you put in your record that he
18 can pass a mini mental with a perfect of 30?

19 A It says -- because we did it.

20 Q Okay.

21 A I wouldn't have put it in there.

22 Q Okay. Okay. All right. That's great.

23 A I don't know where that is.

24 Q Okay. If you'll turn to the -- turn to
25 the next document, it's 7-A, and do you have the



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1 7-A there?

2 A I've got something that says A.

3 Q Okay. Are --

4 A December 27th?

5 Q Yeah. This is the December 27th, 2011
6 letter from Dr. William Garret to you about Paul
7 Barringer.

8 Previously, we saw that you referred
9 Mr. Barringer to Dr. Garret; is that right?

10 A That's right.

11 Q Okay. And do you remember receiving
12 this letter from Dr. Garret?

13 A Apparently I did. I don't remember
14 that, but --

15 Q Okay.

16 A -- apparently I sent it to him.

17 Q Okay.

18 A Yeah.

19 Q On the third page under the impression
20 section, Dr. Garret says he does have some
21 difficulty with abstract reasoning, which is a
22 documented on his neurological exam, but
23 overall, he has excellently preserved short-term
24 memory and visual spacial difficulty, which
25 would make the diagnosis a primary degenerative



1 dementia unlikely.

2 What did that mean to you?

3 A Well, it means that -- like I said,
4 there is -- dementia is not one disease, it is a
5 spectrum. It means that, you know, he had some
6 little bits -- small amount of difficulty, but
7 he could pass a mini mental exam. He doesn't
8 have any significant dementia.

9 Q Okay. And is that consistent with your
10 memory of Mr. Barringer during this time?

11 A Yes, it is.

12 Q Okay. If you turn to the next record,
13 this is a January 26, 2012 medical record of you
14 for Mr. Barringer. It says here that he is
15 markedly improved, he had a dementia study which
16 was very abnormal. We treated him and he is
17 markedly improved.

18 A Where are we now?

19 Q This is number eight.

20 A Oh, yeah. 1/26/12?

21 Q Yes. 1/26/12.

22 A Okay.

23 Q How had Mr. Barringer improved in
24 between the time you saw him -- the last time
25 you saw him and this visit on January --



1 A I must have been referring to the
2 CANS-MCI test when I said abnormal, because that
3 was abnormal.

4 Q Okay.

5 A Improved, I mean, I can only think of
6 what I was thinking about back then and I -- you
7 know, when you're improved, your short-term
8 memory is improved and he -- you know, he can
9 score a perfect 30. If you have any significant
10 dementia, nobody can score a perfect 30.

11 Q Gotcha. Down at the bottom, it says, I
12 probably spent one hour and thirty minutes with
13 him and his doctors on the telephone today.

14 Was that a significant period of the
15 time for you to spend with one of your patients?

16 A Not to spend with this gentleman.

17 Q Okay.

18 A I mean, I hate to keep saying this, but
19 this is not the ordinary citizen.

20 Q I gotcha. It says, about halfway down,
21 Dr. Will Garret -- it says that we sent him to
22 Dr. Will Garret who felt that he did not have
23 Alzheimer's disease.

24 A Correct.

25 Q Did you agree with that in January --



1 A Yes, I did. Absolutely.

2 Q Okay. All right. If we'll turn to the
3 next document, which is Tab No. 9, and I would
4 ask you to briefly review the record. And I
5 don't see any mention or reference during this
6 visit, which is February 16th of 2012, of any
7 type of the dementia or any type of memory or
8 cognitive problem.

9 Do you see anything?

10 A Yeah, I just read that. I didn't
11 mention anything.

12 Q Okay. If he was having cognitive
13 problems or memory disorder on February 16,
14 2012, is that something you would have recorded?

15 A Probably.

16 Q Okay. It says here you put him back on
17 Cipro, 500 milligrams, is that for the same
18 urinary --

19 A Yes. Yes.

20 Q Okay. And it says he -- at the top,
21 the patient had been urinating heavily all
22 night.

23 Where did you get that information?

24 A I don't remember. It could have been
25 his wife.



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1 Q Okay.

2 A It was probably from Paul.

3 Q Okay. The note says, at the top, Paul
4 comes in for care.

5 A Right.

6 Q I notice some say Paul comes in with
7 his wife.

8 Would you have noted who the patient
9 came in with?

10 A Not necessarily.

11 Q Okay.

12 A I mean, I might -- it might have been
13 one or ten people and I didn't put it down.

14 Q Okay. Let's turn to the next record,
15 which is February the 27th of 2012. Take a
16 moment and review this record. The only
17 reference I see is at the end of the last --
18 first paragraph, it says, he has dementia but it
19 is mild according to the test that we give.

20 Do you see anything else dealing with
21 any memory problem?

22 A There's nothing on the note that I --
23 except for that.

24 Q Okay. If there had been anything else
25 other than a mild problem, would you have



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1 recorded that in your record?

2 A Almost certainly.

3 Q On the next record behind Tab 11 is a
4 visit from March 15th of 2012.

5 Do you see that?

6 A Yes, 3/15/12?

7 Q Yes, sir.

8 A Yep.

9 Q On March the 15th of 2012, did you
10 notice any type of cognitive problems with
11 Mr. Barringer?

12 A I didn't put anything down, so I
13 didn't.

14 Q Okay. And that's my next question, if
15 you had noticed any type of cognitive problem,
16 is that something you would have recorded in
17 your record?

18 A I would think I would.

19 Q Okay. All right. Now, Dr. Long, I
20 want to go out of order in the exhibits for a
21 moment and I want to ask you to turn to page 35
22 or to Tab 35.

23 A Thirty-five.

24 MR. MOLSTER: Is there a page
25 number for that, Ashley?



1 MR. TWOMBLEY: There is no page
2 number, it's the Tab 35 in the notebook
3 of the exhibits that I circulated.

4 MR. MOLSTER: Okay.

5 BY MR. TWOMBLEY:

6 Q Dr. Long --

7 MR. MOLSTER: There are 100 -- 229
8 pages -- 228 pages.

9 MR. TWOMBLEY: It should be, I
10 think, the last two, Chip.

11 MR. MOLSTER: Thank you.

12 BY MR. TWOMBLEY:

13 Q While they are getting there --

14 MR. MOLSTER: Standards?

15 MR. TWOMBLEY: Yeah, correct.

16 MR. MOLSTER: Thank you.

17 BY MR. TWOMBLEY:

18 Q Dr. Long, what I'll represent to you
19 that what I have provided you here are some
20 statements under South Carolina law about the
21 standards for capacity in South Carolina to
22 engage in different -- to engage in different
23 activities.

24 Have you had a chance to read through
25 these standards?



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1 A Well, almost all of them.

2 Q Okay. Well, let me ask you before we
3 talk --

4 MR. GILREATH: Ashley, I don't
5 mean to interrupt you, but before you
6 go any further there, I'm going to
7 object to this document. It's just --
8 I'm not sure what it is or where it
9 comes from, but I am going to object to
10 you using that with him. You can go
11 ahead, but --

12 MR. TWOMBLEY: Are you going to
13 continue to do the speaking objections
14 or?

15 MR. GILREATH: I just got through
16 with an objection to this document.

17 MR. TWOMBLEY: Yeah. Well, I'd
18 ask that you just object to the form of
19 the question.

20 MR. GILREATH: I couldn't make
21 that a form of the question.

22 MR. TWOMBLEY: And since you
23 asked, these are direct quotes from
24 South Carolina Jurisprudence and South
25 Carolina case law.



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1 BY MR. TWOMBLEY:

2 Q So, Dr. Long, back to our -- my
3 question, in March of 2012, which is where we --
4 where we left off, did you have any question or
5 concern about Mr. Barringer's cognitive ability
6 as it may relate to him making a gift or
7 executing a will, enter into a contract,
8 anything of that nature?

9 A No.

10 Q Okay. Did Mr. Barringer have a
11 sufficient mental capacity to comprehend the
12 nature and consequences --

13 A Can I get this?

14 Q Sure.

15 THE VIDEOGRAPHER: Off the video.

16 (Whereupon, a break was taken at
17 4:28 p.m.)

18 THE VIDEOGRAPHER: Back on video.

19 (Back on the record at 4:30 p.m.)

20 BY MR. TWOMBLEY:

21 Q In March of 2012, and any time prior,
22 did you ever have any concern that Mr. Barringer
23 did not have the legal capacity to engage in any
24 act?

25 A No. Like I say, there is no question



1 that had a -- he would forget a few things, but
2 it didn't affect his -- I didn't feel that
3 with -- with -- with the talks that we had, that
4 he had any serious problems with short term or
5 long-term dementia. Like I said, if a 28 year
6 old man leaves his keys in the car, nobody
7 thinks a thing of it, but if you're 80 and leave
8 the keys in your car, immediately, a lot of
9 times -- that's a joke.

10 Q Right.

11 MR. GILREATH: Stand by a minute,
12 you -- I didn't want to interrupt, but
13 I'm going to object to that question
14 you just asked, relative to his answer.

15 THE WITNESS: Yeah, I don't -- I
16 wasn't alarmed at all in 2012.

17 BY MR. TWOMBLEY:

18 Q Okay. In your opinion, would
19 Mr. Barringer have the mental capacity to
20 comprehend the nature and consequences of making
21 a gift?

22 A Fairly sure.

23 MR. GILREATH: Object to the form.

24 BY MR. TWOMBLEY:

25 Q I'm sorry. Can you repeat your answer?



1 A Yes.

2 Q Okay. Did Mr. Barringer have the
3 mental capacity to know what he owned, know who
4 was his loved ones were, and to know he wanted
5 to -- what he wanted to give his loved ones at
6 the time of his death?

7 A I would think yes, absolutely.

8 MR. GILREATH: Object to the form.

9 BY MR. TWOMBLEY:

10 Q Did he have the ability to understand
11 the nature of a contractual agreement?

12 A I would think he would.

13 MR. GILREATH: Object to the form.

14 BY MR. TWOMBLEY:

15 Q Okay. Do you have any question about
16 that?

17 A No.

18 Q All right. Let's move on to Tab No.
19 12, going back in chronological order, related
20 to Mr. Barringer's care, and it appears that
21 Mr. Barringer came in on April the third of 2012
22 with several problems; is that right?

23 A I'm reading it, yes.

24 Q Okay.

25 MR. GILREATH: You on Tab 12,



1 Ashley?

2 MR. TWOMBLEY: Yes.

3 BY MR. TWOMBLEY:

4 Q Take a minute and familiarize --
5 familiarize yourself with the record and refresh
6 your memory.

7 A I read it.

8 Q Okay. It says number one, expressive
9 aphasia. What is expressive aphasia and why did
10 you put that in your note for Mr. Barringer in
11 April of 2012?

12 A Well, there are two types of aphasia.
13 There is receptive aphasia and expressive
14 aphasia. Expressive aphasia comes from area 44
15 of the frontal lobe and it is where people know
16 what they want to say but they miss a word, they
17 can't utter the word. So if they want to -- say
18 I'm going to the A & P drugstore or grocery
19 store, they'll say, I'm going to that grocery
20 store down there. They can't think of the word
21 A & P. They can't express the word. They know
22 what they want to say in their brain, but can't
23 express it.

24 Q Did you notice that in Mr. Barringer in
25 April of 2012?



1 A Apparently I did, he's missing words.

2 Q Okay. Further down, you say, the
3 patient is demented, at least he's lost a lot of
4 energy. And then you go on to say, he has
5 significant problems but when we test him, the
6 mini mental turned out fine and I have done the
7 mini mental multiple times.

8 What did you mean by that?

9 A Well, I think we've been talking about
10 that, the word demented is a scale, okay? I'm
11 going to repeat myself again. It is a scale.
12 You can be demented and have minimal dementia or
13 you can be completely loss of all brain function
14 and not know anybody and don't know relatives
15 and you can be demented. I didn't qualify this,
16 but at this period of time, he passes his mini
17 mental exams, so it has to be -- I would suggest
18 that he has -- at the lower end of the scale.

19 Q Okay. Was his -- was he still having
20 problems with his bladder function?

21 A Right.

22 Q Okay. And when you say at the lower
23 end of the scale, I think, previously, you
24 talked about a scale of 1 to 10?

25 A Arbitrary scale, yeah. You can make a



1 scale of the 1 to 1,000.

2 Q Okay.

3 A You know, he's -- to my way of -- my
4 remembering this, based on the conversations I
5 had, it was lucid and made good sense in depth
6 reasoning. And like I say, he could talk about
7 complicated things from the aviation realm with
8 ease.

9 Q Okay.

10 A If he had significant dementia, I don't
11 think he could do that.

12 Q Okay. It says here at the bottom that
13 you had spent 35 minutes with the patient face
14 to face.

15 Why did you put that in your note?

16 A Because I spent 35 minutes with him --

17 Q Okay.

18 A -- face to face.

19 Q Well, I see sometimes you note how long
20 you spent and sometimes you don't, did you want
21 to --

22 A You know, I don't know. Yeah, we
23 generally would put a time on that if I knew
24 what the time was. Apparently I knew what it
25 was that day.



1 Q Okay. Well, I've been to the doctor a
2 lot, it is hard to get 35 minutes with a busy
3 family practitioner.

4 A You know, the people -- the internist
5 at Hilton Head Hospital see 40 patients a day.
6 They have to in order to make their salary. I
7 see 12 to 14 patients a day. I spend at least
8 45 minutes with every patient I see, at least 30
9 minutes with every patient I see. Sometimes I
10 spend an hour, sometimes I spend 45 minutes.
11 But I've always done that.

12 Q Okay. And the -- great. Let's turn to
13 the next document exhibit or Tab No. 13. This
14 is a dated April the 30th of 2012, and it would
15 appear that Mr. Barringer is getting worse.

16 What was going on with Mr. Barringer on
17 April the 30th of 2012?

18 A Well, first of all, his urinary
19 problems are becoming logarithmic. He has a lot
20 of problems, a lot of pain in his pelvis,
21 urinating every five minutes. And I talked
22 Langley, Dr. Langley on the phone and he said,
23 you know, basically, there is nothing else -- as
24 I remember it, because we went -- we sought
25 other help after that.



1 Q Who is Dr. Langley?

2 A Mike Langley, he is a board certified
3 urologist that practices on Hilton Head.

4 Q Okay. And you said he's a urologist;
5 correct?

6 A Urologist.

7 Q Okay. And so why did you call his
8 urologist when he's having increase --

9 A I thought his primary problem was
10 urological, and he wasn't getting any better.
11 He was getting worse.

12 Q Okay. All right. Now, I will -- give
13 me one second. I'm going to now ask you about
14 number 14 -- well, before I ask you about 14,
15 I'm going to represent to you that Mr. Barringer
16 was hospitalized at Savannah Memorial Hospital
17 from May the 2nd to the May the 4th, which would
18 have been immediately following this visit.

19 Do you have any memory of when
20 Mr. Barringer was hospitalized in May of 2012?

21 A I know he was hospitalized, and we
22 talked about flying back to Virginia and he --
23 or I'd say, you have to have help right this
24 minute. He was literally screaming in pain. I
25 mean, he needed help immediately.



1 Q Why was he screaming in pain?

2 A Because the seeds had -- in my opinion,
3 his radium seeds were misplaced and they were
4 burning the tissue around the prostate.

5 Q Okay. And would that affect his urine
6 function?

7 A Absolutely.

8 Q Would his urine function affect his
9 cognition?

10 A Absolutely.

11 Q Okay. You said Mr. Barringer was
12 screaming in your office.

13 A It's horrible pain he had.

14 Q Okay. And this was immediately prior
15 to him going to the hospital in Savannah?

16 A We sent him right to Memorial, as I
17 recall, and I think we didn't spend much time
18 talking about it.

19 Q Okay. All right. Now, the next
20 document behind Tab 14 is a record from May the
21 8th of 2012, and I guess this would have been
22 about four days after his hospitalization.

23 Do you remember seeing Paul after his
24 hospitalization at --

25 A I can read my note.



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1 Q Okay.

2 A But I did see him after his
3 hospitalization.

4 Q Okay. This note says, Paul comes in
5 with his wife and we talked to St. Joseph's
6 Hospital, with three doctors over there. We
7 spent about an hour together. He had terrible
8 trouble urinating. He went to St. Joseph's,
9 they put a catheter and it relieved all of his
10 symptoms. He is still confused and has poor
11 memory.

12 Tell me -- obviously, other than what's
13 in the note, what you remember about what they
14 did for Mr. Barringer and why that improved his
15 condition?

16 A Well, he couldn't urinate and his
17 bladder was expanded. And, you know, when they
18 relieve the pressure off of there, and that's --
19 he got better. As I recall, they treated an
20 infection. When you have retention of urine,
21 you almost always have some infection if it's a
22 significant retention. And so they relieved the
23 retention, one thing or another, and he got
24 better.

25 Q Okay. How was Mr. Barringer's



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1 cognitive condition on May 8th, 2012 after he
2 got out of the hospital?

3 A I don't think I mentioned anything
4 about it.

5 Q Well, it says, he's still confused and
6 has poor memory.

7 A Does it say that there? Let's see,
8 where does it say that?

9 Q At the end of the first paragraph.

10 A Oh, yeah, he is still confused and
11 still has a poor memory.

12 Q Okay. Did you think his cognition had
13 decreased after the hospitalization?

14 A I can't tell by my note.

15 Q Okay. You have any memory of there
16 being a --

17 A Well, I know that after that, he was
18 much better. I mean, I can't describe the pain
19 he had, it was horrible. And so, clearly, he
20 was much better with his urinary tract, and I'm
21 not -- you know, I can't tell from my note
22 whether it was worse, better, or the same.

23 Q Okay. Would any degree of cognitive
24 impairment that he had on May the 8th, would any
25 of it have risen to the level of affecting his



1 ability to understand a contract or a gift or
2 execute a will?

3 MR. GILREATH: Object to the form
4 of that question.

5 BY MR. TWOMBLEY:

6 Q You can answer.

7 A Oh, throughout 2012, I didn't think he
8 had dementia that had risen to the point of
9 affecting his day-to-day life or -- I don't know
10 much about his business, but I wouldn't think it
11 would affect his business life either. You
12 know, he would walk into the office and have a
13 conversation, and, you know, he would forget
14 things, occasionally.

15 But, you know, dementia comes in
16 multiple forms, and generally, you can tell if
17 somebody walks into the office and they have
18 significant dementia. It is the way they
19 present themselves, their persona is different
20 and they -- the way their eyes look are
21 different. It's just a picture you get with
22 them coming in.

23 Generally, people don't come in and
24 shake your hand and say, how are you doing, how
25 is that airplane of yours? You know, that kind



1 of thing, and that's the way he was at this
2 point in time.

3 Q Okay. Great. It says here he is going
4 to go to the University of South Carolina and
5 Cleveland Clinic to get some help.

6 A We talked about those things.

7 Q Okay. All right. Let's turn to Tab
8 15, and I will represent to you that what you're
9 looking at, Dr. Long, is e-mail from an attorney
10 here on Hilton Head named John Jolly to -- it's
11 addressed to Merrill Light and it says, Merrill,
12 this would be great, let me know if Dr. Long
13 needs any help or has any questions.

14 And if you look at the second page, it
15 is an unsigned physician's certificate of
16 competency.

17 A I don't see those notes or that letter.

18 Q Okay.

19 A It is under 17?

20 Q Fifteen. It's behind 15. You jumped
21 ahead of us.

22 A Okay. It's from John Jolly to Merrill
23 Light. Okay. I see that. I don't remember
24 that.

25 Q Okay. If you'll turn to the second



1 page, this is an unsigned physician's
2 certificate of competency that was attached to
3 the e-mail, and then if you'll turn to the third
4 page, this is the same certificate, but now
5 it's -- it's been signed.

6 You see those three documents?

7 A I do.

8 Q Okay. Now, first of all, do you -- do
9 you have -- well, strike that. Let me just
10 rephrase the question.

11 Is this your signature on page 3?

12 A It is.

13 Q Okay. And it says in this certificate
14 that you signed that you had reviewed
15 Mr. Barringer's relevant medical history.

16 Did you review or are you familiar with
17 his relevant medical history prior to signing
18 this document?

19 A Apparently I did because I signed it.

20 Q Okay. Would you have signed it if you
21 had not done that?

22 A No. No, I wouldn't have signed it if
23 I --

24 Q Okay.

25 A I just didn't sign the document --



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1 Q Okay.

2 A -- unless I agree with everything that
3 is on there.

4 Q All right. Let me show you, I'm going
5 to come back to the certificate. If you go back
6 to the e-mail, it is dated August the 28th of
7 2012, and then if you'll turn to page -- Tab 16,
8 it appears that you saw Mr. Barringer on August
9 the 29th of 2012.

10 Do you -- do you remember whether or
11 not you signed the certificate on the 29th of
12 August 2012?

13 A Do I remember? I don't remember
14 signing it.

15 Q Okay.

16 A I can only say that I wouldn't have
17 signed it if I didn't agree with it.

18 Excuse me one second.

19 THE VIDEOGRAPHER: Off the video.

20 (Whereupon, a break was taken at
21 4:48 p.m.)

22 (Back on the record at 4:51 p.m.)

23 MR. GILREATH: I'm going to object
24 to that last question. Asked and
25 answered.



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1 THE VIDEOGRAPHER: I'm back on the
2 video.

3 MR. TWOMBLEY: Which question was
4 that, Jim?

5 MR. GILREATH: The last one you
6 asked.

7 MR. TWOMBLEY: What was it and
8 what's the objection?

9 MR. GILREATH: About signing this
10 document on August 29, 2012. I don't
11 know how you formed it, you -- I have a
12 problem with the form of it.

13 MR. TWOMBLEY: Well, what's the
14 objection?

15 MR. GILREATH: Object to the form.
16 Leading question.

17 MR. TWOMBLEY: I think -- I think
18 I can ask you to give me the basis for
19 your objection so I can try to remedy
20 it. So what is the basis for your
21 objection?

22 MR. GILREATH: Object to the form
23 of it, it's a leading question. That's
24 all I got to do.

25 MR. TWOMBLEY: Anything other



1 objections you got to the question?

2 MR. GILREATH: I stated them all
3 on the record, Ashley. That's all I
4 have to do, as I understand it.

5 MR. TWOMBLEY: Okay.

6 BY MR. TWOMBLEY:

7 Q Dr. Long, I'm not quite sure where we
8 left off. I think I was showing you the Tab 15,
9 which is on August the 28th and showing you that
10 you saw Mr. Barringer the next day on August
11 29th.

12 Do you recall that discussion?

13 A The one we just had. Yes.

14 Q Okay. And I think I asked you if
15 you -- well, obviously, the certificate that you
16 signed is not dated.

17 Do you have any reason to believe you
18 didn't sign it on the next day, on August 29th,
19 2012?

20 A Apparently I did, that's my signature.

21 Q Okay. But as far as the specific date?

22 A Well, I would have to assume that's
23 when it occurred.

24 Q Okay. All right. Now going back to
25 the certificate that you signed, which is the



1 third page of exhibit -- of Tab 15, it says, I
2 have personally interviewed Paul Barringer and I
3 have examined him.

4 Do you see that?

5 A Mm-hmm.

6 Q Okay. So -- and I think you testified
7 you wouldn't have signed it unless you had
8 complied with it; correct?

9 A Right. It doesn't give a time or
10 place.

11 MR. GILREATH: Object to the form.
12 Leading.

13 THE WITNESS: It just says I have
14 examined him, it doesn't say that day.

15 BY MR. TWOMBLEY:

16 Q Okay. Fair point, but --

17 A It makes sense that I would have.

18 Q I'm just trying to find out whether or
19 not, would you have signed the certificate if
20 you had not personally examined Mr. Barringer?

21 A I would not -- probably not signed it.
22 I mean --

23 Q Okay.

24 A Yeah, that -- I did sign it and I don't
25 know why we didn't date. It says 2012.



1 Q Okay.

2 A But I wouldn't have signed this without
3 reading it --

4 Q Okay.

5 A -- and complying with it.

6 Q Okay. The next sentence says that, he
7 has sufficient mental capacity to understand the
8 nature, scope, and extent of the business
9 about -- which he was about to transact.

10 Were you familiar with the specific
11 business that he was about to transact?

12 A No.

13 Q Okay. It says, I have concluded, in my
14 medical opinion, that Paul Barringer is
15 competent to transact his business and competent
16 to enter a contract.

17 Do you see that?

18 A Yeah. At that particular time in 2012,
19 I think he would be competent to sign anything
20 about any business.

21 Q Okay. Well, that was my next question,
22 and I have two questions since we don't know the
23 specific -- since the certificate is not dated.

24 And my first question is: Would you
25 have signed this certificate at any point in



1 2012?

2 A Yeah, probably would.

3 Q Okay. And would you have signed it
4 irrespective of the business that Mr. Barringer
5 was about to engage in?

6 A I don't have any idea what business he
7 was doing or what business he was in. I know
8 the business he was in, but a general way.

9 Q Okay. But my question to you is: Is
10 there any type of business transaction that you
11 didn't think Mr. Barringer was capable of
12 handling in 2012?

13 A I think he would be able to understand
14 any type of transaction.

15 Q Okay. Let's go to the --

16 MR. TWOMBLEY: Jim, just so you
17 know, your audio is coming through and
18 we can all hear it so you might want to
19 mute your line so it doesn't disrupt
20 the questioning.

21 MR. GILREATH: I'm sorry. I
22 thought it was muted.

23 MR. TWOMBLEY: That's okay.

24 BY MR. TWOMBLEY:

25 Q We'll turn to Tab 16. This is a note



1 from you from examination of Mr. Barringer on
2 August 29th of 2012; is that right?

3 A Yes.

4 Q Okay. And was Mr. Barringer still
5 having problems with his urinary function at
6 that time?

7 A Yes.

8 Q Okay. You say here, I think this is
9 radiation toxicity from the misplaced radium
10 seeds. We are going to see about getting him
11 some hyperbaric oxygen.

12 Tell me about why you considered
13 getting hyperbaric oxygen treatments for
14 Mr. Barringer.

15 A There are 13 absolute diagnoses that
16 insurance will pay for, radiation toxicity is
17 one of them.

18 Q Okay.

19 A And there's the bens, snake bites,
20 crush injuries, 13.

21 Q Okay.

22 A And this is one of them.

23 Q Okay. Did you believe that
24 Mr. Barringer might have some radiation toxicity
25 from the seed implants?



1 A Absolutely.

2 Q Okay. And is the -- hyperbaric oxygen
3 chamber, how does that help with that?

4 A Hyperbaric oxygen delivers 20 times
5 more oxygen at the cellular level than you can
6 get in any other way. Oxygen is healing. It
7 heals scars on the outside of the body and it's
8 used routinely for wounds. All wound care
9 centers have that. And it heals internal
10 derangement.

11 Most NFL football teams have one in the
12 tunnel. They go right through the tunnel and
13 get into the machine. So it heals tissue by way
14 of oxygen. Oxygen has incredible healing
15 qualities to it.

16 Q Okay. Later in the note, at the end,
17 it says, he keeps quite active.

18 What did you mean Mr. Barringer keeping
19 quite active?

20 A I guess he's quite active.

21 Q Okay.

22 A Walking around, engaging people, going
23 to get-togethers and parties, taking care of his
24 business.

25 Q Okay. All right. Let's turn to



1 Tab 17, which is a record from a visit on
2 September 12th of 2012. The note starts off, it
3 says that you called Dr. Bachman on the
4 telephone, with him, about this patient's
5 dementia and Dr. Bachman really does want to do
6 anything except have the patient do mind games
7 on the computer.

8 Tell me what you remember about your
9 conversation with Dr. Bachman?

10 A Well, Dr. Bachman is a renown
11 neurologist who is up at MUSC.

12 Q Okay. And this is a neurologist?

13 A He is a neurologist.

14 Q Okay.

15 A And he basically wanted him to -- like
16 we tell everybody in the world, I mean, whether
17 you have dementia or not, you do mind games and
18 it will stimulate the temporal lobe of the brain
19 and open up circuits.

20 Q Okay.

21 A And that's all he wanted to do.

22 Q Okay. And was it your understanding
23 that Dr. Bachman had evaluated and seen
24 Mr. Barringer?

25 A Yes.



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1 Q Okay. And that -- you remember
2 anything else that Dr. Bachman told you?

3 A Not really. It's been so long.

4 Q Was Dr. Bachman concerned about
5 Mr. Barringer's condition?

6 A Well, it's -- I think if he was
7 concerned, he would have instituted more
8 treatment of some sort. He didn't seem to be
9 too concerned about it.

10 Q Okay. The next sentence says, I had a
11 long talk with Mr. Barringer today and we,
12 indeed, have sent him yesterday, after a long
13 discussion on the telephone, for hyperbaric
14 oxygen. I want to focus your attention on the
15 conversation that you had the day before when
16 you say yesterday on September the 11th of 2012.

17 Do you remember talking with
18 Mr. Barringer on September the 11th of 2012
19 about --

20 A I don't remember talking to him.

21 Q Okay. Obviously, you wouldn't have
22 wrote this down in your note unless you had
23 talked to him?

24 A Correct.

25 Q Okay. And it appears you had a



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1 discussion about the hyperbaric oxygen; is that
2 right?

3 A Mm-hmm.

4 Q Okay. When you talked to Mr. Barringer
5 on September the 11th of 2012, did he understand
6 what you were recommending with respect to the
7 hyperbaric oxygen?

8 A Sure. Absolutely.

9 Q And did he ask questions about it?

10 A I don't know, probably.

11 Q Okay. Was there anything about your
12 discussion with him on September the 11th of
13 2012 that caused you any concern with respect to
14 his cognition?

15 A You know, it doesn't appear that he was
16 still, you know, accessing the world, and I
17 think I would have written something differently
18 if I had --

19 Q Okay.

20 A -- any concerns?

21 Q All right. And indeed, Mr. Barringer
22 did get the hyperbaric oxygen treatment;
23 correct?

24 A Correct.

25 Q All right. On the day that you saw



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1 Mr. Barringer on September the 12th of 2012, did
2 he appear to be in any distress?

3 A On this particular day?

4 Q Yes.

5 A If he had been, I would have documented
6 it.

7 Q Okay. Did Mr. Barringer express to
8 you, on this day or any time prior to this, that
9 he was fearful in any way?

10 MR. GILREATH: Object to the form
11 of that question.

12 THE WITNESS: I mean, I don't have
13 anything on the note.

14 BY MR. TWOMBLEY:

15 Q Okay.

16 A And that's all I have to got on.

17 Q You think that's something you would
18 have written down if you had --

19 A I mean, if he came in and said I'm
20 scared to death, you know, I think I might have
21 put that down.

22 Q Okay. Up through this time, September
23 the 12th of 2012, would Mr. Barringer frequently
24 come to the office by himself?

25 A I don't remember a percentage of time



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1 he was with somebody or by himself. I just
2 don't remember.

3 Q Okay. But sometimes he was by himself?

4 A Sometimes he was.

5 Q Okay. And when someone was with him,
6 who was with him?

7 A Merrill.

8 Q Okay. And that's his wife, Merrill
9 Barringer?

10 A Yeah. It's -- his daughter's named
11 Merrill too, but his wife.

12 Q Okay. Did you ever -- did
13 Ms. Barringer ever try to influence the care
14 that you gave Mr. Barringer?

15 A No.

16 Q Okay. Was she supportive?

17 A Very.

18 Q Okay. How would you describe the
19 relationship between Mr. Barringer and --
20 Mr. Barringer and Ms. Barringer based on your
21 observation of them?

22 A I would say it was the same as my
23 relationship with my wife.

24 Q Okay.

25 A We would do anything to take care of



1 each other, and that's the way she was, in my
2 opinion.

3 Q Okay. All right. Ever have any reason
4 to question that?

5 A No.

6 Q Okay. All right. Let's go to the next
7 document on 18, which is from October the 16th
8 of 2012. Under the A, it says, he's much better
9 today. Although his memory is still not back,
10 he is not missing any words, which is great.

11 How would you describe Mr. Barringer's
12 condition on October the 16th as opposed to --

13 A I can only go with what my notes says.

14 Q Okay.

15 A Do you want me to read it?

16 Q Sure. If that will refresh your
17 memory, absolutely.

18 A He has --

19 Q You don't have to read it out loud, I'm
20 just --

21 A Oh, okay.

22 (Reading sotto voce.)

23 A I think -- if I can comment on that, I
24 think, throughout this whole thing up until now,
25 he has mild -- very mild cognitive impairment



1 and doesn't appear to be getting any serious --
2 anything serious.

3 Q Okay. Did you place any restrictions
4 on Mr. Barringer?

5 A No.

6 Q Did you ask him not to drive?

7 A I didn't.

8 Q Okay. Did you tell him not to fly his
9 airplane?

10 A You know, we talked about airplanes. I
11 don't recall telling him not to fly or not to
12 drive. I might have, but I didn't document it.

13 Q Okay. All right.

14 A I don't recall anything like that.

15 Q Okay.

16 A But people have significant dementia.
17 When they come in the office, the first thing I
18 tell them is don't drive an automobile, and they
19 usually fire me at that point.

20 Q I gotcha. Let's move to the next
21 record, which, I think, is the last one of 2012,
22 which is behind Tab 19 which is December 10th,
23 2012. The record says, he seems better since
24 his hyperbaric treatment. He still has
25 receptive aphasia, but he is better.



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1 A Is this 19?

2 Q Yes, it is.

3 A Okay.

4 Q I see here you say, receptive
5 aphasia --

6 A It's expressive aphasia, that's a
7 misquote.

8 Q Okay. All right. But you say he seems
9 better after his hyperbaric treatment and that
10 his aphasia is better.

11 A Hyperbaric oxygen also is good for
12 people with dementia. It's rarely used for
13 that. First of all, it's not covered, that's
14 not a problem with Mr. Barringer. For the
15 average citizen, it's something that is
16 expensive, if it's something that is not
17 covered, they don't do it.

18 Q Gotcha. Says at the bottom that you
19 spent 55 minutes talking with him face to face,
20 most of with counseling, 30 to 50 percent was
21 due to the examination.

22 How would you describe the examination
23 that you did on Mr. Barringer on December 10th,
24 2012?

25 A Well, usually, you know, you watch



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1 people walk, you discuss complexities of their
2 life, how they're doing, take seven from 100,
3 take seven from 93 and down -- you don't do a
4 complete mini mental, but just an idea of, see
5 how things are and how good they are. And
6 usually, you know, I -- I also listen to their
7 heart. If somebody comes in with a broken
8 wrist, I'll listen to the heart and their
9 carotid arteries, and like that.

10 Q Would you say it was thorough, 55
11 minutes?

12 A You know, I can only go by my note, and
13 I'm not very specific here.

14 Q Okay. But you did spend 55 minutes
15 with him talking face to face?

16 A Right.

17 Q Okay. During that time, you would have
18 asked him questions?

19 A Right. Well, not all the time,
20 sometimes we talked about, like I said, a lot of
21 different things.

22 Q Okay. How would you describe his
23 cognition on December the 10th of 2012?

24 A I can -- I can read the note.
25 Obviously I can't remember the specific



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1 conversation, it's been ten years ago. I have a
2 wonderful memory, it's just short.

3 Q Right.

4 A That's another joke.

5 He seems better than -- since his
6 hyperbaric treatment, his dementia. He still
7 has receptive -- he has expressive aphasia, it
8 should be -- but he is better.

9 Q Okay. So prior to -- with respect to
10 the times you've seen him previously, you
11 thought he was doing better than he was before?

12 A Right.

13 Q All right.

14 MR. TWOMBLEY: I want to take
15 about a five-minute break since we are
16 at a natural stopping point at 2012.
17 So you can go to the restroom, give
18 everybody else a chance to --

19 THE WITNESS: Can I ask a
20 question? What's the estimated time
21 of --

22 THE VIDEOGRAPHER: Off the video.

23 (Whereupon, a break was taken at
24 5:11 p.m.)

25 THE VIDEOGRAPHER: Back on video.



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1 (Back on the record at 5:34 p.m.)

2 BY MR. TWOMBLEY:

3 Q Dr. Long, a couple more questions about
4 the September the 12th, 2012 visit, which is
5 Tab 17.

6 A September 12th?

7 Q September the 12.

8 A Which tab?

9 Q 2012, Tab 17.

10 A Seventeen. Okay.

11 Q When you met with Mr. Barringer --
12 well, let me ask you this: It says you spoke to
13 Mr. Barringer on the telephone.

14 Did you have his telephone number?

15 A I'm sure I did. I can't remember that
16 specifically, but I'm sure I did. I talked to
17 him a lot.

18 Q Did you frequently -- or how did you
19 normally communicate with him if he was not here
20 on the office?

21 A I called him on the phone.

22 Q Okay. Would you call his house or his
23 cell phone or both?

24 A I don't remember.

25 Q Okay. Did you ever have any trouble



1 getting ahold of him?

2 A I can't remember that.

3 Q Okay. Did anyone ever prevent you from
4 talking to him?

5 A Prevent me from talking, I don't recall
6 that.

7 Q Okay. Did you ever have to get
8 permission from anyone or did anyone screen his
9 calls?

10 A If it happened, I don't remember that.

11 Q Okay. Did Mr. Barringer -- did you
12 have any reason to believe that he was being
13 secluded in any way in September of 2012?

14 A No. I don't have any recollection of
15 that.

16 Q Okay. Was he able to drive where he
17 wanted to go whenever he wanted to go?

18 A I assume that that's the case.

19 Q Okay. Did anyone else, other than Ms.
20 Barringer, to the best of your memory, ever
21 appear with him with for one of his visits with
22 you?

23 A I have no recollection of that
24 happening.

25 Q Okay. All right.



1 A But it's possible, it's certainly
2 possible.

3 Q Okay. So at no point in time -- was
4 there any point in time in the year 2012 where
5 you had any reason to question Mr. Barringer's
6 ability, cognitive ability to engage in any type
7 of legal transaction?

8 A I didn't -- I don't recall questioning
9 his ability to engage in any kind of situation.

10 Q Okay. And now having gone through all
11 your notes in 2012 and looking at each visit, do
12 you have any reason to believe that he did not
13 have the cognitive --

14 A No.

15 Q -- ability to engage in any type of
16 legal transaction in 2012?

17 A I have no reservation. I don't recall
18 any reservations. I have to rely heavily on my
19 notes.

20 Q Okay.

21 MR. GILREATH: Object to the form
22 of that question.

23 BY MR. TWOMBLEY:

24 Q If you would, please, there's only
25 about, I think, three or four visits from 2013,



1 and those are Tab 20, 21, 22, and 23.

2 So 21, 22, and 23, would you review
3 those records for a moment, please?

4 A Starting with January 14th?

5 Q Yes, sir.

6 MR. GILREATH: Ashley, you can
7 hear me, can't you?

8 MR. TWOMBLEY: Yes.

9 MR. GILREATH: Okay. I wanted to
10 make sure if I make an objection, it is
11 on the record. I didn't make one,
12 don't get me wrong. Not yet.

13 THE WITNESS: Okay. I mean, you
14 want to go through Tab 21?

15 BY MR. TWOMBLEY:

16 Q Through Tab 23.

17 A Oh, okay. Okay.

18 Q So in January the 14th of 2013, you say
19 he's still demented, but he's better and his
20 speech is better.

21 What did you base that on?

22 A Talking to him.

23 Q Okay. And your evaluation of him?

24 A Yeah.

25 Q Okay. Down under subjective, it says,



1 he gets up at night -- at nighttime too, but
2 otherwise, he is doing remarkably better.

3 What did you base that on?

4 A You on January 14th?

5 Q Yes, sir, under subjective at the
6 bottom.

7 A At the bottom. He gets up at
8 nighttime, but otherwise, is doing remarkably
9 better. Dr. Manny Perez kept him on the rapid
10 flow from Dr. Funderburk. And they gave him
11 another medicine, that I didn't know what it
12 was, for his urine.

13 Q Okay.

14 A So this is talking about the frequency
15 of urination.

16 Q Okay. And how was that?

17 A Much better, apparently, according to
18 my note.

19 Q Okay. But his speech was better and
20 his aphasia that he had was better?

21 A Right.

22 Q How would you describe your
23 conversations with him, were they normal or
24 abnormal?

25 A Somewhere -- I mean, yeah, for the most



1 part, they -- I mean, they were normal
2 conversations. I mean, it wasn't like -- you
3 know, I take care of a lot of patients with
4 significant dementia in the seven, eight, nine
5 range and they can't carry on a conversation.
6 Had regular conversations with him.

7 Q Okay. At any point in time in 2013,
8 did you notice any significant progression of
9 his disease?

10 A I have to rely on my notes. I don't
11 think so.

12 Q Well, based on your notes after having
13 reviewed them, do you see any --

14 A No, I don't. I don't see anything that
15 would reflect that he was getting much worse or
16 getting worse at all.

17 Q Okay. On March the 20th, 2013, you
18 say, the dementia seems stable?

19 A Yep.

20 Q Is that consistent with -- well, let
21 me -- on November 14th, 2013 at Tab 23 on the
22 second page -- I'm sorry, the third page, you
23 say, dementia is stable.

24 Is that consistent with your memory?

25 A Yeah.



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1 MR. GILREATH: Ashley, where was
2 that now, tab what?

3 MR. TWOMBLEY: Tab 23.

4 MR. GILREATH: 23?

5 MR. TWOMBLEY: Yes, 23. It's the
6 November 14th, 2013 record.

7 MR. GILREATH: Okay. What was it
8 you read off there? I can't find it.

9 MR. TWOMBLEY: Dementia is stable.

10 MR. GILREATH: On the next -- wait
11 a minute. Is that two pages over?

12 MS. PAYLOR: It's on page 197
13 of --

14 (Crosstalk.)

15 MR. GILREATH: What is --

16 MS. PAYLOR: Under R-O-S.

17 MR. GILREATH: On 196?

18 MR. TWOMBLEY: In bold.

19 MR. GILREATH: I see it. Okay.

20 THE WITNESS: The reason the
21 quality of the notes have changed is we
22 bought a new electronic medical record
23 and you can see the difference.

24 BY MR. TWOMBLEY:

25 Q Understand. I was going to ask you



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1 that, so thanks for letting us know.

2 How does something in the record get
3 bolded because I noticed on --

4 A When we -- there are templates and when
5 we change the template, it bolds.

6 Q So is that something that you --

7 A So for example, under heart, it says,
8 no chest pain, shortness of breath,
9 palpitations, and if we said patient now has
10 palpitations, it bolds it.

11 Q Okay. That would be something, I
12 guess, more significant than the other thing?

13 A Right.

14 Q Okay. So in the November the 14th of
15 2013, you would have selected that the dementia
16 was stable and --

17 A Right.

18 Q -- selected the option to bold it?

19 A I have to look at it again, but yes,
20 that's right. That's what it says. I wrote
21 that in there, dementia stable.

22 Q So we -- we talked about 2012, now
23 we've gone through 2013.

24 How -- can you just describe, in your
25 own words, after reviewing the records, of



1 whether or not Mr. Barringer's dementia
2 increased or decreased?

3 A Apparently, it was unchanged.

4 Q Okay.

5 A Better at times, worse at times when he
6 had urinary problems, it always screws up
7 dementia. But for the most part, 12 and 13, I
8 put in the same category.

9 Q Okay. Was he able to drive a car?

10 A You know, I assume he continued to
11 drive, yeah. People with significant dementia,
12 I take their license away.

13 Q Okay. Did you ever take
14 Mr. Barringer's license away?

15 A I don't recall, but I would put that in
16 the record, I think, if that was the case.

17 Q Okay.

18 A I don't think it entered my mind up at
19 this time.

20 Q Okay. And why did it not enter your
21 mind at this time?

22 A Because he didn't have significant -- I
23 mean, dementia to the point to where he couldn't
24 understand signs and things like that. In my
25 opinion, he could understand all that.



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1 Q Okay. Now, if you had been asked, and
2 I think you -- well, I'll just represent to you,
3 previously when you testified in probate court,
4 that you testified you would not place any
5 restrictions on Mr. Barringer in 2013.

6 A Correct.

7 Q Having gone through all your records
8 for 2013, do you still agree with the testimony
9 you previously gave?

10 A Yes.

11 Q Okay. Was there anything, that you are
12 aware of, that Mr. Barringer couldn't do in
13 2013?

14 A No.

15 Q Cognitively or otherwise?

16 A Nope.

17 Q Okay. Let's look at 2014, and that's
18 behind Tab 24 -- 24, five, six, and seven -- I'm
19 sorry, 14, five and six.

20 A Let's see. Okay.

21 Q It looks like you saw him on February
22 13th and then you didn't see him again until
23 November third, and then again on November 24th;
24 is that right?

25 A Apparently. Yep.



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1 Q Okay. At -- I'm looking at Tab 24,
2 which is the February 13th, 2014 record. It
3 says, on the third page, dementia stable.

4 MR. GILREATH: Can you give me the
5 Bates number.

6 MR. TWOMBLEY: 192.

7 MR. GILREATH: 192?

8 BY MR. TWOMBLEY:

9 Q This is Tab 24. You're there. Flip
10 over two pages, one and then one more, and then
11 about at the bottom, the narrative.

12 A Dementia stable, yep.

13 Q Okay. And is that consistent with your
14 memory of him at that time?

15 A It is.

16 Q Okay. If you go to 25, which is the
17 November third, 2014 record, on the third page,
18 there's a section about amenda -- I'm sorry,
19 there is a section about dementia, can you --

20 A Where are we now?

21 Q This is on Tab 25, the third page in.

22 A Okay.

23 MR. GILREATH: 768?

24 MR. TWOMBLEY: It is page 187 of

25 768.



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1 THE WITNESS: What are you
2 referring to here?

3 BY MR. TWOMBLEY:

4 Q The section on dementia.

5 A Associated symptoms, no depression, no
6 paranoia, no anxiety, no irritability, no weight
7 loss, no wandering around, and stable on
8 dementia, 10 milligrams twice a day, Namenda.

9 Q Okay. And then let's go to the next,
10 Tab 26, which is November 24th. On the third
11 page in, again, there is a section on dementia,
12 and it says, dementia associated with another
13 disease.

14 Do you see that?

15 A Yes.

16 Q Okay. Is there anything of note that
17 you recorded on this day about his dementia?

18 A No.

19 Q Okay. All right. So can you describe
20 for us, the dementia that Mr. Barringer was
21 experiencing in 2014 after having reviewed the
22 notes?

23 A You know, it appeared that he was
24 unchanged again from '12 to '14. I mean, I
25 don't put anything in my notes suggesting that



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1 he's, you know, getting lost, time, place,
2 person, anything like that.

3 Q Okay.

4 A Hold on one second. I'll be right
5 back.

6 THE VIDEOGRAPHER: Off the video.

7 (Whereupon, a break was taken at
8 5:52 p.m.)

9 THE VIDEOGRAPHER: Back on the
10 video.

11 (Back on the record at 5:53 p.m.)

12 BY MR. TWOMBLEY:

13 Q So again -- well, I'll give you a
14 moment.

15 A Go ahead.

16 Q I'll represent to you that, again, you
17 previously testified that during calendar year
18 2014, you would not and did not place any
19 restrictions on Mr. Barringer in your prier
20 testimony?

21 A Not to my memory.

22 Q Okay. And after having gone through
23 your notes, do you agree with the previous
24 testimony you gave?

25 A Yes.



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1 Q Okay. Now, through 2012 and 2013 and
2 2014, was Mr. Barringer, did he have the mental
3 capacity to comprehend the nature and
4 consequences of gift transactions?

5 MR. GILREATH: Object to the form
6 of that question.

7 THE WITNESS: I don't know about
8 individual things, but I can say that
9 he had -- in my opinion, he had the
10 mental capacity to understand any kind
11 of transaction.

12 BY MR. TWOMBLEY:

13 Q Okay. I mean, you said any kind of
14 transaction?

15 A I did.

16 Q Okay. You believe he was of sound
17 mind?

18 A You know, a gift transaction, I would
19 think would be --

20 MR. GILREATH: Object to the form
21 of the question.

22 THE WITNESS: -- easy.

23 BY MR. TWOMBLEY:

24 Q Did Mr. Barringer have the mental
25 capacity to know his estate, what he owned



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1 through 2014?

2 A I would think so, yeah.

3 Q Okay. Would he have the mental
4 capacity -- would he have the mental capacity to
5 know who his loved ones are?

6 A Yes.

7 Q Okay.

8 MR. GILREATH: Object to the form
9 of that question.

10 BY MR. TWOMBLEY:

11 Q And about the mental capacity to decide
12 who he wanted to receive his property at his
13 death?

14 A I would think so.

15 Q Okay. Do you have --

16 MR. GILREATH: Object to the form.

17 BY MR. TWOMBLEY:

18 Q Do you have any reservations about his
19 cognitive --

20 A In 2014, none.

21 Q Okay. Now, obviously, we know
22 Mr. Barringer's condition got worse and I
23 believe you previously testified that he -- I
24 think you said, started to fall off of a cliff
25 in the later part of 2015.



1 Do you remember that?

2 A I'd have to review my notes, but I do
3 remember.

4 Q Okay. And tell us what you -- what you
5 mean by falling off a cliff?

6 A I don't know what I was referring to,
7 but obviously, he's getting worse at that point.

8 Q Okay.

9 THE VIDEOGRAPHER: Off the video.

10 (Whereupon, a break was taken at
11 5:57 p.m.)

12 THE VIDEOGRAPHER: Back on video.

13 (Back on the record at 6:08 p.m.)

14 BY MR. TWOMBLEY:

15 Q Dr. Long, we are back after the short
16 break.

17 Going to move on to 2015, but let me
18 just ask you about 2014. Do you recall
19 regularly talking to Paul on the phone when you
20 needed to in 2014?

21 A Yeah, I'm -- I don't recall that, but
22 I'm sure I did because I do remember talking to
23 him. But just the timing of it, I'm not sure
24 about.

25 Q Okay. Do you ever recall having to get



1 permission from somebody to talk with him?

2 A I don't recall that, but it could have.

3 But I don't remember it.

4 Q Okay. As far as you remember, though,
5 if you needed to call Mr. Barringer, you'd just
6 call his cell phone; is that right?

7 A Yeah, I called him. Yeah, pick up the
8 phone and call him and he'd answer.

9 Q Okay.

10 A Or I'd call Merrill and she'd say, hold
11 on a minute.

12 MR. GILREATH: Object to the form
13 of that question.

14 BY MR. TWOMBLEY:

15 Q Give me one second.

16 Did Mr. Barringer -- strike that.

17 Did you ever talk with Mr. Barringer
18 about his social life during this time?

19 A Social -- I don't recall.

20 Q Do you know whether or not he was at
21 home all the time or out and about handling his
22 affairs?

23 A I have no idea.

24 Q Let's talk about 2015, which I believe
25 the first note from 2015 is at Tab 27, and on



1 the third page in, it says that Mr. Barringer's
2 dementia is getting worse.

3 Do you see that down at the bottom?

4 A Yes.

5 Q Okay. Do you remember what happened in
6 2015?

7 THE WITNESS: Stay online.

8 THE VIDEOGRAPHER: I'm off the
9 video.

10 (Whereupon, a break was taken at
11 6:11 p.m.)

12 THE VIDEOGRAPHER: Back on video.

13 (Back on the record at 6:11 p.m.)

14 BY MR. TWOMBLEY:

15 Q Okay. Mr. Long, we were talking about
16 the Tab 27, which is the first record from
17 2015 --

18 A Right.

19 Q -- note which says Mr. Barringer's
20 dementia was getting worse.

21 How would you characterize the
22 progression from 2014, what you saw at the
23 beginning of 2015?

24 A Well, I didn't characterize it,
25 unfortunately, but it says it's getting worse,



1 so I assume that he was getting worse a little
2 bit.

3 Q Okay. Do you recall why you concluded
4 that it was getting worse?

5 A I don't.

6 Q If you turn to page 4, it says -- under
7 psychiatric, it says, insight, good judgment,
8 mental status, normal.

9 A Where is this?

10 Q The fourth page in.

11 A Yeah. Okay. Yep.

12 Q Was Mr. Barringer -- do you believe he
13 still had good judgment at that point in time?

14 A Well, I didn't change it and it says
15 good judgment there. I have to assume that's
16 the case.

17 Q Okay. Do you think you would have
18 changed it if you felt his judgment had been --

19 A Yeah, I think I might have.

20 Q Okay. You recall placing any
21 restrictions on Mr. Barringer in January of
22 2015?

23 A I don't recall doing anything.

24 Q Do you have any memory of how bad or
25 how worse his dementia got in 2015?



1 A You know, I don't. I can't tell you
2 that -- see, he had -- the dementia in him waxed
3 and waned depending on his urinary tract. If he
4 had a bad infection, it got worse, as it does
5 with almost everybody. And when he doesn't have
6 an infection, it got better. I don't know if
7 that was going on here. Second -- secondary to
8 general anesthesia, it should affect -- should
9 the infection wear off.

10 Q Do you know anything about any general
11 anesthesia that Mr. Barringer may have had?

12 A I don't recall. I just don't recall.

13 Q Okay. Would general anesthesia make
14 his dementia worse?

15 A Yes --

16 Q Okay. And would that --

17 A -- it could.

18 Q Does that improve after the general
19 anesthesia wears off?

20 A Sometimes it gets better, most of the
21 time, you have, if you have post anesthesia
22 syndrome and you get -- I mean, even normal
23 people -- I mean, people that have no issues at
24 all, they can get a problem and then a week or
25 two, it wears off.



1 Q Okay.

2 MR. GILREATH: I'm going to object
3 to the form of that question, Ashley.
4 I'm not sure if his mike cut off and
5 cut back on.

6 MR. TWOMBLEY: What's the
7 objection?

8 MR. GILREATH: Object to the form
9 of that question.

10 MR. TWOMBLEY: I think I'm
11 entitled to know what the objection is,
12 and so I'm asking you to tell me what
13 it is.

14 MR. GILREATH: It's leading.
15 Object to the form is all I got to say,
16 Ashley. Leading, it's a leading
17 question.

18 MR. TWOMBLEY: Anything else?

19 MR. GILREATH: That's enough.

20 MR. TWOMBLEY: Okay.

21 BY MR. TWOMBLEY:

22 Q It looks like the next note is in June
23 of 2015.

24 MR. GILREATH: Give us a page
25 number, tab and page number, please.



1 MR. TWOMBLEY: This is Tab 28, the
2 third page in. At the top, it says,
3 dementia reported by patient.

4 Do you see that?

5 THE WITNESS: Yes.

6 BY MR. TWOMBLEY:

7 Q Okay. What is -- is there any
8 significance to the fact that -- that what
9 your -- that you write down that it's reported
10 by the patient?

11 A Well, it -- the significance is he's
12 saying, this is how I feel.

13 Q Okay.

14 A And, you know, there's people that a
15 physician or the nurse will look at a patient
16 and say, you know, this patient doesn't look
17 very good. The patient says, I feel like a
18 million dollars. I mean, it could either be
19 confabulating or telling you the truth, and you
20 never know for sure.

21 Q Okay. Did you believe he was telling
22 you the truth?

23 A Yeah, I have to believe that.

24 Q Okay. I mean --

25 A I give the patient the benefit of the



1 doubt.

2 Q Okay. Did you feel that you were able
3 to rely on what he was telling you in -- to
4 administer medical treatment to him in June of
5 2015?

6 A Can you repeat that?

7 Q Did you believe that you could rely on
8 what he was telling you in order to administer
9 medical treatment to him in June of 2015?

10 A Yes.

11 Q I mean, presumably, you've had patients
12 that you can't rely on what they tell you?

13 A Right. No question. A lot of times,
14 they don't know.

15 Q Okay. I'm trying to determine if
16 Mr. Barringer was in that condition in June of
17 2015?

18 A The conditions? You mean -- what do
19 you mean? What condition?

20 Q Well, condition that you -- such that
21 you couldn't rely on what he was telling you.

22 A No. No, I think that he is a straight
23 shooter. I think that I could rely on anything
24 he'd tell me.

25 Q Okay. And did you base medical



1 decisions on what he told you up to this point?

2 A Absolutely.

3 Q Okay. I mean, if Mr. Barringer had
4 reached a condition in his disease where you
5 felt that you could not rely on what he was
6 telling you, what would you have done?

7 A Well, I'm not sure -- I'm not sure I
8 would do anything. I mean, if I thought he had
9 such bad dementia that, you know, he -- his
10 cognition had gone to the point where, you know,
11 it's like -- I mean, I think I'd probably know
12 that in him because he was such a clear speaker
13 and thinker and stuff. I think I would know
14 that.

15 Q Okay. Would -- if you couldn't -- if
16 you felt like you couldn't rely on anything a
17 patient told you, might you talk to the
18 patient's loved ones, their wife or spouse?

19 A Possibly.

20 Q Would you try to get information from
21 other people?

22 A Yeah.

23 Q Okay. Have any record of doing that at
24 this point in time with respect to
25 Mr. Barringer?



1 A I don't recall.

2 Q If you'll turn to Tab 26, this is a
3 note from September of 2015. The third page in
4 down at the bottom, it says, neurologic gait and
5 station, normal gait and station, Alzheimer's
6 disease. I believe this is the first time since
7 2012 there's any reference to Alzheimer's
8 disease.

9 What is the significance of that in the
10 record -- in your record?

11 A People use Alzheimer's disease
12 inappropriately, and I do the same thing. There
13 is no way anybody can tell, while the patient is
14 alive, if they have Alzheimer's disease.
15 Alzheimer's disease is defined by postmortem or
16 after death biopsy of the brain or dissection
17 where you see either Tile-protein or neural
18 tangles, which are characteristic. You can't
19 tell that while somebody is alive. Alzheimer's
20 disease is used inappropriately, interchangeably
21 with dementia. So the appropriate phrase is
22 dementia.

23 Q Okay.

24 A Because it could be Creutzfeldt-Jakob
25 disease, lewy body dementia, mad cow disease.



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1 The only way you can tell any of those is with a
2 biopsy. So I used -- I use this as a generic
3 definition --

4 Q Okay.

5 A -- of dementia.

6 Q All right. So --

7 A It was inappropriate, I should have put
8 dementia down.

9 Q Okay. All right. Did you ever
10 diagnose Mr. Barringer with Alzheimer's disease?

11 A Like I said, while he's still alive,
12 you can't.

13 Q Okay. So if you can't do it while he
14 was alive, then you wouldn't have done it while
15 he was alive?

16 A That's correct.

17 Q Okay.

18 MR. GILREATH: Ashley, I'm not
19 sure I understand what parts you were
20 asking about on that page. You're
21 under Tab 26, the third page over --

22 MS. PAYLOR: 29, Tab 29.

23 THE WITNESS: No, Tab 26.

24 MR. GILREATH: Oh, he said 26.

25 MR. TWOMBLEY: Well, I apologize



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1 if I misspoke, I'm at 29.

2 THE WITNESS: Oh, sorry.

3 MR. TWOMBLEY: And it's the --
4 it's the third page down, third page in
5 at the bottom.

6 THE WITNESS: Yeah, 29.

7 BY MR. TWOMBLEY:

8 Q Now that you're looking at the right
9 tab, does that change any of your testimony?

10 A I'm looking at 29?

11 Q That's correct, that's what you should
12 be looking at. I think we previously misspoke.

13 A Alzheimer's disease, yeah. Dementia
14 was the right word.

15 MR. GILREATH: Third page in, is
16 it on 171 of 768?

17 MR. TWOMBLEY: Yes.

18 MR. GILREATH: And where is that
19 you're talking about?

20 MR. TWOMBLEY: Down at the bottom.

21 THE WITNESS: At the bottom,
22 there's a --

23 MR. GILREATH: Okay. I see it.

24 THE WITNESS: Alzheimer's, yeah.

25 MR. GILREATH: It just says



1 Alzheimer's. Okay. All right. I got
2 you. Thank you.

3 BY MR. TWOMBLEY:

4 Q During the entire time that you treated
5 Mr. Barringer, did you ever perceive that he was
6 afraid?

7 A No.

8 Q Okay. Did you ever believe that anyone
9 was trying to improperly influence his medical
10 care?

11 A I'm not aware of anything like that.
12 It could have happened, I'm just not aware of
13 it.

14 Q Okay. Well, certainly, anything could
15 have happened, I'm just talking about what
16 you --

17 A I don't have any recollection of that.

18 Q Okay. So you never were concerned or
19 perceived that anyone was in any way trying to
20 improperly influence his medical care?

21 A I don't have any recollection of that.

22 Q Okay. Did anyone try to suggest what
23 his diagnose should be or get you to change it
24 in any way?

25 A I don't have any recollection of that.



1 Q Did you have numerous private
2 conversations with Mr. Barringer?

3 A I don't know about numerous and I don't
4 know how many, but we would always generally go
5 into my office after both of the examining room
6 and go into my office and talk.

7 Q Okay. Did he ever ask you for any
8 nonmedical help or suggest he was in trouble in
9 some way?

10 A No. I wasn't privy to that
11 information.

12 Q Okay. Well, the question is: Did he
13 ever appear to you to be in trouble or ask you
14 for any help?

15 A Other than medical help?

16 Q Correct.

17 A No. At least I don't remember anything
18 like that.

19 MR. TWOMBLEY: Okay. I think
20 that's all questions I've got for now,
21 I'm going to pass the witness to one of
22 the other attorneys. Thank you.

23 MR. GILREATH: You through?

24 MR. TWOMBLEY: Yes, go ahead.

25 MR. GILREATH: Alice, do you go



1 next or do I go?

2 MS. PAYLOR: You can go, Jim.

3 MR. GILREATH: Let me get my stuff
4 together here. Where's -- where's --
5 get that out of the way.

6 CROSS-EXAMINATION

7 BY MR. GILREATH:

8 Q While we're -- okay. Dr. Long, while
9 we're on this book of Ashley's, I've got a few
10 questions on that, so just keep that out in
11 front of you and go to tab -- go to Tab 6, and
12 you said -- well, the first question I've got
13 is: You got these -- out on the left margin,
14 you got number one, dementia, and then
15 underneath that, you've got SOAP.

16 What is that S-O-A-P, soap?

17 A We don't do it anymore, but back then,
18 it's subject objective assessment and plan, so
19 subjective is generally what people -- you glean
20 with them subjectively. Objective is like a
21 blood pressure, objective hard data. Assessment
22 is what you're concluding and the plan is what
23 you're going to do. These are soap notes. We
24 don't do it anymore.

25 Q So you -- on that date, November the



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1 23rd of 2011, you concluded in your records that
2 Paul Barringer had dementia; correct?

3 MR. TWOMBLEY: Object to the form
4 of the question.

5 THE WITNESS: Yes.

6 BY MR. GILREATH:

7 Q And you send him down to the mind
8 center and they have inscribed a 31 -- 31
9 percent or whatever you call that -- a 30th
10 percentile, 55th percentile, and a 15th
11 percentile. What -- explain that to me.

12 A Okay. There's three things they look
13 at, and I may not get them exactly right. One
14 of them, executive reasoning, one of them is
15 cognitive reasoning, and one of them is, I
16 think, social interaction, something like that.
17 And this is a percentage chance, 30 percent
18 chance he has dementia related to that, 55
19 percent and 15 percent. CANS-MCI was a test.
20 It's not used anymore, to my knowledge, because
21 it didn't tell you if you had definitive
22 dementia, only a mini mental exam does that.

23 Q But based on what the mind center did,
24 you wrote in your records that on November 23rd,
25 2011, he had significant dementia in the



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1 60 percent range; correct?

2 MS. PAYLOR: Object to the form.

3 MR. TWOMBLEY: Same objection.

4 THE WITNESS: Yes, sir, that's
5 right.

6 BY MR. GILREATH:

7 Q Okay. Now, let's go over to the next,
8 Tab 7, and you say he now can pass a mini mental
9 exam with a perfect score of 30. I didn't see
10 anything in your records with a copy of a mini
11 mental exam with a score of over 30.

12 Did you give him one or are you just
13 saying if you gave him one, you thought --

14 A I've given him several. A lot of
15 times, I would do a partial, but on this
16 instance, apparently I did a full one. I mean,
17 normal, if you get -- if you're under 80 and you
18 can do a 25 out of 30, that's pretty good. 26
19 normal, it's -- apparently, he scored a 30. I
20 don't have my notes on that. After I dictate
21 it, I throw the notes away. That may be a good
22 thing or a bad thing.

23 Q You don't have any record of -- other
24 than what you wrote in here, you don't have a
25 copy of a mini mental exam that he made a 30 on;



1 correct?

2 A No, I don't have my notes because I
3 dictated he had a 30. That means I did the test
4 and he made a 30.

5 Q Okay.

6 MS. PAYLOR: What tab are you
7 looking at, Jim?

8 MR. TWOMBLEY: Seven.

9 MR. GILREATH: Tab 7.

10 MS. PAYLOR: Thank you.

11 MR. GILREATH: 24 of 768.

12 BY MR. GILREATH:

13 Q Let me see here. All right. Go over
14 to Tab 13. I don't think Mr. Twombley asked you
15 about this. You said his mini mental exam is
16 getting worse and he scored about 30 -- I mean,
17 20. Excuse me.

18 Explain to me, the significance of a 20
19 on the mini mental?

20 A Let's see. You're on 4/30/2012?

21 Q 4/30/2012, first thing under the tab,
22 it's 217 of 768.

23 You see, his mini mental exam is
24 getting worse, he scored about 20?

25 A Yeah, that's less than 30.



1 Q Right.

2 A So that means he has mild to moderate
3 dementia.

4 Q Okay. And did you explain that to the
5 family?

6 A I don't recall that. Probably would
7 have.

8 Q But you don't recall anything about
9 that?

10 A No, sir, I don't recall.

11 Q All right. Now, let's go over to
12 Tab 15. This is the blank form of the
13 physician's certification of competency?

14 A Right.

15 Q That -- do you recall where you got
16 that from and when you got it?

17 A No, sir, I don't recall that.

18 Q Do you have any --

19 A I'm looking at it.

20 Q You don't have any memory about any of
21 that?

22 A I do not.

23 Q Okay. And that form talks about the
24 business that he is about to transact, and you
25 signed that form over on the next page, it's at



1 281 of 768, second or third sheet behind Tab 15,
2 and you certified that he has a sufficient
3 mental capacity to understand the nature, scope,
4 and extent of the business which he is about to
5 transact, and he's competent to transact his
6 business and enter a contract.

7 Now, tell me who -- who, if anybody,
8 that you talked to about that before you signed
9 it?

10 A I have no recollection of talking to
11 anybody.

12 Q Well, would you have signed this form
13 if you didn't know the business he was about to
14 transact?

15 A You know, it's -- the basic intent of
16 this, they could have put to open 16 pizza
17 factories. He had the -- in my opinion, he had
18 the mental capacity to do anything. And so I
19 didn't know exactly what the business was he was
20 going to do, but basically, any business I
21 thought that if he was going to undertake, he
22 had the mental capacity to do it.

23 Paul never shared his business stuff
24 with me or with -- but somebody apparently gave
25 this to me. I don't know who it was. I read



1 it, agreed with it, and signed it. I wouldn't
2 have signed it if I didn't agree with it, if I
3 didn't read it.

4 Q My next question is: Do you know where
5 or who -- who did you get this from?

6 A I don't know. I don't --

7 MR. TWOMBLEY: Object to the form.

8 Asked and answered.

9 THE WITNESS: I don't remember
10 that.

11 BY MR. GILREATH:

12 Q Is that -- the top line and that first
13 blank where it says -- somebody has written in
14 there, Paul Long, is that your handwriting?

15 A No.

16 Q Do you recall whether that was in there
17 when you signed it?

18 A I don't recall.

19 Q And somebody struck through that
20 petitioner -- psychiatric.

21 Did you do that or do you know who did
22 that?

23 A I don't know who did it. But if I'm
24 striking through something, it wouldn't be like
25 that. I usually do a jagged line.



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1 Q So you don't think you had anything to
2 do with that part of it?

3 A Correct.

4 MR. TWOMBLEY: Object to the form
5 of the question.

6 BY MR. GILREATH:

7 Q You have no recollection of -- about
8 anything with this form; correct?

9 MR. TWOMBLEY: Object to the form
10 of the question. Misstates prior
11 testimony.

12 MS. PAYLOR: Object.

13 BY MR. GILREATH:

14 Q Go ahead and answer.

15 A I don't -- I don't recall this form.

16 Q And I think you said you don't recall
17 any conversations with anybody about this form;
18 correct?

19 A That's correct.

20 Q Can you give me any reason why you
21 didn't date it? It's got a place down there
22 to --

23 A I have no -- I have no knowledge of
24 that, and I don't know why I wouldn't date it.
25 I think -- I just don't have any knowledge of



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1 why I would have or wouldn't have.

2 Q All right. My recollection is when we
3 subpoenaed your records, we did not get a copy
4 of that.

5 Do you have any explanation of why you
6 didn't keep a copy of that in your records?

7 A No, sir, I have no idea.

8 Q And I believe -- I'm sure he'll correct
9 me if I'm incorrect -- that Mr. Twombly said he
10 found this in some file he had that he didn't
11 realize he had, and that's when we got it served
12 some time later.

13 MR. TWOMBLY: Object to the form
14 of the question.

15 BY MR. GILREATH:

16 Q Do you have any recollection of ever
17 sending this to Mr. Twombly or why he would
18 have it?

19 A I don't have any understanding one way
20 or another.

21 Q Okay. Okay. Hold on a minute.

22 Do you have any recollection ever
23 discussing this form with Mr. Barringer?

24 A No. I don't have any recollection of
25 that.



1 Q And do you have any recollection of
2 discussing it with anybody else?

3 A No, sir, don't have any recollection.

4 Q Did you ever discuss it with John
5 Jolly?

6 A With who?

7 Q Attorney John Jolly?

8 A I have no recollection of that. It's
9 possible, but I don't have any recollection of
10 it.

11 Q Okay. Did anyone ever tell you the
12 purpose of asking you to sign this?

13 A No. No, sir. I don't know.

14 Q Did you ever wonder they were giving
15 you a form for a psychiatrist to sign?

16 MR. TWOMBLEY: Object to the form
17 of the question.

18 THE WITNESS: Wonder why they
19 would give me a form -- this form to
20 sign? I don't know if I wondered
21 anything --

22 (Crosstalk.)

23 BY MR. GILREATH:

24 Q -- psychiatrist.

25 A You know, I'm looking at this form, and



1 that's my signature. And I don't ever sign
2 anything that I don't agree with. That's all I
3 know about this form. I don't know where it was
4 going. I don't know who sent it to me.

5 Q And you don't know who you delivered
6 the signed version to; correct?

7 A Yes, sir. No, sir, I don't know.

8 Q And you don't have any -- do you have
9 any explanation of how it would have got to the
10 file over at Ashley Twombly's office?

11 MS. PAYLOR: Object to the form.

12 MR. TWOMBLEY: Same objection.

13 THE WITNESS: I don't know that.

14 I don't know the answer to that.

15 BY MR. GILREATH:

16 Q Did you have any meetings with
17 Mr. Twombly where he's discussed anything about
18 this form with you?

19 A Discuss the form with me?

20 Q Yes.

21 A No. I mean, it's in here and I
22 reviewed everything in here, but, you know, I
23 don't have any idea about anything to do with
24 the form.

25 Q But y question is: Have you had any



1 discussion at any time with Ashley Twombly
2 about this form?

3 MR. TWOMBLY: Objection to the
4 form. Asked and answered.

5 THE WITNESS: Yeah. He pointed it
6 out, among a thousand other things, and
7 said -- he said, do you know anything
8 about this? And I said, nothing. I
9 don't know anything about it.

10 BY MR. GILREATH:

11 Q And when did he point it out to you?

12 A Last night.

13 Q Tell me everything you talked about
14 with him last night, where you were when you met
15 with him, what time it was, and how long the
16 meeting lasted.

17 A I don't know. It was in my office. I
18 asked for the meeting because I needed to be
19 brought up to speed of what all this is about
20 because I had forgotten most of it, and he just
21 pointed out the record and he said, here, and I
22 went and read it at home.

23 Q Well, tell me what you recall that he
24 said or that transpired that is related to this
25 form.



1 A Nothing, really. Just part of the
2 record.

3 Q Can you give me any explanation to why
4 you didn't have a copy in your file when we
5 subpoenaed your records?

6 A I don't have a clue. I don't know. I
7 don't know anything about that.

8 Q And I don't believe you said anything
9 about this form when you testified on April 28th
10 of 2016 down at probate court?

11 A I don't recall seeing this back then.
12 I don't recall anybody asking me a question
13 about it.

14 Q Would you have looked at your files
15 before you had your -- went down there to
16 testify at probate court?

17 A I almost always do.

18 Q Do you recall whether this form was in
19 there when you testified at the probate court?

20 A I don't recall. I just don't recall.
21 You mean ten years ago? I don't recall.

22 Q Wasn't ten years ago.

23 A Four years ago.

24 MR. TWOMBLEY: Five years.

25 BY MR. GILREATH:



1 Q Is it your practice not to date medical
2 records?

3 A Sir?

4 Q This thing has no date.

5 A I don't know why it is not dated.

6 MS. PAYLOR: Objection.

7 MR. TWOMBLEY: Same objection.

8 THE WITNESS: I don't know.

9 BY MR. GILREATH:

10 Q Mr. Twombley was kind enough to give us
11 a -- where is that, the thing you got out of the
12 legal book about testamentary -- Tab -- yeah,
13 Tab 35.

14 Look at Tab 35, and he's got it -- it's
15 called standards, and he's got standard down
16 there for a gift for testamentary capacity and
17 contractual capacity.

18 Can you tell me whether somebody who
19 scored a four on the mini mental could pass any
20 of those tests?

21 MS. PAYLOR: Object to form.

22 MR. TWOMBLEY: Object to the form.

23 THE WITNESS: Can you repeat that
24 again? If you score a four on a given
25 day, and on this -- what's the question



1 again?

2 BY MR. GILREATH:

3 Q The question is -- I want you to get
4 that stuff that is Tab 35.

5 A Okay.

6 Q And I guess, if I understood
7 Mr. Twombley, this is what he contends are the
8 legal standards in South Carolina for a gift in
9 the testamentary capacity, capacity to make a
10 will, and then a contractual -- capacity for a
11 contract.

12 And my question to you is: If somebody
13 scored a four on the mini mental exam, would
14 they have sufficient mental capacity to make a
15 valid gift?

16 A Not on that day. He had a four on the
17 Tuesday.

18 MR. TWOMBLEY: Object to the form
19 of the question.

20 THE WITNESS: Yeah, on the Tuesday
21 and --

22 MS. PAYLOR: Object to the form.

23 THE WITNESS: -- he was asked to
24 sign something on the day he had a
25 four, I doubt he could do -- I doubt he



1 could understand it.

2 BY MR. GILREATH:

3 Q Okay. And let's go down and look at
4 the testamentary capacity about making a will.

5 If he made a four, if --

6 A I think he had a four on that day.

7 Q Right.

8 A Now -- then I would doubt that any of
9 these things he could do, realizing --

10 MS. PAYLOR: Objection.

11 THE WITNESS: Realizing, of
12 course, that mini mental exams, as you
13 can understand, if he's got a urinary
14 tract infection, a bad one, or
15 retention or post surgery syndrome on
16 that day and his -- he's otherwise --
17 it's a dementia of another illness. If
18 you fix the illness and it goes away,
19 then he can do that.

20 I don't know if on that -- what
21 day you're referring to that he had a
22 four. If it's the same day that these
23 things were being contemplated, he
24 couldn't, but he was treated and the
25 four went up to the 26, he could indeed



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1 understand it.

2 BY MR. GILREATH:

3 Q All right. What about if he made a
4 ten, where would that put him under the --

5 MS. PAYLOR: Object to the form.

6 THE WITNESS: Same thing. Same
7 thing.

8 (Crosstalk.)

9 MR. TWOMBLEY: Same objection.

10 THE WITNESS: Same answer.

11 BY MR. GILREATH:

12 Q He would not be competent to do that;
13 correct?

14 A I wouldn't think so --

15 MS. PAYLOR: Object to the form.

16 MR. TWOMBLEY: Same objection.

17 THE WITNESS: -- if he had scored
18 a ten.

19 BY MR. GILREATH:

20 Q I just want to make sure I understand
21 your question, so you're -- you're saying if he
22 scored a ten, he still wouldn't be able to do
23 these things, right?

24 MR. TWOMBLEY: Object to the form.

25 Misstates his testimony.



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1 MS. PAYLOR: Object to the form.

2 BY MR. GILREATH:

3 Q Let them make their objection before
4 you answer because I can't listen to both of you
5 at the same time.

6 I just want to make sure, if he made a
7 ten, that you're telling me he would not have
8 the mental capacity to make a gift or do a will
9 or enter into the contract; correct?

10 MR. TWOMBLEY: Object to the form.
11 Misstates his testimony.

12 MS. PAYLOR: Object to the form.

13 THE WITNESS: Probably.

14 BY MR. GILREATH:

15 Q Probably would not have; correct?

16 A Correct.

17 MS. PAYLOR: Object to the form.

18 MR. TWOMBLEY: Same objection.

19 THE WITNESS: It depends on --

20 BY MR. GILREATH:

21 Q You said correct, right?

22 MR. TWOMBLEY: Let the witness --

23 MS. PAYLOR: Let him finish his
24 answer.

25 THE WITNESS: Yeah, I did. It



1 depends entirely on what is going on
2 with the rest of his body. You know,
3 you can be -- I've had 85 year old
4 women that come into my office and
5 they're completely out of it. I give
6 them antibiotics and they call me back
7 the next day and say, you know, why
8 don't we go fishing in South America?
9 You know, it's -- they -- it depends on
10 what else is going on that particular
11 time.

12 BY MR. GILREATH:

13 Q All right. If the legal definition of
14 testamentary capacity, which Mr. Twombly was
15 kind enough to give to us, would somebody who
16 scored a ten be able to know the objects of
17 their bounty?

18 MR. TWOMBLY: Object to the form
19 of the question. Asked and answered.

20 MS. PAYLOR: Object to the form.

21 THE WITNESS: You know, I think if
22 you had a ten, you know, this is -- you
23 know, he knows his estate. I think if
24 he had ten, I don't think he would
25 ever, ever lose that. I think that the



1 object of his affection, no question.
2 I mean, that's not a very complicated
3 thing. If he had a ten, he could
4 certainly understand the object of his
5 affection and to who he wanted to give
6 the property. I mean, that's -- that's
7 a fairly one dimensional type of
8 reason. So I think he can possibly do
9 that too.

10 BY MR. GILREATH:

11 Q All right. You're talking about a ten,
12 let's talk about a four.

13 A No, you can't.

14 Q What if he scored a four?

15 A I don't think he could do it if he had
16 a four.

17 Q Okay.

18 MR. TWOMBLEY: Object to the form
19 of that last question.

20 MS. PAYLOR: Same objection.

21 BY MR. GILREATH:

22 Q I'll get back to that on something
23 else.

24 Look on Tab 16, first page there, it
25 says the patient's short-term memory is bad.



1 Where did you get that information
2 from?

3 A Where did I get -- well, probably from
4 talking to him. He -- I mean, I can't tell you
5 exactly where I got it, but it does -- the --
6 it's kind of raised, so it kind of stands on its
7 own. He has bad memory. I don't quantitate it,
8 though.

9 Q Look at number 17, Tab 17, first page
10 there, he says -- or you say that
11 neurologically, he is still somewhat demented,
12 but I do not think it is Alzheimer's like
13 dementia.

14 In retrospect, do you still agree with
15 that or do you -- have changed your mind?

16 A You're talking about --
17 (Reading sotto voce.)

18 A Which part of that? Here, under A,
19 assessment?

20 Q Yeah?

21 A Neurologic, is still somewhat demented,
22 but I don't think it is an Alzheimer's like
23 dementia. People generally have thrown around
24 Alzheimer's to mean significant, severe
25 dementia. I didn't think he had severe or



1 significant.

2 Q Do you still --

3 A And I --

4 Q Here's my question: Do you still stick
5 by that statement that you wrote on September
6 the 12th?

7 A All I can do is read the statement,
8 and, you know, interpret it. So I guess I have
9 to, of course.

10 Q Okay. Hold on a minute. Get through
11 this.

12 Look on Tab 26, third page, which is
13 184 of 768. And under number three, said,
14 dementia associated with another disease,
15 1094.10, dementia and condition is classified
16 elsewhere without behavioral disturbance.

17 Explain to me what that means.

18 A Well, he got, you know, worse when
19 his -- the other condition, his urinary tract
20 problem, and when he got the urinary tract
21 problems, his memory got worse. That's what the
22 dementia associated with another disease means.

23 Q You're talking about the urinary
24 problem, right?

25 A Yes, sir.



1 Q All right. I just want to make sure I
2 understood that.

3 Look over at Tab 27 at the bottom of
4 the page on the second -- let's see, third --
5 two -- third page over, 179 of 768 when you say,
6 dementia getting worse.

7 Can you tell me any more about why you
8 said that or what is going on there?

9 A I don't have any -- I mean, I can read
10 the note, but specific discussions, I can't
11 remember. But the note says, no depression, no
12 paranoia, no anxiety, no irritability, no --
13 what did you want me to -- what's the question
14 again? I'm sorry.

15 Q Well, I just want to tie down the date
16 that you're saying there under that thing --

17 A It says -- at the bottom. I see.

18 (Crosstalk.)

19 BY MR. GILREATH:

20 Q What does ROS stand for?

21 A Review of systems.

22 Q And you're saying --

23 A That's where you go through all the
24 systems.

25 Q So you reviewed everything and you have



1 concluded -- made a diagnosis that his dementia
2 is getting worse; correct?

3 MR. TWOMBLEY: Object to the form
4 of the question.

5 THE WITNESS: Yes.

6 MS. PAYLOR: Object to the form.

7 BY MR. GILREATH:

8 Q All right. And then over on the next
9 page, page 180, in the physical exam, you say
10 he's dementia worse, and then --

11 A That's what it says.

12 Q -- the assessment/plan, you say, that's
13 dementia associated with another disease,
14 getting worse, probably -- is that secondary to
15 the general anesthesia?

16 A I see that, yeah.

17 Q Well, are you saying that his dementia
18 got worse there because of anesthesia or are you
19 speculating or what?

20 A I don't know what surgery I was
21 referring to, but apparently he did have a
22 procedure of some sort, and apparently they gave
23 him anesthesia. And anesthesia can cause
24 temporary dementia --

25 Q Okay.



1 A -- or temporary worsening of dementia
2 if you already have dementia.

3 Q All right. I thought I hit that.

4 MS. PAYLOR: Hold on, Henry, I'm
5 coming.

6 MR. TWOMBLEY: I think your mike
7 is not muted, just so you know.

8 MR. GILREATH: All right. You can
9 go ahead and listen, I'm not trying to
10 hide anything from you.

11 MR. TWOMBLEY: No, I wasn't
12 talking to you, I was talking to
13 somebody else.

14 MR. GILREATH: Who?

15 MR. TWOMBLEY: I think you got a
16 little paranoia, Jim.

17 MR. GILREATH: All right. I think
18 I'm through with Ashley's book. Let me
19 get to my back to my book.

20 Does the court reporter got a copy
21 of the book we sent for you?

22 MR. TWOMBLEY: Yes, we got it.

23 MR. GILREATH: Got that in front
24 of you? Let me get that.

25 (Whereupon, Plaintiff's Exhibit



1 Number 1 was marked for
2 identification.)

3 BY MR. GILREATH:

4 Q Okay. Tell me who, if anybody, helped
5 you prepare for this deposition.

6 A You mean the deposition we're doing
7 now?

8 Q Yeah.

9 A I talked to Ashley Twombly for a very
10 short period of time last night.

11 Q Did you talk with anybody else, any of
12 the other lawyers you talked with --

13 A No, sir.

14 Q -- Ms. Paylor?

15 A No, sir.

16 Q You didn't talk to Mr. Molster?

17 A No, sir. No.

18 Q Has anyone reviewed your records of
19 Mr. Barringer to assist you with your testimony,
20 that you're aware of?

21 A No, and I didn't send the records to
22 anybody and nobody reviewed them for me.

23 Q Were you Mr. Barringer's primary care
24 physician up until the time he died?

25 A As far as I know. He had a -- when he



1 was in Virginia, he had physicians in Virginia.
2 I don't know who they were. But when he was
3 here in town, I was his primary physician. Yes,
4 that's the answer.

5 Q You don't who it was up in Virginia?

6 A Excuse me?

7 Q You don't who it was up in Virginia?

8 A I don't know who he saw, but he saw a
9 lot of people in Virginia from time to time.

10 Q Can you just give me a brief
11 description of Mr. Barringer's health for the
12 last full year of his life?

13 A Yeah. He -- it was determined and
14 promulgated by two factors, basically. I mean,
15 he had a chronic factor five Leiden deficiency,
16 which was -- had no bearing on the quality of
17 his life the last four years. He had radiation
18 burns in his pelvis. He had retention, urinary
19 incontinence at times. And that was the -- that
20 was the factor that got him into the most
21 trouble. And he had dementia and so at the end
22 of his life, we -- it was 2016, he died as a
23 complication of that.

24 Q And what was this Leiden thing you're
25 talking about?



1 A It's a condition one out of 200 people
2 get. You know, there is a clotting cascade when
3 you touch -- it's a long story, but -- hold on
4 one second.

5 THE VIDEOGRAPHER: Off the video.

6 (Whereupon, a break was taken at
7 7:07 p.m.)

8 (Back on the record at 7:11 p.m.)

9 THE VIDEOGRAPHER: Back on video.

10 THE WITNESS: All right. I think
11 we're ready.

12 BY MR. GILREATH:

13 Q All right. Did you ever have any
14 conversations with Merrill Light or Randy Light
15 about Mr. Barringer's health issues?

16 A I don't recall -- I'm sure I talked to
17 Merrill, but I don't recall talking to Randy.

18 Q Talking about the daughter, Merrill
19 Light, not Merrill Barringer.

20 A You're right. The daughter, I don't
21 recall, but I'm sure they were very interested
22 and I probably talked to them. I just don't
23 recall when or how many times or whatever.

24 Q Would you -- if you had talked to her,
25 would you have made a note in your records?



1 Would that have been in your records? I didn't
2 see it anywhere, I don't believe.

3 A Not necessarily. I mean, if somebody
4 called me and said, how's dad, and I would have
5 told her, I wouldn't necessarily put that in the
6 record.

7 Q There's an e-mail in the record, I
8 don't think we got it in our book and just --
9 I'm going to just read it to you. It's a
10 February 21st, 2011 e-mail that, I think, Randy
11 wrote on Merrill Light's e-mail where he says, I
12 feel that it would be advantageous for the four
13 of us to discuss the future plans, present, and
14 future with CFRC, and that's Mr. Barringer's
15 company. It is evident to Merrill and I -- this
16 is Randy talking -- PVB, being Mr. Barringer, is
17 starting to experience different health issues
18 that affect his judgment regarding everyday
19 decisions personally and business wise. It
20 appears that it makes it harder for you -- and
21 he addresses, I think, to Kevin Luzak to
22 exercise your authority of president of CFRC if
23 he will not listen.

24 Did -- it says -- then he closes with
25 saying, our fear is PVB, Paul Barringer, is



1 going to attempt some irrational move that will
2 harm the profitability of the company simply to
3 satisfy his desire to underwrite Victor or keep
4 the stockholders graveling.

5 Did Merrill Light or her husband,
6 Randy, or Ms. Merrill Barringer ever express
7 those concerns to you?

8 MR. TWOMBLEY: Object to the form
9 of the question.

10 MS. PAYLOR: Object to the form.

11 THE WITNESS: I have no
12 recollection of that.

13 BY MR. GILREATH:

14 Q If they had done that, would it more
15 likely than not that there would be something in
16 your records about that?

17 MR. TWOMBLEY: Object to the form
18 of the question.

19 MS. PAYLOR: Object to form.

20 THE WITNESS: Maybe not. You
21 know, if I had seen that, and I don't
22 recall seeing it, I probably wouldn't
23 have put anything in the record. I
24 mean, I would -- if I recall -- if I
25 had recalled that and if Randy or



1 Merrill had said, we want to meet, I
2 would meet, but I don't recall that. I
3 don't recall. I mean, I might have met
4 with them, but I just don't recall
5 that.

6 MR. TWOMBLEY: Object to the form
7 of the question.

8 MS. PAYLOR: Object to the form.
9 He thinks the meeting was with him,
10 Jim.

11 MR. TWOMBLEY: That's not what he
12 is talking about.

13 MR. GILREATH: Y'all need to just
14 make an objection, please.

15 MS. PAYLOR: Well, you need to
16 make your questions clear so that he
17 understands them because your question
18 made no sense.

19 MR. GILREATH: That's your
20 opinion.

21 MS. PAYLOR: It is my opinion.

22 MR. TWOMBLEY: It's mine too.
23 It's mine too.

24 MR. GILREATH: Okay. Sorry nobody
25 liked my question.



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1 MR. MACLOSKIE: I did.

2 BY MR. GILREATH:

3 Q So would I be correct to assume that as
4 you sit here today, you have no recollection of
5 anybody in Paul Barringer's immediate family,
6 being his wife and daughters, Merrill, talking
7 about him -- or talking about their concern that
8 he is maybe starting to show more irrational
9 behavior on certain family issues --

10 MS. PAYLOR: Object to the form.

11 BY MR. GILREATH:

12 Q -- no recollection of that; correct?

13 A That's correct.

14 Q All right. Look over at tab -- let's
15 see, what's this? Tab 13.

16 A All right.

17 MS. PAYLOR: In your book, Jim?

18 MR. GILREATH: In my book, yep.

19 This thing got a cover on it?

20 MS. PAYLOR: We don't have covers.

21 THE WITNESS: Okay.

22 BY MR. GILREATH:

23 Q All right. That is the -- some amended
24 responses and objections that were filed on
25 Mr. Barringer's behalf in litigation up in the



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1 Eastern District of Virginia, and I would ask
2 you to look at the -- well, wait a minute.
3 Yeah, look at the very last page right before
4 Tab 14 and you see -- and that's a filing in
5 Document 315-2 in that litigation.

6 And that is an affirmation that
7 Mr. Barringer signed, on the 14th day of
8 January, 2016, and he said, I do solemnly
9 declare and affirm under the penalties of
10 perjury that the contents of the forgoing
11 answers to interrogatories are truly and
12 pertinent, to the best of my knowledge,
13 information, and belief.

14 And my question to you, Dr. Long, is:
15 On January 14th of 2016, after you've gone
16 through these records and looked at them and
17 hopefully got your memory refreshed, do you
18 believe that Paul Barringer would have known
19 what he was signing there and had the mental
20 capacity understand it?

21 MS. PAYLOR: Object to the form.

22 MR. TWOMBLEY: Object to the form.

23 THE WITNESS: On that date, I
24 can't say because I don't know the
25 circumstances of what was going on in



1 the rest of his life and his body at
2 that time.

3 BY MR. GILREATH:

4 Q Well, can you find -- let me see, hold
5 on a minute. All right. Let's go talk about
6 the mini mental scores to help you get that in
7 context. Hold on a minute. Go to Tab 8.

8 A Tab 8?

9 Q In my book, yeah.

10 A Okay.

11 MR. TWOMBLEY: The court reporter
12 is asking to take a five-minute break,
13 so we will stand down for five or ten
14 minutes. Let's take a five or
15 ten-minute break.

16 MR. GILREATH: Okay.

17 THE VIDEOGRAPHER: Off the record.

18 (Whereupon, a break was taken at
19 7:21 p.m.)

20 THE VIDEOGRAPHER: Back on video.

21 (Back on the record at 7:31 p.m.)

22 BY MR. GILREATH:

23 Q All right. I want you to look at, in
24 my book, at Tab 8.

25 A Okay.



1 Q Page -- this will be at the top, Tab 8,
2 page 365 through 367.

3 MS. PAYLOR: Do you know what
4 total page this is because I'm having a
5 hard time getting around, Jim?

6 MR. GILREATH: Well, those pages
7 are Bates numbered up at the top
8 right-hand corner.

9 MS. PAYLOR: Okay. So what page
10 are you on?

11 MR. GILREATH: We're looking at --
12 we're going to be looking -- on 351.

13 MR. TWOMBLEY: 351, Alice.

14 MS. PAYLOR: 351. Okay. Thank
15 you.

16 MR. GILREATH: We're going to be
17 looking at 365.

18 MR. TWOMBLEY: I thought it was
19 Tab 8. Tab 8 starts at 351.

20 BY MR. GILREATH:

21 Q Tab 8 at 365 and he -- can -- do you
22 see that?

23 A Yes.

24 Q And isn't it true that on that day, he
25 scored a zero on the mini mental exam; correct?



1 MR. TWOMBLEY: Object to the form
2 of the question.

3 THE WITNESS: Is this 365?

4 MS. PAYLOR: Object to the form.

5 MR. TWOMBLEY: Yeah, that's it.

6 MR. GILREATH: Do what?

7 THE WITNESS: 365?

8 BY MR. GILREATH:

9 Q 365 through 367. If you look at those
10 pages under Tab 8, isn't it true that he scored
11 a -- well, actually, on the one 365, it says he
12 scored 24 on May 2014, he couldn't participate
13 in a mini mental at all today, and that's on --
14 he couldn't answer any of the questions and that
15 is on June 12th.

16 Do you see that?

17 MR. TWOMBLEY: Object to the form.

18 MS. PAYLOR: Ask a question. What
19 question have you got?

20 THE WITNESS: Yeah, I don't know
21 what the question is.

22 BY MR. GILREATH:

23 Q Do you agree with me, and look at pages
24 in my notebook from 0365, 66, and 67, would you
25 agree with me that based on those, he scored a



1 zero on those dates, right?

2 MR. TWOMBLEY: Object to the form
3 of the question.

4 MS. PAYLOR: Object to the form.

5 THE WITNESS: Well, the mini
6 mental exam, on my end, is blurred out.
7 All I see on the right-hand side of the
8 page is five zeros.

9 BY MR. GILREATH:

10 Q Are you in my notebook?

11 A They didn't finish the test. It looks
12 like they didn't do the test.

13 Q Right. You see, it says down there in
14 the middle of the page, his wife says he is
15 doing worse cognitively, his memory is worse, no
16 hallucinations, he doesn't drive, he does get
17 assistance with ADL. I guess that's something
18 about -- what is that called? Activities of
19 daily living from his wife. He scored a 24 in
20 May of 2014. He couldn't participate in the
21 mini mental at all today. He couldn't answer
22 any of the questions.

23 My question is: On that day, would he
24 have been able to have known what he was signing
25 in the federal litigation up in Virginia with



1 these interrogatory answers --

2 MS. PAYLOR: Object to the form.

3 THE WITNESS: This is somebody
4 else's note. I can't interpret his
5 note.

6 (Crosstalk.)

7 MR. GILREATH: Can I get through
8 with my question, please.

9 MS. PAYLOR: I don't know.

10 BY MR. GILREATH:

11 Q -- that are at tab -- that are at
12 tab --

13 A Wasn't he in the hospital at this time?

14 Q -- Tab 13.

15 A Wasn't he in the hospital at this time?

16 Q I don't know. He could have been, but
17 my question is --

18 A He's a hospital neurologist, so --

19 Q -- these lawyers --

20 A -- they would -- nobody would ask him a
21 question if he was in the throws of urinary
22 sepsis. I mean, it's a question, I think, if
23 you'll excuse the phrase, hypothetical.

24 Q Look at Tab 13, look at the last page.

25 MS. PAYLOR: What page are you on?



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1 MR. GILREATH: I'm on Tab 13.

2 THE WITNESS: I've got -- you're
3 talking about the one from --
4 you're not talking about 4/22/16?

5 BY MR. GILREATH:

6 Q I'm talking about January the 14th of
7 2016. Look at --

8 MS. PAYLOR: What page are you on,
9 Jim?

10 MR. GILREATH: It's under Dr. Long
11 depo, 0463.

12 MS. PAYLOR: Okay.

13 MR. GILREATH: It's the last --
14 it's right before -- it's right before
15 Tab 14.

16 BY MR. GILREATH:

17 Q And my question to you, Dr. Long, is:
18 On January the 14th of 2016, somebody had
19 Mr. Barringer sign under penalties of perjury
20 and tell the federal court up in Alexandria,
21 Virginia that he had solemnly declared and
22 affirmed under the penalties of perjury that the
23 contents of his answers in the previous 19 pages
24 were true and correct to best of his knowledge
25 and belief. Now -- and he signed that on



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1 January the 14th of 2016.

2 Did you believe that when he signed
3 that, and those lawyers had him sign it, that he
4 had any idea of what he was doing?

5 MR. TWOMBLEY: Object to the form.

6 MS. PAYLOR: Object to the form.

7 MR. TWOMBLEY: Misstates the
8 testimony. Mistakes the record. And
9 also it's already been asked and
10 answered.

11 THE WITNESS: I wasn't there, I
12 can't possibly answer that. I don't
13 know the circumstances of what that was
14 about. And if somebody else,
15 Mr. Barringer signed it, I mean, I
16 can't answer that question. I wasn't
17 there. I don't know.

18 BY MR. GILREATH:

19 Q This is not a hospital -- this is a
20 doctor's office record.

21 A No, I see that now. I was looking a
22 the prior hospital records. It is my record?

23 MS. PAYLOR: No. Object to the
24 form.

25 THE WITNESS: I mean, I can't



1 answer somebody else's record.

2 BY MR. GILREATH:

3 Q Doctor -- I believe it's Dr. Robert
4 McGregor and he --

5 MS. PAYLOR: Object to the form.

6 MR. GILREATH: I'm trying to
7 explain it to him if you'll let me do
8 it.

9 THE WITNESS: Are you asking me to
10 comment on it?

11 MS. PAYLOR: He's already said
12 it's not his record, he can't testify
13 about it.

14 MR. MACLOSKIE: Can y'all please
15 have the courtesy of letting him finish
16 his question and then you can object
17 without testifying?

18 MR. GILREATH: Amen.

19 THE WITNESS: Well, that's the
20 answer. I can't comment on it.

21 (Crosstalk.)

22 MR. TWOMBLEY: I haven't heard a
23 question, but go ahead.

24 BY MR. GILREATH:

25 Q Would you look at was is -- at Tab 8,



1 and it says Dr. Long depo, 0365, record from Dr.
2 Robert McGregor, and it says, his wife says he
3 is doing worse cognitively, his mood is worse,
4 no hallucinations, he doesn't drive, he does get
5 assistance with ADLs from his wife. He scored
6 24 on the MMSE in 2014. He couldn't participate
7 in MMSE at all today. He couldn't answer any of
8 the questions.

9 Now, my question --

10 MR. TWOMBLEY: Jim, you just asked
11 him about all this.

12 MR. GILREATH: Please let me
13 answer -- ask my question.

14 BY MR. GILREATH:

15 Q My question to you, based on that, is:
16 Was he capable of signing when he signed this
17 thing on January the 14th of 2016? Do you think
18 he knew what he was doing?

19 MS. PAYLOR: Object to the form.

20 MR. TWOMBLEY: Object to the form.

21 Asked and answered.

22 BY MR. GILREATH:

23 Q Can you answer it, Dr. Long?

24 A Yeah. I wasn't there, I can't
25 answer -- I can't interpret that. I don't know



1 what -- what was going on at that particular
2 time. I mean, I -- I mean, I just wasn't there
3 when he signed it? And I don't see -- you're
4 talking about my note or somebody else's?

5 Q I'm not talking about you being there
6 when he signed it, I'm talking about this other
7 doctor's notes, and I'm telling you that he
8 signed something on January 14th of 2016, and
9 that he affirmed, under penalties of perjury,
10 the answers he was signing to.

11 And what I want to know is did he have
12 the mental capacity, on that date based on what
13 you're reading in Dr. McGregor's records or
14 anything else you've got in your records about
15 that time that you believe that he knew what was
16 going on then?

17 MS. PAYLOR: Object to the form.

18 MR. TWOMBLEY: Object to the form.

19 Asked and answered. Misstate the
20 testimony.

21 THE WITNESS: I wasn't -- I
22 can't -- first of all, I can't -- I
23 can't comment on other people's
24 records. And second of all, I don't
25 know, on that particular day, what was



1 going on that with him. He could have
2 had a lucid moment, maybe he didn't, I
3 just don't know.

4 BY MR. GILREATH:

5 Q All right. Let's go look at some of
6 your records.

7 A All right.

8 Q We're going to look at Tab 8 at page
9 368.

10 A Right. 368?

11 Q Well, it's up at the top, it says Dr.
12 Long dep, 0368.

13 A Yeah. I got it.

14 Q Getting -- it says, notes, getting
15 worse, mini mental exam, four out of 30. Now
16 that's in your records.

17 A Okay.

18 Q And that's on -- and that's on -- let
19 me get that date. That's on 9 -- September the
20 10th of 2015, and he's signing this thing on
21 January the 14th --

22 MS. PAYLOR: Object to the form.

23 BY MR. GILREATH:

24 Q -- 2016.

25 Do you believe, based on that mini



1 mental exam that was taken a few months before
2 that, that he would have known what he was doing
3 when he signed this on January the 14th of 2016?

4 MS. PAYLOR: Object to the form.

5 MR. TWOMBLEY: Object to the form.

6 BY MR. GILREATH:

7 Q Can you answer the question, Dr. Long.

8 A Yeah, I'm looking. It's -- the mini
9 mental exam, it says, unable to complete.

10 MR. TWOMBLEY: No.

11 THE WITNESS: Is that the one?

12 BY MR. GILREATH:

13 Q No. We're looking at the one that's on
14 0368.

15 A Yeah, I've got that right here.

16 Q It says, under dementia, notes, getting
17 worse, mini mental exam, four out 30 and --

18 MS. PAYLOR: That he orders the
19 will.

20 BY MR. GILREATH:

21 Q -- the date that's associated with that
22 record is -- wait a minute.

23 A Let's see.

24 Q On the 10th of 2015.

25 MS. PAYLOR: Object to the form.



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1 MR. TWOMBLEY: Same objection.

2 THE WITNESS: I'm reading it.

3 Hold on. Here's a mini mental from
4 10/11. Let's see here, 10/30, what
5 year is that mini mental exam, this one
6 here?

7 MR. TWOMBLEY: I don't know.

8 THE WITNESS: All right. It says
9 here -- let's see if I got the right
10 one. Is that the one with all zeros?

11 MR. TWOMBLEY: I'm not sure what
12 he's asking about.

13 THE WITNESS: Okay. Show me, is
14 this on page 0368, and it says -- let
15 me look at the date here. Where is the
16 date on this? Oh, yeah, 9/10, so it
17 says --

18 BY MR. GILREATH:

19 Q 0368.

20 A -- additional reports, four out of 30,
21 right?

22 Q Right.

23 A He had four out of 30, that doesn't
24 jive with everything around it, all the notes
25 around it. He may be having, you know, other



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1 issues, but I can't explain that. I don't know
2 why he is four out of 30. I mean, you have to
3 be -- and he was not -- he did not have deep
4 dementia in 2015. I mean, he might have been,
5 you know, disturbed for other reasons, just
6 didn't concentrate or something, but I can't
7 explain that. I don't know the answer to that.

8 Q You gave him the test; correct?

9 MS. PAYLOR: Object to the form.

10 MR. TWOMBLEY: Object to the form.

11 MS. PAYLOR: He did not give him
12 the test.

13 THE WITNESS: I don't know if I
14 gave him the test or not. It is my
15 note, it could have come from somebody
16 else, but it probably was me, I gave
17 him a lot of them. See, the one that
18 I'm looking at, which is probably the
19 one, was right next to it and he
20 couldn't fill anything out.

21 BY MR. GILREATH:

22 Q Right.

23 A He was unable to complete it, so --

24 Q What's the date on that one?

25 A -- that's probably the one we're



1 talking about. It's not dated, it's right
2 before it. I mean, yeah, that's -- so.

3 Q Is that -- the one you're looking at,
4 is that on page 0367 where it says date, 6/12,
5 and it's got all zeros over there?

6 A Yes.

7 Q Okay.

8 A I don't know if that's the one I was
9 referring to or misquoted it, but I do know from
10 2013 through 2015, he was competent to do --
11 competent to do this. This could have been a
12 misread or a miswrite or something, but I just
13 can't believe that he descended to a four and
14 then came out of it and tested 28 unless he was
15 being consumed by some other illness at the
16 time. I don't know. I can't answer it.

17 Q Let's go over to -- let's go over
18 to the next -- couple pages more over, it's
19 Bates 0370, it's number 31 out of 69 on these
20 notes, urology records --

21 A I see that.

22 Q -- and it says -- shows he scored ten
23 out of 30.

24 A Right.

25 Q On -- what day is that? On October the



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1 14th -- that's October 19th, excuse me. October
2 19th of 2015, he scored ten out of 30.

3 A I'm looking at the --

4 Q Do you see that?

5 A Yeah, I didn't do that test, somebody
6 else did.

7 Q But -- but if that's the test that he
8 had done by one of his doctors, tell the jury
9 how bad of shape you're in when you can only
10 score a ten out of 30.

11 MR. TWOMBLEY: Object to the form.

12 MS. PAYLOR: Object to the form.

13 THE WITNESS: Well, if you have
14 ten out of 30, you have moderate
15 dementia. And, you know, like I was
16 saying earlier, if the patient looks
17 different than the paper says he is,
18 you always treat the patient. And, you
19 know, you admit the paper to the
20 hospital and treat the patient. So I
21 see a ten, and that's a significant
22 decrease from what he was, but I don't
23 think it lasted because if you go --

24 BY MR. GILREATH:

25 Q Let's go look at page --



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1 MS. PAYLOR: Let him finish his
2 answer.

3 THE WITNESS: If you look down the
4 stream, I think there is reference to
5 the fact that he -- so he's better some
6 days and other days he isn't. And I
7 don't know on this particular day, what
8 was going on in his life, but
9 everything depends. If you're upset,
10 you can probably score -- you and me
11 probably could, at any given time,
12 could score a ten or 15 or five, if
13 you're upset or depressed or sick from
14 anything, and then you could -- the
15 next week, score a 28. So I don't
16 know. I can't remember if there was
17 anything significant on that day, but
18 that's my answer.

19 BY MR. GILREATH:

20 Q Okay. Let me refer you to Tab 10 in my
21 book.

22 A Okay.

23 Q At page 0397 is a copy of the portions
24 of the transcript where you testified in front
25 of the probate judge back in April of 2016.



1 Do you remember testifying over there,
2 don't you?

3 A I do, yes, sir.

4 Q And I believe this is Mr. Twombly
5 that's asking you, and you said -- at the top of
6 the page, he said when did Mr. Barringer's
7 condition begin to deteriorate such that you
8 would have placed limitations on what he could
9 do and he could not do. And then read that
10 answer there and that's what you said under oath
11 that day in court.

12 A What is the page? Can you give me the
13 page?

14 Q Yeah. It's up at the top, 0397.

15 A Okay.

16 Q Read your answer there and tell me if
17 it is --

18 A 0397, I got it, just a second.

19 (Crosstalk.)

20 BY MR. GILREATH:

21 Q And tell me if you still believe that
22 answer here today.

23 A Okay. Let's see.

24 (Crosstalk.)

25 BY MR. GILREATH:



1 Q -- through line 23.

2 A 23, it says --

3 Q It actually goes over to page 85.

4 A Says I would guess sometime in mid
5 2015, but certainly in the fall of 2015, and I
6 don't know exactly what month, September,
7 October, December, he took -- he was in the
8 descending certainly, I don't know what that
9 means with his illness. Descending certainly, I
10 don't know what I meant by that.

11 But prior to that time, you had not
12 placed any restrictions? Hadn't, no. So the
13 question is: What does that mean? That means
14 that sometime toward the end of '15 -- it could
15 have been early '16, I didn't know the exact
16 date, but he was in his efflorescence of his
17 disease. His transformation, but I don't know
18 exactly.

19 Q Explain what you mean by that,
20 efflorescence of his disease.

21 A What's that?

22 Q Explain to the jury what you mean by
23 that.

24 A That basically -- efflorescence is --
25 the first diagnosis is -- bricklayers leave a



1 little sandy material on the brick, the second
2 diagnosis explains a caterpillar turning into a
3 butterfly, and it's described as efflorescence.
4 So some writers, TS Elliot could be one, have
5 used that on a transformation of anything. Like
6 a pupa to a butterfly or the reverse.

7 Q And look up there -- I'm referring now
8 to the court reporter's transcript, page 84.

9 A Page 84. I got it.

10 Q It's on the transcript page, it's Dr.
11 Long depo, page 0397 at Tab 10 of our exhibits.

12 MS. PAYLOR: That's what he just
13 read.

14 THE WITNESS: No, I didn't read
15 it. I was just answering. I guess I
16 answered it the exact way.

17 BY MR. GILREATH:

18 Q I want you to read that answer starting
19 on page -- the question was starting up at
20 page -- line 5, and I believe Mr. Twombly
21 asked, when did Mr. Barringer's condition begin
22 to deteriorate such that you would have placed
23 limitations on what he could do and what he
24 could not do? And then you started explaining
25 that on line 9, and your answer goes on over to



1 line 6 on 85 of the transcript, which is at 0398
2 in the notebook.

3 My question to you is: Were you
4 telling the truth that day when you said that
5 and do you still agree with that today as you
6 sit here and read it again?

7 A Let me -- can I read it again?

8 MS. PAYLOR: Object to the form.

9 MR. TWOMBLEY: Same objection.

10 (Crosstalk.)

11 THE WITNESS: (Witness reading
12 from document.)

13 Most people follow some sort of a
14 similar path. They start out to where
15 they might leave their keys in the car,
16 they might miss a word or two, and they
17 end up relating -- not relating to the
18 world around them. They have lost
19 brain tissue so there is a spectrum.
20 He has gone through the complete
21 spectrum. When did he -- when did
22 the -- did he fall off the cliff, so to
23 speak?

24 I don't like the term cliff, but
25 did he metamorph or morph into somebody



1 that couldn't relate to the outside
2 world? Is that what you're asking me?
3 Yes. I would guess sometime -- it says
4 here, in the mid 2015. All right,
5 that's certainly in the fall of 2015,
6 and I don't know exactly what month,
7 September, October, December. He was
8 in the descending certainly with his
9 illness. But prior to that time, you
10 had not placed any restrictions on
11 Mr. Barringer? I hadn't, no. Okay.
12 No further questions, Your Honor.

13 So I didn't know exactly when I
14 answered that question when he -- and I
15 said that I didn't know when he fell
16 off the cliff, but he was certainly in
17 transition. And somewhere at the end
18 of '15, middle of '16, he did
19 transition.

20 BY MR. GILREATH:

21 Q Okay. Now turn over to Tab 13 in my
22 book, last page, it's the page right before Tab
23 14, and you see --

24 MS. PAYLOR: What page, Jim, the
25 page at the top?



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1 MR. GILREATH: The page at the top
2 is 0463.

3 THE WITNESS: Yeah. I got it.

4 BY MR. GILREATH:

5 Q It says, I do solemnly -- I'll
6 represent to you, this is a signature page that
7 he signed apparently on December the 14th, 2016
8 with -- through some lawyers up in Virginia
9 somewhere, I understand, and he said on January
10 the 14th of 2016, I do solemnly declare and
11 affirm under the penalties of perjury that the
12 contents of the foregoing answers to
13 interrogatories are true and correct to the best
14 of my knowledge and belief.

15 And if you will go back and look, on
16 that page forward to the first of Tab 13, you
17 will see that he is signing and affirming his
18 answers to 20-something pages of interrogatory
19 answers under penalties of perjury.

20 And my question to you is: Based on
21 what we been talking about and what you said up
22 there under oath in the probate court, isn't it
23 true that he really didn't know what he was
24 doing on January the 14th of 2016 and was not --

25 MR. TWOMBLEY: Object to the form.



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1 MS. PAYLOR: Object to the form.

2 MR. GILREATH: Let me get through
3 with my question, please.

4 MS. PAYLOR: I thought you were
5 through.

6 MR. TWOMBLEY: I was hoping you
7 were through.

8 THE WITNESS: So I made the
9 statement or are you saying that on
10 January the 14th, he was seriously
11 demented?

12 BY MR. GILREATH:

13 Q Yes.

14 A Okay. I didn't sign the form, Paul
15 Barringer did. He signed it, that it's his
16 belief that this is -- everything was fine. I
17 can't answer to that question. I don't know.

18 Q So if one of those lawyers in Virginia
19 had come to you and said, doctor -- Dr. Long, we
20 got this form here on this 20 pages of
21 interrogatories and we need Mr. Barringer to
22 sign it, we got to go file it under penalties of
23 perjury in a federal courthouse up in Alexandra,
24 Virginia, do you believe that it is appropriate
25 for us to do that and that he will know what he



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1 is signing? Please tell us yes or no, what
2 would you have told him?

3 MR. TWOMBLEY: Object to the form
4 of the question.

5 MS. PAYLOR: Object to the form.

6 THE WITNESS: It's a hypothetical,
7 I can't answer that. It is
8 hypothetical.

9 BY MR. GILREATH:

10 Q Okay. The truth, Dr. Long, is that
11 Paul Barringer was totally out of his mind on
12 January 14th and nobody wants to admit it; is
13 that correct?

14 MR. TWOMBLEY: Object to the form.

15 MS. PAYLOR: Object to the form.

16 THE WITNESS: You know, I'm just
17 one guy practicing medicine, I can't go
18 with everybody. I don't know who they
19 are.

20 BY MR. GILREATH:

21 Q Okay. So you're telling me you --

22 A I was not part -- I'll tell you what, I
23 was not part of the conspiracy. I don't even
24 know what this was all about at the time, and I
25 still don't, but I can only testify to what I



1 know. I never talked to anybody in Virginia, to
2 my knowledge. I just go to work and go home.

3 Q Well, go look at page 34 under Tab 13,
4 these amended answers that he signed. I want
5 you to just thumb through those, and these are
6 typed up answers and they're questions and he's
7 answering them, and -- and then he's affirming,
8 under penalties of perjury, that his answer is
9 true and correct.

10 Do you believe it was proper for these
11 lawyers to go to him and get him to sign this
12 when they knew or should have known that he
13 didn't know what he was signing?

14 MR. TWOMBLEY: Object to the form.

15 MS. PAYLOR: Object to the form.

16 THE WITNESS: I am not an
17 attorney, I have no idea what is proper
18 and legally. I don't do legal, I just
19 don't know that.

20 BY MR. GILREATH:

21 Q Okay. All right. I think I beaten
22 that horse, I'll move on.

23 MS. PAYLOR: Thank you.

24 BY MR. GILREATH:

25 Q Let's see. Let me get back into my



1 questions here. Where are we?

2 Is it true that a person that has
3 Alzheimer's and a urinary tract infection, and
4 then gets over the urinary tract infection, that
5 the person still has Alzheimer's?

6 MS. PAYLOR: Object to the form.

7 MR. TWOMBLEY: Same objection.

8 THE WITNESS: What's the -- I'm
9 sorry, I missed the question.

10 BY MR. GILREATH:

11 Q Isn't it true -- I'm talking about the
12 fact that he's got Alzheimer's and a urinary
13 tract infection, which we have been talking
14 about some, and then he gets over the urinary
15 tract infection because of the antibiotics or
16 whatever, that he still has Alzheimer's; isn't
17 that correct?

18 MR. TWOMBLEY: Object to the form.

19 MS. PAYLOR: Object to the form.

20 THE WITNESS: As I stated earlier,
21 nobody on the planet can tell him if he
22 had Alzheimer's, that is a postmortem
23 diagnosis.

24 BY MR. GILREATH:

25 Q I understand that.



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1 A Okay. So I can't -- I wouldn't -- a
2 lot of people, and I probably was at the time,
3 using Alzheimer's as a generic word, it --
4 really, dementia is what I should have put in
5 there.

6 Q Well, let's change that, then, for my
7 question and say that once he got over the
8 urinary tract infection, then does he still have
9 dementia?

10 MR. TWOMBLEY: Object to the form.

11 THE WITNESS: Yes.

12 MS. PAYLOR: Object to the form.

13 BY MR. GILREATH:

14 Q Not Alzheimer's, but dementia?

15 MS. PAYLOR: Object to the form.

16 THE WITNESS: Yes.

17 BY MR. GILREATH:

18 Q Okay. How would you, based on these
19 records we've looked at, and we've looked at a
20 lot of them today, how would you classify his
21 dementia on -- what's the date of this thing?

22 How would you classify his dementia on
23 January the 14th of 2016?

24 MS. PAYLOR: Object to the form.

25 THE WITNESS: Can you refer me to



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1 a note in the chart or I can try to
2 find it?

3 BY MR. GILREATH:

4 Q Wait a minute. Look at the last page,
5 Tab 13.

6 A Okay.

7 Q And you see -- wait a minute.
8 Look at the last tab of 463, which is
9 the declaration that he signed on January the
10 14th of 2016.

11 A Right. I'm looking at it.

12 Q You see that?

13 A Yeah.

14 Q Based on what we've talked about here
15 today and these records you've looked at, would
16 you agree with me that when he signed that on
17 January the 14th of 2016, that he still had
18 dementia?

19 MS. PAYLOR: Object to the form.

20 MR. TWOMBLEY: Object to the form.

21 MS. PAYLOR: Asked and answered a
22 million times.

23 THE WITNESS: Yeah. He had
24 dementia, it's just -- I don't know
25 what -- where he is on the scale. He's



1 had some form of dementia for years,
2 but most of the time, it's functional
3 dementia. So I can't answer that on
4 that particular day. Yes, he had
5 dementia.

6 BY MR. GILREATH:

7 Q Okay. Good. Do you know Dr. Paul
8 Mazzeo?

9 A Very well.

10 Q And look at Tab 12.

11 A All right.

12 Q And there is a -- it's Dr. Long depo,
13 page 437 through 439.

14 A Yep.

15 Q And there is a conclusion by Dr. Mazzeo
16 that he said -- in paragraph 11, it is my
17 professional medical opinion that
18 Dr. Barringer -- Mr. Barringer currently lack
19 testimonial capacity, and he signed that on
20 January 20th of --

21 A Right.

22 Q -- 2016. Do you have any -- would you
23 agree with Dr. Mazzeo's conclusion there?

24 MR. TWOMBLEY: Object to the form
25 of the question.



1 MS. PAYLOR: Object to the form.

2 THE WITNESS: I don't know what he
3 is basing it on. You know, I'm -- he
4 is a neurologist, I'm an internist. I
5 treat a lot of the people with
6 Alzheimer's, but I don't know what he
7 is basing that on. But he thinks that
8 that's the case because that is what he
9 wrote, but I can't comment on it, it's
10 his opinion.

11 BY MR. GILREATH:

12 Q He's a pretty good doctor, isn't he?

13 MR. TWOMBLEY: Object to the form.

14 MS. PAYLOR: Object to the form.

15 BY MR. GILREATH:

16 Q He's still --

17 A He is a board certified excellent
18 neurologist and --

19 Q Okay.

20 A -- he specialized in neurology.

21 Q Do you know of any reason why I
22 shouldn't take, as viable proof, what he signed
23 in this declaration --

24 A I don't have any --

25 Q -- January the 20th of 2016?



1 MR. TWOMBLEY: Object to the form.

2 MS. PAYLOR: Object to the form.

3 THE WITNESS: I mean, I just can't
4 answer that. This is not my note, and
5 you have to decide that for yourself,
6 to whether you take this at its own
7 merit or think there was something else
8 going on.

9 BY MR. GILREATH:

10 Q Well, I'm showing you a copy of it. If
11 you want time to read it, you're welcome to read
12 it, but I want to know whether you know of any
13 good reason why I should not believe that what
14 Dr. Mazzeo said under penalties of perjury is
15 true and correct?

16 MR. TWOMBLEY: Object to the form.

17 MS. PAYLOR: Object to the form.

18 MR. TWOMBLEY: Asked and answered
19 repeatedly. He's --

20 THE WITNESS: He is a good doctor.

21 MR. TWOMBLEY: Let me finish my
22 objection.

23 THE WITNESS: Oh, I'm sorry.

24 MR. TWOMBLEY: He's answered that
25 question directly. This is repetitive



1 and it is unnecessary. Please move on
2 to the next question.

3 MS. PAYLOR: And it's harassing.

4 MR. GILREATH: Only if he will
5 answer the question.

6 MS. PAYLOR: He did answer it.

7 MR. TWOMBLEY: If you want to ask
8 the same question --

9 THE WITNESS: I don't know it's
10 based on.

11 MR. TWOMBLEY: Let me finish,
12 please.

13 If you want to ask all your
14 questions twice, you're welcome to do
15 that. But I'm asking you to please
16 move on. You have asked him this
17 question, he just said he read it, and
18 he's given -- he's testified to your
19 questions.

20 MR. GILREATH: He hasn't answered
21 the question, but that's --

22 MS. PAYLOR: Yes, he did.

23 MR. GILREATH: That's your
24 interpretation of it. Anyway, I'll
25 take what I got. He speaks very highly



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1 of Dr. Mazzeo, appears to me from his
2 sworn testimony. All right.

3 MR. TWOMBLEY: Then move on to the
4 next question, please.

5 MR. GILREATH: I'm about to move
6 on.

7 MR. MACLOSKIE: Let him, Allen
8 [sic]. Great day, why don't y'all let
9 him move on.

10 BY MR. GILREATH:

11 Q Let me ask you this: Did you have any
12 involvement with Mr. Barringer being admitted to
13 Memory Matters?

14 A No.

15 MS. PAYLOR: Object to the form.

16 MR. TWOMBLEY: Same objection.

17 BY MR. GILREATH:

18 Q Did you -- are you -- do -- you know
19 what Memory Matters is, don't you?

20 A I do, indeed.

21 Q Do they require a doctor certification?

22 A No --

23 MS. PAYLOR: Object to the form.

24 THE WITNESS: -- anybody can go to
25 Memory Matters. They can self refer.



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1 BY MR. GILREATH:

2 Q Say what now?

3 A Anybody can just walk in and sign up
4 for Memory Matters.

5 Q So you don't have to have a doctor's
6 certification?

7 A No.

8 Q Okay.

9 MR. TWOMBLEY: Object to the form
10 of the last question. Asked and
11 answered.

12 BY MR. GILREATH:

13 Q So you -- you say you didn't have
14 anything to do with it?

15 A I didn't say that.

16 MR. TWOMBLEY: Object to the form
17 of the question.

18 MS. PAYLOR: Object to the form.

19 THE WITNESS: I didn't say that.

20 I said -- you asked me the question, if
21 you -- if I have a patient. I've got a
22 lot of patients that come into my
23 office and say, I sent my husband to
24 Memory Matters, and I didn't have
25 anything to do with it. That was the



1 question. I'm not saying I sent him or
2 I didn't send him, I just don't if it
3 was -- I was involved in that back
4 then.

5 BY MR. GILREATH:

6 Q Did you say you were involved in it or
7 you don't know?

8 MR. TWOMBLEY: Object to the form.

9 THE WITNESS: I don't know whether
10 I was or not.

11 BY MR. GILREATH:

12 Q Okay.

13 A Could have been that he came in -- I
14 don't -- you know, I don't send a lot -- just
15 between you and I, I don't send a lot of
16 patients to Memory Matters.

17 Q Okay.

18 A And the reasons are not that critical.

19 Q Okay.

20 A So probably, I would say, somebody else
21 did, but I can't answer that for sure because I
22 don't remember.

23 Q Do you remember when you found out he
24 was over there?

25 A What's that?



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1 Q Do you remember when you found that he
2 was over there?

3 A I don't remember that.

4 MS. PAYLOR: Object to the form.

5 THE WITNESS: I don't remember
6 that.

7 (Crosstalk.)

8 BY MR. GILREATH:

9 Q I need you to look at my book at Tab 1
10 at page 0034, paragraph 3, and this is part of
11 your records back in 2015. And it says,
12 dementia associated with another disease,
13 getting worse, probably secondary to general
14 anesthesia. Should affect where -- something,
15 something, something -- worse sudden confusion,
16 saw a neurologist, 9/10/2015, performed mini
17 mental exam, four out of 30. Also filled out H
18 & P -- I don't know what that stands for -- for
19 Memory Matters.

20 That indicates to me that in your
21 records that you filled out whatever H & P is
22 for Memory Matters. Do you have any knowledge
23 about that?

24 A A lot of people go to Memory Matters --

25 MS. PAYLOR: Objection to the



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1 form.

2 MR. TWOMBLEY: Same objection.

3 THE WITNESS: A lot of people go
4 to Memory Matters and they call me and
5 say, we need some records.

6 BY MR. GILREATH:

7 Q Do you know what H & P from memory
8 Matters would be? It is in your records.

9 A You mean what does H & P stand for?

10 Q Yeah?

11 A History --

12 Q History and something?

13 A History and physical exam.

14 Q So it appears --

15 MS. PAYLOR: What page are you on?

16 MR. GILREATH: I'm on page 0034.

17 MS. PAYLOR: Where on that page,
18 please? I don't see that.

19 MR. GILREATH: Dementia associated
20 with another disease, performed a mini
21 mental exam on 9/10/2015.

22 MS. PAYLOR: Okay.

23 BY MR. GILREATH:

24 Q Four out of 30. Also filled out
25 history and physical for Memory Matters. So it



1 appears to me, from looking at your records,
2 that you filled out something for Memory
3 Matters.

4 Would you agree with me?

5 A I could have very well, yes.

6 Q Okay. All right. But you don't -- as
7 we sit here today, you don't have any memory of
8 that?

9 A You know, I don't.

10 MR. TWOMBLEY: Object to the form.

11 Asked and answered.

12 MS. PAYLOR: Same objection.

13 BY MR. GILREATH:

14 Q All right. Did you ever use the
15 Barringer's house up in Linfield? Did they ever
16 make that available to you?

17 A They did.

18 Q And how much did you pay them for it,
19 if anything?

20 MS. PAYLOR: Object to the form.

21 THE WITNESS: Nothing.

22 MR. TWOMBLEY: Same objection.

23 THE WITNESS: I paid nothing.

24 BY MR. GILREATH:

25 Q Okay. And how many times would you go



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1 up there over the last four or five years of
2 Mr. Barringer's life?

3 A None while he was alive.

4 Q Did you -- when did you start going up
5 there, after he died?

6 A I think so, yes.

7 Q You don't think you ever went up there
8 when he was alive?

9 A I don't recall ever going up there
10 while he was alive. It was after his death.
11 Two or three times.

12 Q And that house is owned by Merrill
13 Barringer, his daughter; correct? His --

14 MS. PAYLOR: Object to the form.

15 THE WITNESS: I don't know who
16 owns it.

17 MR. TWOMBLEY: Same objection.

18 BY MR. GILREATH:

19 Q Okay. But you didn't pay them any rent
20 for it, whoever owned it, right?

21 A That's right.

22 MR. TWOMBLEY: Object to the form.

23 THE WITNESS: Right.

24 MS. PAYLOR: Object to the form.

25 BY MR. GILREATH:



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1 Q Is that right?

2 A You got it. That's right.

3 Q People don't do that to their lawyers.

4 All right. Hold on a minute. Lets
5 take a break here and see I can start trying to
6 wind this thing down.

7 THE VIDEOGRAPHER: Off the video.

8 MR. TWOMBLEY: No objection.

9 (Whereupon, a break was taken at
10 8:20 p.m.)

11 (Back on the record at 8:30 p.m.)

12 THE VIDEOGRAPHER: Back on video.

13 MR. GILREATH: Tell me when we're
14 back on the record.

15 THE VIDEOGRAPHER: We're back on
16 the record.

17 BY MR. GILREATH:

18 Q All right. I'm glad to report that we
19 don't, at this point, have any further
20 questions. If -- I don't know whether anybody
21 else has got any questions. We reserve the
22 right to ask anything -- what they ask. If they
23 don't have anything, we're through.

24 MR. TWOMBLEY: I've just got a
25 couple of quick questions.



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1 MR. GILREATH: What about Alice,
2 she got any?

3 MR. TWOMBLEY: Well, yeah, how
4 about you, Alice, go ahead. I'm sorry,
5 I didn't mean to jump in front of you.

6 MS. PAYLOR: I don't have any
7 questions.

8 MR. TWOMBLEY: Okay.

9 MR. GILREATH: What about Chip?
10 He's gone, isn't he?

11 REDIRECT EXAMINATION

12 BY MR. TWOMBLEY:

13 Q Dr. Long, did Mr. Barringer, during the
14 entire time that you treated him, did he ever
15 tell you or in any way suggest to you that he
16 was being mistreated by Ms. Barringer?

17 A Never.

18 MR. MACLOSKIE: Asked and
19 answered.

20 BY MR. TWOMBLEY:

21 Q Did he tell you that he was ever
22 being --

23 MR. TWOMBLEY: That was
24 Mr. Macloskie, right?

25 MR. MACLOSKIE: Yep.



1 MR. GILREATH: I'll interpose that
2 objection. Asked and answered.

3 BY MR. TWOMBLEY:

4 Q All right. Did he -- did Mr. Barringer
5 ever suggest to you that Ms. Barringer was
6 manipulating him or making him do things that he
7 didn't want to do?

8 A I don't recall anything about that.

9 Q Okay. Did he ever suggest that he was
10 being taken advantage of or tricked?

11 A He never suggested that me.

12 MR. GILREATH: Objection. Asked
13 and answered.

14 BY MR. TWOMBLEY:

15 Q Did he ever suggest that he couldn't
16 use the phone or he couldn't talk to people that
17 he wanted to talk to?

18 A I have no recollection of that.

19 MR. GILREATH: Objection. Asked
20 and answered.

21 BY MR. TWOMBLEY:

22 Q Did he ever -- did he ever ask you for
23 help in any way other than medical help?

24 MR. GILREATH: Objection. Asked
25 and answered.



1 THE WITNESS: No.

2 BY MR. TWOMBLEY:

3 Q Okay. The same questions for Merrill
4 Light, did he ever tell you that his daughter
5 was manipulating him in any way?

6 A I don't recall anything like that.

7 Q Do you know why -- did he ever suggest
8 to you that Merrill Light was making him do
9 things he didn't want to do?

10 A Big Merrill?

11 Q Little Merrill.

12 A Little Merrill?

13 Q Little.

14 A I don't recall that.

15 Q Okay. Well, for big Merrill as well?

16 MR. GILREATH: Object to the form
17 of the question.

18 THE WITNESS: No, I didn't. No, I
19 don't recall anything like that.

20 BY MR. TWOMBLEY:

21 Q Do you know why anyone would say that
22 about Merrill Barringer?

23 A I have no idea.

24 Q You know why anybody would say that
25 about Merrill Light?



1 A No.

2 MR. GILREATH: What are you
3 saying, say what? I don't understand
4 the question.

5 MR. TWOMBLEY: He got it.

6 MR. GILREATH: He what?

7 BY MR. TWOMBLEY:

8 Q Did Mr. Barringer ever suggest to you
9 that he was being denied access to his telephone
10 or to his car or to his e-mail?

11 A Not to me.

12 MR. GILREATH: Objection.
13 Leading.

14 THE WITNESS: No. No, no
15 knowledge of that.

16 BY MR. TWOMBLEY:

17 Q Do you know of any instance where
18 Mr. Barringer was tricked, manipulated, or
19 anyone took advantage of his condition?

20 A No. I have no knowledge of that at
21 all.

22 Q Okay.

23 MR. TWOMBLEY: I need one second
24 to confirm with my co-counsel. I'm
25 sorry, but I got -- I need one second



1 to confirm I don't have any other
2 questions.

3 THE WITNESS: You want me to --

4 MR. TWOMBLEY: No, you don't have
5 to do anything, I'm just asking you to
6 stand down for a moment.

7 THE VIDEOGRAPHER: You want to us
8 go off?

9 MR. TWOMBLEY: Yeah, that would be
10 fine.

11 THE VIDEOGRAPHER: Off the record.

12 (Whereupon, a break was taken at
13 8:35 p.m.)

14 (Back on the record at 8:36 p.m.)

15 THE VIDEOGRAPHER: Back on video.

16 MR. TWOMBLEY: Okay.

17 MR. GILREATH: Are we talking to
18 him?

19 MR. TWOMBLEY: Go ahead, we're
20 ready.

21 MR. GILREATH: Can you hear me?

22 THE WITNESS: Yes, sir.

23 RECROSS-EXAMINATION

24 BY MR. GILREATH:

25 Q All right. Look at tab -- Tab 5 in my



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1 book.

2 MS. PAYLOR: What is the page
3 number, please?

4 MR. GILREATH: Page 0171, it's --

5 MR. MEDLIN: Ashley?

6 MR. TWOMBLEY: Yeah.

7 MR. MEDLIN: Ashley?

8 MR. TWOMBLEY: Yeah. Hold on a
9 second, Jim.

10 MR. MEDLIN: I just called your
11 cell. Can you call me back?

12 MR. TWOMBLEY: Sure.

13 Go ahead, Jim, I'll let you finish
14 and then I'll --

15 (Crosstalk.)

16 THE WITNESS: There is only one
17 page.

18 BY MR. GILREATH:

19 Q Have you found that at Tab 5?

20 A Yeah, Tab 5. There's only one small
21 paragraph at the top.

22 Q Yeah. That's -- I think that's out of
23 his records. This is out of some Memory Matters
24 records we got, and it says -- it's dated
25 1/04/2016, Paul had been having a rough time in



1 the afternoons. He is exit seeking and worried
2 about Merrill. He struggles with explaining and
3 answering questions. He has also been unshaven
4 and wearing dirty clothes. Merrill does have
5 home health, but she is not using them for
6 hygiene. She did call Manual to start assisting
7 and she is coming in for appointments on Friday
8 to help -- on how to help Paul and understand
9 dementia.

10 That was in your records, right?

11 MR. TWOMBLEY: Object to the form.

12 BY MR. GILREATH:

13 Q That's in some Memory Matters records
14 that we got. What -- when they're talking in
15 there about exit seeking, does that mean he is
16 trying to escape?

17 MR. TWOMBLEY: Object to the form
18 of the question.

19 MS. PAYLOR: Object to the form.

20 THE WITNESS: I don't know what
21 they -- whoever wrote this meant by
22 that. Exit seeking, I don't know what
23 that means. I didn't write it.

24 BY MR. GILREATH:

25 Q But this doesn't describe the normal



1 condition that you saw Paul Barringer when you
2 were seeing in his office, he didn't come in
3 there unshaven and worried about Merrill?

4 A I don't recall that.

5 Q Do what?

6 A I don't recall that specifically.
7 Could be, I just don't recall it.

8 MR. GILREATH: Okay. That's all I
9 got.

10 MR. TWOMBLEY: I want to take a
11 break and talk to my co-counsel and
12 then I'll be back in three minutes.

13 THE VIDEOGRAPHER: Off the record.

14 (Whereupon, a break was taken at
15 8:39 p.m.)

16 (Back on the record at 8:41 p.m.)

17 THE VIDEOGRAPHER: Back on video.

18 MR. TWOMBLEY: No further
19 questions.

20 (SIGNATURE WAIVED.)

21 (Whereupon, the videotaped
22 deposition of Paul M. Long, M.D.,
23 was concluded at 8:41 p.m.)

24

25



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C E R T I F I C A T E

STATE OF SOUTH CAROLINA:

BEAUFORT COUNTY:

I, Amanda Bowen, Court Reporter and Notary Public in and for the above county and state, do hereby certify that the foregoing testimony was taken before me at the time and place herein-before set forth; that the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth, that thereupon the foregoing testimony was later reduced by computer transcription; and I certify that this is a true and correct transcript of my stenographic notes so taken.

I further certify that I am not of counsel to either party, nor interested in the event of this cause.

Amanda Bowen

Amanda Bowen

Court Reporter

Notary Public

Beaufort, South Carolina



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