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CAUSE NO. 0-12-12

ESTATE OF) IN THE DISTRICT COURT OF
)
JANICE LEE WILLHELM) LEON COUNTY, T E X A S
)
DECEASED) 369TH JUDICIAL DISTRICT

ORAL DEPOSITION

GERALD WILLHELM

November 18, 2015

ORAL DEPOSITION OF GERALD WILLHELM, produced as a witness at the instance of the Contestants and duly sworn, was taken in the above-styled and numbered cause on November 18, 2015, from 2:00 p.m. to 4:35 p.m., before Suzanne Marlow, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Law Office of John R. Bankhead, 110 West Cottonwood, Madisonville, Texas 77864, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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ALSO PRESENT:

Ms. Jennifer Davis
Mr. Howard Wayne Farmer

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INDEX

PAGE

GERALD WILLHELM

| | |
|------------------------------------|-----|
| Examination by Mr. Legere | 4 |
| Signature Page | 135 |
| Court Reporter's Certificate | 136 |

EXHIBITS

| EXHIBIT | DESCRIPTION | PAGE |
|----------|--|------|
| Number 1 | Statement of wishes dated June 10, 2009 | 76 |
| Number 2 | Last will and testament of Janice Lee Willhelm dated June 10, 2009 | 76 |

1 have like a question and then an answer. So if we talk
2 over each other my question will be chopped up over
3 different parts of your answer. So in order to get a
4 clear transcript please allow me to finish my question
5 before you answer and I'll try to allow you to finish
6 your answer before I ask my next question. Okay?

7 A. That's fine.

8 Q. And if you don't understand one of my
9 questions, ask me to rephrase it, repeat it --

10 A. Well, I'm hard of hearing so it might be that
11 be the only thing I guess.

12 Q. Okay. So if I have to speak up, let me know as
13 well if you just didn't hear me.

14 A. It would be better if you speak up a little
15 bit. You don't have to holler, but I can hear better.
16 I've got these hearing aids that's kind of like a
17 walking stick.

18 MR. BANKHEAD: He's pretty hard of
19 hearing.

20 Q. (BY MR. LEGERE) Okay. I'll try and speak
21 louder, but I don't want you to feel like I'm shouting
22 at you.

23 A. No, that's fine.

24 Q. If you need to take a break for any reason,
25 just let me know. You know, the only thing I ask is

1 that we don't take a break in the middle of -- if there
2 is a question on the table, I just ask that you answer
3 that and then we can take a break.

4 A. Yeah.

5 Q. All right. Mr. Willhelm, I'm just going to get
6 straight to the point as far as what our will contest is
7 since you didn't understand exactly what we were doing.
8 You had filed an application of probate of will of your
9 late wife. Do you recall doing that?

10 A. Yes.

11 Q. Okay. And in that application I believe the --
12 well, I'll tell you what. Do you know what the terms of
13 your late wife's will were?

14 A. I hadn't read it lately, but I basically know
15 what it was. We just were going to leave everything to
16 one another. That's what we talked about and that's the
17 way she drew it up.

18 Q. Okay. So are you saying that your wife drafted
19 that will?

20 A. Yes.

21 Q. Okay. Did she go to an attorney's office?

22 A. No.

23 Q. Do you know how she got that will, where she
24 got the template from?

25 A. I think she said -- I think -- I'm not sure,

1 got it at like an Office Depot or some place like that.
2 Just a will form, you know.

3 Q. Do you recall when she went and got that will
4 form?

5 A. I don't remember the year. It was just
6 basically pretty close to the time it was made out, you
7 know.

8 Q. Okay. So on your application to probate the
9 last will and testament of Janice Lee Willhelm you had
10 attached the will, a copy of the will here. And it's
11 dated June 10th of 2009. Does that sound about right?

12 A. Yeah, sounds about right.

13 Q. Do you recall any other wills that Ms. Willhelm
14 had drafted either before or after this will?

15 A. Not that I know of.

16 Q. Okay. Was this the first will that you were
17 aware of that Ms. Willhelm had ever drafted?

18 A. As far as I know, it was.

19 Q. And when I say drafted, or executed?

20 A. Yeah, that's the only one I know of.

21 Q. Okay. Do you know why she waited until 2009 to
22 draft a will?

23 A. Yeah.

24 Q. Okay. And what was your understanding as to
25 why she waited until 2009 to draft a will?

1 A. She got cross ways with her kids.

2 Q. I'm sorry, what was that?

3 A. She got cross ways with her kids.

4 Q. Do you recall when she got cross ways with her
5 kids?

6 A. Not the exact time. A couple of years I guess
7 before that will, she made that will out.

8 Q. So prior to her doing this will in June of 2009
9 had you been discussing her doing a will for a period of
10 time?

11 A. No, I didn't know she was going to do it. I
12 figured when she was talking about making out a will, I
13 figured we were going to go take it to a lawyer and she
14 got them forms and all, said I can do it myself. I
15 said, well, looks to me like it would be a whole lot
16 simpler to go to a lawyer get it done. She was, no, I
17 can do it. So that's basically the way, the way it
18 went.

19 Q. Did you guys have discussions as far as what
20 the wills will say?

21 A. No, she made it out. I just told her -- we
22 just -- the only thing I told her I said, well, just
23 leave everything to each other.

24 Q. Okay. So --

25 A. Nobody else going to be involved in it. Like I

1 say, she was cross ways with them kids. She wasn't
2 going to leave them anything.

3 Q. Okay. Up until June of 2009 was -- do you know
4 if her intent was to leave her property to her kids?

5 A. Never said nothing about it.

6 Q. Okay. So this is the first time you had ever
7 had any conversations about --

8 A. Oh, we talked about it a time or two just
9 leaving the things to one another, you know.

10 Q. And what I need to do is let me finish my
11 question because you're starting to jump on the tail end
12 of my question and I'm sure it's going to start getting
13 on the court reporter's nerves. So it's going to start
14 showing this back and forth.

15 MR. BANKHEAD: Let him finish his
16 questions, then you start your answers. It's easier for
17 this lady.

18 THE WITNESS: Okay.

19 Q. (BY MR. LEGERE) Now on this will that you
20 submitted for probate it lists the name of a Ben and I'm
21 having a hard time reading this last name. Do you know
22 who the witnesses were to this will?

23 A. Ben Partlou and Debbie, Debbie Kyle. I think
24 her name was Deidre Kyle.

25 Q. Deidre?

1 A. They call her Dee. I said Debbie, that's
2 wrong.

3 Q. Okay.

4 A. Short -- the name she goes by is Dee. I think
5 her real name is Deidre.

6 Q. Okay. So I see a Ben and I couldn't read that
7 last name. So you said that's Partlou?

8 A. Partlou.

9 Q. Partlou. Okay. And then Deidre Kyle?

10 A. Yeah. That's right.

11 Q. Okay. And how do you know -- do you know Ben
12 and Deidre?

13 A. Yeah, I used to work with them.

14 Q. Where did you work with them?

15 A. 7J Stock Farm, Rattlesnake Ranch.

16 Q. And how long did you work with them?

17 A. Let's see, I went over there in '93 and I
18 retired in about 2005 or '06. I'm not real certain on
19 the date.

20 Q. Okay. So if this will I guess has a date next
21 to it of 6-10, 2009 you had been retired between three
22 or four years at that point?

23 A. That sounds about right. Like I say, I'm kind
24 of foggy. My memory is not what it used to be.

25 Q. Okay.

1 A. On dates anyway.

2 Q. Now did Janice, did she own a typewriter at the
3 time back in 2009?

4 A. Yes.

5 Q. Okay. And is that what she did that filled
6 this form in, did she type this in or did somebody else?

7 A. She did.

8 Q. Did you see her type it in?

9 A. Yes.

10 Q. Okay. Now I see in here it says -- under the
11 bequests here, I direct that after payment of all my
12 just debts, my property bequeathed in the manner
13 following. And it says husband Gerald Wilhelm, Ben
14 Prat -- what is his last name?

15 A. Partlou.

16 Q. Partlou and Deidre Kyle. And then she has
17 signed this. So is she -- was it your understanding
18 that she was leaving her estate to you, to Ben and to
19 Deidre?

20 A. No. We was going to leave it to each other,
21 like I say, just me.

22 Q. Okay. And the reason I ask that is because
23 underneath it says bequests, it just lists the three of
24 you guys there and it's dated next to Ben and Deidre and
25 then there is a date that's just sitting above the

1 testator's signature. Had you seen the -- do you recall
2 what the will looked like?

3 A. You want me to explain it, tell you what the
4 deal is?

5 Q. We'll get to that. Just do you recall what it
6 looked like?

7 A. Yeah, basically.

8 Q. Okay. I'm not going to necessarily admit this
9 into evidence, but what I'm going to show you and show
10 your counsel here, too, I'm sure --

11 MR. BANKHEAD: I've seen it.

12 Q. (BY MR. LEGERE) Just to kind of refresh your
13 memory. This is the document I'm referencing. It's
14 attached to your application to probate the will. And
15 what I'm -- so you can see that's the application to
16 probate the will. And this is the will that was
17 attached. Can you take a look at that and let me know
18 if you recognize that document?

19 A. Yeah, it looks like the one.

20 Q. Okay. Do you have any reason to believe that
21 this is not the last will that you filed for probate?

22 A. I have no reason.

23 Q. Okay. So you had seen where it said bequests
24 it lists husband Gerald Wilhelm. Do you see that under
25 here?

1 A. (Indicating.)

2 Q. Is that a "yes"?

3 A. Yes.

4 Q. Okay. And then where it lists Ben and Deidre
5 as well, do you see that?

6 A. Yeah.

7 Q. Okay. And then it looks like there is a
8 signature down here and it has a date above the
9 signature.

10 A. Yes.

11 Q. Now what I'm -- at the bottom of this document
12 it has a -- I don't know -- it has something else typed.
13 I don't -- it says I understood that a 12-month
14 agreement is required, but I am unable to obtain the
15 wild blue customer agreement and it had -- it looks
16 like -- I can't see, it's all typed up. There is
17 something smudged there. And then it says, thanks, Jan
18 Wilhelm. Do you see that?

19 A. Yes.

20 Q. Was that on the original instrument as well,
21 can you recall?

22 A. As far as I know, that's just a copy of the
23 original right there.

24 Q. Okay. Do you know why this was on the bottom
25 of this will?

1 A. No. Like I say, she made it out.

2 Q. Okay. And when you look at the signature
3 that's on this will, it says Janice Lee Willhelm. Do
4 you recognize that to be your wife's signature?

5 A. Yeah, it looks like it.

6 Q. Okay. Where it says husband Gerald Willhelm,
7 is that her handwriting or your handwriting?

8 A. That's my handwriting, I think. I'm not real
9 sure. Like I say, my memory is kind of foggy what it
10 used to be.

11 Q. Okay. So your -- you wrote in there your name
12 as far as who the bequest was to be?

13 A. Yes.

14 Q. Okay. Your wife did not?

15 A. No.

16 Q. Now there is another document that went with
17 it. I think the page behind it that says last will and
18 testament and it has be it known. And this is what was
19 filed along with this will. Do you, do you recognize
20 this document? It says at the bottom Page 1 of 4.

21 MR. LEGERE: Have you seen this one,
22 Mr. Bankhead? I just pulled it out.

23 Q. (BY MR. LEGERE) Apparently this was filed
24 along with the application as well. Had you seen this
25 document before?

1 A. Yeah, I think it was two pages of it, if I
2 remember right.

3 Q. Okay. And it says be it known that Janice Lee
4 Wilhelm, a resident of and then it has an address in
5 Centerville in the State of Texas being of sound mind,
6 memory. As far as this handwriting, do you know whose
7 handwriting this is?

8 A. That's Janice's handwriting.

9 Q. Okay. So as far as you recall, did you see her
10 fill this out or you just recognize the handwriting?

11 A. I just recognize the handwriting. I know it
12 ain't mine. That's the only two that signed anything or
13 wrote anything. She done all the writing out on that
14 will.

15 Q. Okay. You don't -- do you have -- as you sit
16 here today do you have an independent recollection of
17 her actually filling this in?

18 A. No.

19 Q. Okay. And you see how this document that was
20 filed as well it just -- there is a Page 2 of 4 here at
21 the bottom and Page 2 looks like there is nothing filled
22 out. It's just -- it looks like a form that's just
23 empty. Do you see that?

24 A. Yeah, I see it.

25 Q. And then when you go to the next part, I don't

1 see anything where it says like Page 3 of 4 or 4 of 4.

2 Do you recall ever having any documents that said Page 3
3 of 4 or 4 of 4?

4 A. That's all I know anything about, right there
5 what you got in your folder there.

6 Q. Okay. And then the next document I see that
7 was attached to your filings, it says statement of
8 witnesses. And it has Janice Lee Willhelm at the top.

9 MR. BANKHEAD: Statement of wishes.

10 Q. (BY MR. LEGERE) I'm sorry, statement of
11 wishes. Do you see that right there?

12 A. Yeah, I see it.

13 Q. And it says: I, Janice Lee Willhelm, do by
14 here -- do hereby set forever certain wishes and
15 requests to my personal representatives, heirs, family
16 friends and others who may carry out these wishes. I
17 understand that these wishes are advisory only and not
18 mandatory. Have you ever read that before?

19 A. No.

20 Q. Okay. And so are you contending that this is a
21 will as well, this page, the statement of wishes?

22 A. She made that stuff out and put it in -- lay it
23 there on the thing there where the papers was.

24 Q. Okay. But you're the one that filed an
25 application to probate a will.

1 A. Yeah, I'm the one that filed it after she died.

2 Q. Are you contending that this statement of
3 wishes is a will or are you just saying that this is
4 just an advisory statement?

5 A. Honestly, I don't know. Like I say, she made
6 it all out. I just brought it up here to John to get it
7 tended to, whatever I needed to do.

8 Q. Okay. And then it looks like it just -- you
9 know, she has her -- it looks like it says my wishes are
10 and it's typed, neither my son Howard Wayne Farmer or my
11 dau -- and then it stops, it says daughter on the next
12 line Jennifer Christine Davis are left in my will and it
13 says 6-10, 2009 and it looks like a Janice Willhelm and
14 then underneath it, it has three signatures. And it
15 looks like it's the same Ben, Deidre and then yourself?

16 A. Yeah.

17 Q. And is that your signature?

18 A. Yeah.

19 Q. Okay. Now you didn't date your signature but
20 the other two did; is that correct?

21 A. Yeah.

22 Q. Do you know why there was a reason you didn't
23 date your signature?

24 A. No.

25 Q. Okay. Did you sign it on the same date or did

1 you sign it at a later time?

2 A. Yeah, we signed at the same time.

3 Q. So then as far as these documents I showed you,
4 the only two places that I see your name it looks like
5 was on the first page where it had husband Gerald
6 Wilhelm and that's in cursive or signature or on the
7 statement of wishes, both of those places you actually
8 signed in both of those places, correct?

9 A. That's right.

10 Q. That's your handwriting?

11 Now do you -- when Janice signed this
12 instrument, the one that you're purporting to be the
13 last will of January Wilhelm, were the witnesses
14 present when she signed it or --

15 A. Yes.

16 Q. -- did they -- okay.

17 Was it that it was signed and then you
18 brought -- you went to the location where the witnesses
19 were and then they signed the will after Ms. Wilhelm
20 had signed it or did they actually see her physically
21 sign this instrument?

22 A. They seen her physically sign it.

23 Q. Okay. Have you spoken to the witnesses since
24 the date of this instrument was signed or since
25 June 9th -- I'm sorry, June 10th of 2009?

1 A. Sure. Yeah.

2 Q. Have you spoken to them about this will
3 contest?

4 A. Yeah.

5 Q. Have you spoken to them whether or not they've
6 talked to anybody regarding this will?

7 A. Yeah, they said they talked to somebody come
8 over there or some private detective or something like
9 that and talked to them.

10 Q. Did they tell you that they told that person
11 that they did not see Ms. Willhelm sign it in front of
12 them, that it was already signed when they witnessed the
13 will?

14 A. No.

15 Q. Okay. Please describe Ms. Willhelm's health
16 for me. And let's just say from about the year prior to
17 2009. So let's say 2008 until her passing, do you
18 recall the date of her passing?

19 A. No, not exactly. Not without looking.

20 Q. Okay. Do you recall the approximate time frame
21 when she passed?

22 A. Time of the day you're talking about?

23 Q. No, no, no, like the year maybe.

24 A. Well, it was 2010. I do remember that.

25 Q. Okay. So it was -- now on your application

1 here, your application to probate the will you have
2 listed the date of the death about -- I'll put it back
3 here -- December 8 of 2010. So about a year and a half
4 after the date of this will. Does that sound about
5 right?

6 A. That sounds about right.

7 Q. Do you have any reason to disagree that
8 December 8th, 2010 was the date of --

9 A. No.

10 Q. And that does sound about right, after
11 Thanksgiving but before Christmas?

12 A. Yeah.

13 Q. Okay. Now what I want -- can you describe --
14 so the time frame I'm referencing, as I say, the year
15 before this will was executed so let's go back to June
16 of 2008 until December of 2010. Just generally can you
17 tell me what Ms. Wilhelm's health was?

18 A. Well, I don't remember the exact day, but a
19 couple of years before the doctor give her too much
20 blood pressure medicine, she got weak and fell on the
21 floor there in the kitchen and tore up her leg.

22 Q. And that was a few years prior to her passing?

23 A. Yeah, it wasn't very many, I don't think, but
24 it was before, a good bit before.

25 Q. And so you're saying the doctor had prescribed

1 her too high of a dose or something of her blood
2 pressure medication?

3 A. Too much blood pressure medicine. She lost her
4 balance, got kind of a fainting spell, but she didn't
5 really faint. She just lost her balance and twisted her
6 leg and broke it. And she couldn't get -- she couldn't
7 walk after that without a walker. For probably six
8 months after she done it I had to push her around in a
9 wheelchair.

10 Q. So for the first six months after she fell and
11 broke her leg she was in a wheelchair?

12 A. Yes.

13 Q. And then after that she was able to use a
14 walker or a cane or some sort of device?

15 A. Yes.

16 Q. Okay. Did -- was she ever able to walk
17 without, without the assistance of a cane or a walker?

18 A. No.

19 Q. Okay. Did you ever observe her walk without
20 the assistance of a cane or a walker?

21 A. No.

22 Q. Okay.

23 A. She could get in and out of a wheelchair when
24 she -- I mean, she could get up and use the bathroom or
25 whatever she needed to do, you know, but she couldn't,

1 she couldn't maneuver around. I guess she just got a
2 little better and healed up a little bit and then she
3 started on that walker.

4 Q. Do you recall what doctor she went to see or
5 what hospital?

6 A. Yeah, went to Palestine to the hospital. I
7 don't remember the doctor's name. He retired right
8 after he fixed her up. In fact, she wasn't completely
9 released when he retired. She went to another doctor to
10 cut the cast and everything off.

11 Q. Was that also in Palestine?

12 A. Yeah, the same office, just a different doctor.

13 Q. Okay. Was that office located in a hospital or
14 was it a different office building away from the
15 hospital in Palestine?

16 A. The doctor's office was away from it. He put
17 the cast and everything on there in the hospital.

18 Q. Okay.

19 A. But they took it off at the office.

20 Q. Do you by chance know the name of the practice
21 that she went to?

22 A. The doctor's name?

23 Q. Yes.

24 A. Huh-uh.

25 Q. Or if they went by -- you know, some doctors

1 call themselves Orthopedic Associates of East Texas or
2 whatever.

3 A. Yeah, I don't remember the name of it.

4 Q. Okay. Do you have anything at home that would
5 show the name or list the name of that doctor?

6 A. Probably not. I wouldn't know where it was. I
7 don't keep a lot of paperwork. I probably threw it
8 away.

9 Q. Was, was she on any kind of assistance like
10 Medicare, Medicaid?

11 A. She was on Med -- on Medicare and she drewed
12 disability from Social Security.

13 Q. Okay. Now as far as Medicare were they
14 covering -- do you know if they were covering her
15 hospital visits?

16 A. It was just standard Medicare. It wasn't that
17 Medicaid, you know. She had to pay part of it. We had
18 to pay part of it and Medicare paid -- you know how
19 Medicare operates.

20 Q. Sure. Did she have any supplemental insurance
21 that you're aware of?

22 A. No.

23 Q. Okay. And the reason I'm asking that is if you
24 don't recall the name of the doctor, then maybe we can
25 go through Medicare and see. Sometimes they can provide

1 a provider list who they pay so we can track down the
2 doctor and find out what the records are.

3 A. I'm sure you could find out at the hospital.
4 They checked her into the hospital and the doctor done
5 everything there at the hospital.

6 Q. And that was at the Palestine -- the hospital
7 in Palestine?

8 A. Palestine, on the right going in there on that
9 loop.

10 Q. And I'm not familiar with Palestine. Is there
11 only one hospital in Palestine?

12 A. As far as I know. I'm not, I'm not positive
13 really.

14 Q. Do you know what the name of the hospital was
15 in Palestine?

16 A. No. I can tell you the location of it, but I
17 can't tell you --

18 Q. What's the location of that hospital?

19 A. Going out on 79 coming out of Buffalo, you take
20 a right on that loop, go down there about, oh, I'd say
21 about a mile. It's a big building on the right there.
22 It's got a big sign. I think it was Palestine
23 something, you know. I'm not sure.

24 Q. Okay. And you think that was a few years,
25 though, prior to --

1 A. Yeah, it was prior to the suicide, yeah.

2 Q. Okay. Now you said she was on Social Security
3 disability. Do you know what she was on Social Security
4 disability for?

5 A. She had a wreck in Dallas, messed up her back,
6 somebody rear-ended her.

7 Q. When was that, if you recall?

8 A. I don't know.

9 Q. How long had you and Ms. Willhelm been married
10 at the time of her passing?

11 A. We got married in 2000, I think it was.

12 Q. In 2000. Had you known her prior to?

13 A. Yeah, we dated back '60s.

14 Q. Okay. So in the '60s you had dated her and
15 then when did you see her again I mean?

16 A. '99.

17 Q. Okay.

18 A. Mother was in the hospital up there. She
19 worked there in Madisonville.

20 Q. Okay. So in 1999 is when you reconnected?

21 A. Yep.

22 Q. Okay. And then within a year, about a year
23 later you got married?

24 A. Yes.

25 Q. Okay. Now you said her mother was in the

1 hospital that she worked --

2 A. My mother.

3 Q. Oh, your mother was in the hospital where,
4 where Janice worked?

5 A. Yes.

6 Q. Was she working then in 1999?

7 A. Yes.

8 Q. Okay. And at that time you know she was on
9 Social Security disability?

10 A. No.

11 Q. No, you don't know or no, she wasn't?

12 A. No, she wasn't.

13 Q. All right. So then did she have her accident
14 sometime after 1999?

15 A. No, it was before.

16 Q. Okay. Do you know if it was several years
17 before or --

18 A. I don't have a clue.

19 Q. And the reason I'm asking this because you said
20 that she was on Social Security disability because of an
21 accident she had in Dallas and -- that had to have been
22 before 1999 because in 1999, though, she was working and
23 wasn't on Social Security disability. Is there
24 something else that triggered her to have to go onto
25 Social Security disability?

1 A. I guess that back injury just got worse. The
2 older she got, the worse it got. She got to where she
3 couldn't stand on her feet, you know, being a nurse like
4 that.

5 Q. Okay.

6 A. Her back would get to hurting her too bad and
7 she just got to where she couldn't --

8 Q. So it was your understanding the reason for her
9 Social Security disability was because of a back, a back
10 injury or aching back?

11 A. Yes, a back injury.

12 Q. Okay. Do you know when she went on Social
13 Security disability?

14 A. Not exactly. I think we put in for it like two
15 or three years after we were married. It took two or
16 three more years to get on it so probably five or six
17 years after we were married.

18 Q. Okay. So if you were married in 2000, so maybe
19 about halfway through your marriage from when she passed
20 away was when she got on --

21 A. Yeah, something like that. Like I say, it's
22 just a guess. My memory for dates ain't that great.

23 Q. I understand.

24 A. Especially on stuff like that.

25 Q. So it was sometime between 2000 and 2010

1 definitely because --

2 A. Oh, yeah, yeah, yeah.

3 Q. And then did she stop working about that same
4 time frame, around 2000 --

5 A. She stopped working about, about January or
6 February of 2000.

7 Q. Okay. When did you get married in 2000?

8 A. Right after that divorce was final. I think it
9 was June or July. I don't even remember the exact day.
10 It seemed like it was June the 24th or July the 24th.

11 Q. And you say that divorce was final. What
12 divorce are you referencing? You said --

13 A. My divorce from my other wife.

14 Q. Okay. So you had gotten divorced and then
15 sometime around June or July of 2000 you were married to
16 Janice; is that correct?

17 A. That's correct.

18 Q. Okay. And maybe you're just not understanding
19 my question because when I had asked you when she
20 stopped working, you thought it might have been January
21 or February of 2000. But if you didn't get married
22 until June or July of 2000, I guess your answer earlier
23 that she was still working while you were married. So
24 did she quit right before you got married?

25 A. She quit right after we met. The divorce

1 wasn't final. They drug it out. I had already filed
2 for it, but they drug it out and drug it out. It took
3 that long to get it final. We couldn't get married
4 until that divorce was final so...

5 Q. Okay. So then it was -- so then she had
6 already quit working by the time you guys actually got
7 married; is that correct?

8 A. Yes. Yes.

9 Q. Okay. How would you describe Janice's mental
10 state from I guess 2000 until her passing?

11 A. Mental state was fine. Nerves was what give
12 her problem.

13 Q. I'm sorry, what was that last part?

14 A. I said her mental state was fine. It was
15 nerves that give her problems.

16 Q. And what do you mean by nerves that gave her
17 the problem?

18 A. I don't know what you call it. You know, she
19 just depressed and down and out about things, you know.

20 Q. Okay. So she -- was she diagnosed with
21 depression?

22 A. I don't know.

23 Q. Okay. But you observed that she was depressed?

24 A. Well, sure, yes.

25 Q. When did you first observe this depressive

1 behavior?

2 A. It got bad after her daddy committed suicide.

3 That's when it really started --

4 Q. Okay.

5 A. -- getting her, you know.

6 Q. So when you, when you tell me something like
7 that, can you let me know about what date that is, too,
8 because I don't know when -- you said when dad committed
9 suicide?

10 A. It would just be a guess. It was somewhere
11 around 2001, 2002.

12 Q. Okay. So between -- somewhere around 2001,
13 2002 she, she got depressed or it got bad. Was she
14 depressed prior to that?

15 A. No.

16 Q. Okay. So her depression really came on when
17 her father committed suicide?

18 A. Yes.

19 Q. Okay. Do you know if she ever went to any
20 doctors for treatment for depression?

21 A. She went to doctors the whole time from the
22 time we met until the time she committed suicide.

23 Q. Was it just like a primary care physician she
24 was going to or was it a whole different -- a bunch of
25 different specialties?

1 A. When we first -- no, let's see. It was just a
2 regular doctor, you know.

3 Q. Okay. Like her primary care physician?

4 A. Yeah.

5 Q. Okay. Do you recall --

6 A. Although -- psychiatrist, nothing like that,
7 you know.

8 Q. Do you recall who her primary care physician
9 was?

10 A. No, like I say, when we first met is the one
11 guy, doctor in Dallas and then she found a doctor over
12 there in Palestine.

13 Q. Do you know what she was seeing that doctor in
14 Dallas for?

15 A. No, not really.

16 Q. What about the doctor in Palestine, do you
17 recall what she was seeing the doctor --

18 A. Yes, she kept having trouble with her back, you
19 know. Pain, basically pain, you know.

20 Q. Would she go to any kind of physical therapy
21 places for pain?

22 A. No. No.

23 Q. Would you say she was constantly in pain?

24 A. The way she -- the way I understood it she was.
25 They put her -- you know, they gave her pain medicine to

1 take all the time. She was always taking medicine.

2 Q. Was she taking pain medication on a daily
3 basis, a weekly basis, monthly, how would you
4 describe --

5 A. She took pills every day is all I can tell you.
6 What she was taking I don't know. The only thing I do
7 know the doctor give them to her. She wasn't taking no
8 shelf medicine.

9 Q. And what I'm asking is the prescriptions that
10 she took. Okay?

11 A. Yes.

12 Q. So do you know what this medication was?

13 A. No.

14 Q. Okay. So you don't know if it was hydrocodone,
15 if it was --

16 A. No.

17 Q. Or what the name of it was?

18 A. No.

19 Q. Okay. Do you still have any of those bottles,
20 prescriptions at the place?

21 A. No.

22 Q. Was there ever a time that she wasn't able to
23 take her pain medicine that you're aware of?

24 A. No.

25 Q. Okay. And when I mean wasn't able to either

1 because she, you know, medically couldn't because a
2 doctor said no, don't take this because it will affect
3 your blood pressure or something or if it was because
4 y'all just couldn't afford to pay for -- buy the
5 medication?

6 A. No, they -- that last part there, that pain
7 medication she got some kind of deal with a drug
8 company. She would go to the doctor. It was in triple
9 prescriptions, you know, you had to fill in within so
10 many days and we would take that prescription, take it
11 to the post office, fill out -- mail it overnight to
12 that drug company and they would ship the pills to her
13 30 days' supply from FedEx. They would send it to the
14 house and she didn't -- all we had to pay was five
15 dollars.

16 Q. Okay. So when you -- what time frame are you
17 talking about there that you were doing this mail -- is
18 it like a mail order prescription kind of deal?

19 A. No, it wasn't mail order. She got a script
20 from the doctor, filled it out and the only thing we had
21 to do was mail it to the drug company.

22 Q. Okay. So maybe not mail prescription, but it
23 was like a pharmacy that you would send the
24 prescriptions to --

25 A. Well, it was actually the people that made the

1 drug, I think.

2 Q. So it was the manufacturer of the --

3 A. Yeah, I think so. I'm not positive about it,
4 but I think it was.

5 Q. Do you have documentation that would show the
6 name of that --

7 A. No.

8 Q. -- company? No?

9 A. I threw that last bottle she had away. They
10 sent one after she died. I just threw it in the
11 trash.

12 Q. Was that for pain medication?

13 A. Uh-huh.

14 Q. Is that a "yes"?

15 A. Yes.

16 Q. Okay. And I'm not trying to be rude or
17 anything. Like we said at the beginning, we need a
18 "yes" or a "no" or an explanation because we can't take
19 down uh-huhs or huh-uhs. Okay?

20 A. Yes.

21 Q. Okay.

22 MR. BANKHEAD: Hey, can I tell you
23 something? You asked a question about problems with her
24 meds?

25 MR. LEGERE: Uh-huh.

1 MR. BANKHEAD: There were some problems in
2 the last week or two of her life.

3 MR. LEGERE: And we'll go through that.

4 MR. BANKHEAD: I wasn't sure if you were
5 aware of that.

6 MR. LEGERE: No.

7 Q. (BY MR. LEGERE) So on this medication, do you
8 know if this was like a trial thing she was on with this
9 drug company where she was -- you know, sometimes these
10 drug companies will do these trials where someone will
11 take their medicine and it could be a placebo or it
12 could be the actual medication?

13 A. She called these people over the phone and
14 tried -- you know, talked to them and filled out an
15 application. It wasn't no trial. She took it for a
16 long time.

17 Q. Do you know what the side effects were of any
18 of the medications she was taking?

19 A. No, I don't know nothing about any of them.

20 Q. How long that you're aware was she taking this
21 medication, the ones that she would send off in the mail
22 to get?

23 A. Probably about three years, a couple of three
24 years, something like that. Just a guess.

25 Q. Okay. Would she fill her prescriptions here

1 at -- not here because I know we're in Madisonville, but
2 would she fill them locally by where she lived or was
3 everything through the mail?

4 A. Got everything else except that one at Wal-Mart
5 in Madisonville.

6 Q. Okay. So if she had to get a prescription
7 filled, she would go to Wal-Mart in Madisonville?

8 A. Yes.

9 Q. And they would fill everything except for the
10 one that was in the mail?

11 A. Yes.

12 Q. Do you know if the pharmacist at Wal-Mart in
13 Madisonville knew that she was taking something that
14 was -- she was getting through the mail?

15 A. I don't know whether he did or not.

16 Q. And the reason I'm asking that is sometimes
17 pharmacies they have -- they'll look at your
18 prescriptions and they'll say, well, they'll see
19 triggers that if you're taking this, you can't take
20 this. It kind of creates triggers to say, oh, wait a
21 minute, talk to your doctor, this has a bad effect with
22 the other one?

23 A. That was the only paper prescription that she
24 got. The rest of them the doctor called it in to
25 Wal-Mart.

1 Q. Okay.

2 A. She didn't take a paper prescription to
3 Wal-Mart.

4 Q. The prescription that she would get filled
5 over -- through the mail was that the same doctor that
6 would see her for her leg injury?

7 A. No.

8 Q. Okay. Was that the doctor that would see her
9 for her back injury that you were talking about when she
10 moved --

11 A. Back, blood pressure and different things she
12 had wrong with her.

13 Q. Now where was that doctor's office located?

14 A. What?

15 Q. The one --

16 A. Which one?

17 Q. The one that would give her the medicine for
18 her back and her blood pressure?

19 A. Closest I can tell you is on that same loop I
20 was telling you about the hospital, down on the left
21 before you get to the hospital. Office on the side of
22 the road.

23 Q. And that doctor would also give the
24 prescriptions that she would fill at Wal-Mart?

25 A. He didn't give her prescriptions. He called it

1 in to Wal-Marts directly.

2 Q. I understand.

3 A. The only paper prescription she had was that
4 one.

5 Q. And not necessarily a paper prescription, but
6 if it was -- if she was ever prescribed medicine, it
7 would have been either this doctor that was there that
8 would do it for her blood pressure or her back injury or
9 it would be the other doctor that was the orthopedist
10 for her leg?

11 A. Yes.

12 Q. And would she also get the medicines for her
13 leg, whatever the prescription was, whether it was paper
14 or called in at that same Wal-Mart in Palestine?

15 A. No, it was Wal-Mart in Madisonville.

16 Q. Oh, Wal-Mart in Madisonville. I'm sorry, yes.
17 But the best of your knowledge, since 2010 all her
18 prescriptions were filled at the Wal-Mart in
19 Madisonville?

20 A. Yes.

21 Q. Or that mail exchange that you described?

22 A. Yes. Yes.

23 Q. Okay. Now we're going to go back to the
24 depression here. I took a little side track trying to
25 figure out the pharmacies. So in 2002, 2001 you said

1 her depression got really bad right about the time her
2 father committed suicide. Did it ever get better?

3 A. A little bit, not a whole lot.

4 Q. And how would you describe her depression?
5 What, what made you believe that she was depressed?

6 A. She was just down, sad, crying sometimes, you
7 know. I guess that's what you'd call it.

8 Q. Did she ever get out and socialize with people
9 after that?

10 A. Not very much.

11 Q. Did she socialize with people prior to that?
12 The incident -- the 2001, 2002 time frame?

13 A. We didn't have any regular friends, you know.
14 We just pretty much done our own thing, stayed to
15 ourselves pretty much.

16 Q. Do you know if she was -- who would you say was
17 her best friend? And I'll reference it at the timing,
18 But let's say around the time of her passing who would
19 you say was her best friend other than yourself?

20 A. I don't really know of anybody. About the only
21 ones she ever talked to was her mother and brother, you
22 know, and her brother and they didn't talk much. They
23 didn't get along too good for some reason. I don't know
24 what his --

25 Q. And that's Sam Roberson?

1 A. Yeah, they got along. They just didn't
2 socialize.

3 Q. And you say her mother, that would be Mabel?

4 A. Yeah.

5 Q. Okay. And how frequently would you say in the
6 last -- so we're talking about 2010, the last year of
7 her life, how frequently would you say she had spoken
8 with her brother Sam?

9 A. Well, we would go over there, oh, on an average
10 probably once a month. She was in a nursing home for
11 the last several years.

12 Q. I'm sorry, who was in a nursing home?

13 A. Her mother.

14 Q. Okay. So you said we would go over there.
15 Because my question was how often would she speak with
16 her brother the last year of her life and you said about
17 once a month?

18 A. Oh, she didn't talk to him about once every two
19 to three months. It was mainly where she run into him
20 up there over at the nursing home. She would be
21 visiting her mother. He come up there all the time.

22 Q. Okay. So it wasn't something that you were
23 aware where she would pick up the phone and call him or
24 he would call her. It was usually they would just run
25 into each other?

1 A. They talked to one another on the phone.

2 Q. Okay. And would that be --

3 A. It wasn't nothing regular, but, you know.

4 Q. Maybe six to -- you said two or three times --
5 or once every two to three months, so six to four times
6 a year you think?

7 A. They probably talk on the phone more often than
8 that. Probably once a month maybe.

9 Q. Now and you said her mother, was that about the
10 same, she would see her about once a month?

11 A. Yeah, once a month, sometimes twice a month,
12 just depends on what we had to go for. If she had to go
13 to the doctor -- about every time one of us went to
14 Palestine, we done our grocery shopping over there. We
15 would go to the grocery store, we'd go by -- a lot of
16 times I'd drop her off at the nursing home and do what I
17 needed to do, you know, pick up groceries or whatever.

18 Q. Would you visit with Mabel as well?

19 A. Oh, yeah.

20 Q. Okay. And did these visits with Mabel
21 exacerbate Janice's depression at all? Did you notice,
22 did she seem --

23 A. I didn't see any difference when she went over
24 there. You know, not a pattern. It's just she get to
25 thinking, like I say, about her daddy and her and her

1 daddy she -- her and her daddy was a whole lot closer
2 than her and her mother. She was crazy about her daddy.

3 Q. Okay. And my understanding is that her mother
4 was also kind of losing it mentally around that time
5 period and did that depress her at all? Did she have
6 any that you know of --

7 A. No, she was close to 90 years old. It wasn't,
8 it wasn't nothing out of the ordinary, you know. She
9 just -- just like me, I'm 70 and, you know, my -- I'm
10 not like I was when I was 40.

11 Q. Sure. But did you notice anything that as far
12 as how Janice responded to her mother during that time
13 period?

14 A. No.

15 Q. Okay.

16 A. They got along fine, I mean.

17 Q. Sure.

18 A. Wasn't none of them ever cross ways. They
19 just -- like I say, she just -- she seemed to be closer
20 to her daddy than she did her mother.

21 Q. Okay.

22 A. Of course, they had two different
23 personalities, too.

24 Q. And one of the reasons I'm asking. I know
25 Mabel had a will that cut Janice out and that's what

1 you're saying that they were kind of -- she was close
2 with her mom, but were you aware that Mabel had a will
3 that she had left a third of her property to Sam and a
4 third to Wayne and a third to Jennifer? And so the
5 reason I'm asking is because -- while Janice was still
6 alive. So were you aware of any strife between her
7 mother and her?

8 A. No, they communicated long as --

9 Q. Did Janice, did Janice ever talk to you about
10 that, about not being in her mother's will?

11 A. No, not that I remember.

12 Q. Okay. So as far as you recall, there was
13 nothing there as far as that caused any kind of
14 depression or any issues with her during this time
15 frame?

16 A. No, didn't seem to.

17 Q. Okay. Is this the first time you heard of
18 that, what I just told you about Mabel?

19 A. Yeah. I might have heard about it before, but
20 if I did, I forgot about it.

21 Q. But it had nothing to do with Janice's mind set
22 that you can recall?

23 A. No.

24 Q. Okay. Now you had listed different people that
25 would have knowledge of relevant facts in your discovery

1 on this will contest and you listed Sam Roberson on
2 there. What would he know about Janice -- about
3 Janice's estate plan?

4 A. I don't know. They just -- like I say, they
5 just communicated, you know.

6 Q. Do you have any personal knowledge as to
7 whether Jan -- and when I say Jan, is it okay -- do you
8 understand I'm referring to Janice Wilhelm?

9 A. Yes.

10 Q. Did she go by Jan as well?

11 A. She's the one that liked that Jan. I, I went
12 by Janice.

13 Q. Well, I understand. The reason I'm saying Jan
14 is because I saw at the bottom of that will it says,
15 thanks, Jan, where she had typed something with her name
16 Jan.

17 A. That's what she liked. She liked Jan.

18 Q. So I'll try to say Janice, but if I default to
19 Jan, you understand it's the same person I'm referring
20 to?

21 A. It don't make no difference to me. Either one.

22 Q. So do you know if Jan ever told Sam Roberson
23 what her -- that she was drafting a will?

24 A. No, they talked over the phone. We would go
25 over there sometimes on Thanksgiving or something like

1 that, you know, or Christmas. The rest of the
2 conversation was pretty much I didn't hear it.

3 Q. Okay.

4 A. Only time I would hear them talking would be
5 there at the nursing home when he would be there and she
6 would be there at the same time, but that was just kind
7 of conversation between the three of them. I didn't pay
8 a whole lot of attention to what it was.

9 Q. But as you sit here today do you have an
10 independent recollection of Jan and Sam talking about
11 Jan's estate plan?

12 A. No.

13 Q. Or Jan ever telling Sam that she drafted a
14 will?

15 A. No.

16 Q. Okay. And the same thing for Mabel, do you
17 know if Jan ever told Mabel that she drafted a will?

18 A. No.

19 Q. Do you know if Jan ever told anybody that she
20 had drafted a will other than yourself?

21 A. I don't know who she told or didn't tell. Like
22 I say, it's just -- most of her communicating there at
23 the last over the phone, so I wasn't there most of the
24 time, a lot of the time.

25 Q. When you say they're communicating over the

1 phone, who are you referencing?

2 A. Anybody she talked to. She didn't get out
3 much. You know, she couldn't drive after she broke her
4 leg.

5 Q. Okay. And that was about two years prior,
6 though?

7 A. Yes. At least two years.

8 Q. So would anybody come over to the house and
9 visit her in the last two years?

10 A. No, not regular. Just occasional somebody, you
11 know. I don't really know. Like I say, I was gone a
12 lot or outside a lot. I didn't pay a whole lot of
13 attention.

14 Q. Who were you aware of that came over to the
15 house to visit Jan in the last two years of her life?

16 A. Let's see, people from Centerville there, but I
17 don't know the name. I don't even know what, what they
18 was visiting. I don't really know what they were doing.
19 Just some people from Centerville. I don't even know
20 what their name was.

21 Q. Male, female?

22 A. Yeah, a woman.

23 Q. It was a woman from Centerville?

24 A. A couple of times it was a couple of women come
25 out there.

1 Q. You have no idea who they are?

2 A. No, I don't know who they are.

3 Q. Are you aware of anyone she spoke to over the
4 phone other than Mabel and Sam in the last two years of
5 her life?

6 A. Yes, I'm not aware if -- she talked to them on
7 the phone a lot. That's how she communicated over the
8 telephone.

9 Q. But do you know who she spoke to?

10 A. Nope.

11 Q. So as you're sitting here today because this is
12 my only time to ask you these questions obviously other
13 than at trial. If I were to ask you the same question
14 at trial you're not going to say, oh, Betty Sue she
15 spoke to. I mean, your answer would be you just don't
16 know who she spoke to?

17 A. I don't know who she spoke to.

18 Q. Okay. How did, how did -- is it Ben and
19 Deidre? How did they come to be the witnesses to this,
20 to this instrument that you had submitted as being the
21 last will of Janice Willhelm?

22 A. We went over there -- it was my idea. Brenda
23 Hancock was a notary, I think you call it, and we were
24 going to let her do it for her. She was gone. I said,
25 well, let's just sign the things and Ben Partlou was

1 there and Dee worked with us all the time. Ben just
2 happened to be in there. I told her, well, I didn't
3 figure be nothing come up for it because we were going
4 to leave everything to one another anyway. So we just
5 signed it and they witnessed the signature. That was
6 it.

7 Q. So --

8 A. That's the reason -- that's how we wound up
9 over there.

10 Q. Did you call and say, hey --

11 A. No, I didn't call. I just drove over there.
12 She was there all the time.

13 Q. So you just --

14 A. Brenda was normally there all the time.

15 Q. So you drove -- you decided to drive up there
16 and see who was there that could witness the will?

17 A. No, I drove over there because Brenda Hancock
18 was there. She was a notary. I figured she would tell
19 us how.

20 Q. So your plan was that you would take Janice to
21 this -- is it a ranch? Is it Rattlesnake Ranch you
22 said?

23 A. No, it was Rattlesnake Ranch and 7J is two
24 different places.

25 Q. Okay. What is the name of this place that you

1 drove to?

2 A. 7J Stock Farm.

3 Q. 7J Stock --

4 A. Parten Oil Company and Rainbow Pipeline office.

5 Q. All right. So if I call it the 78 Stock

6 Farm --

7 A. 7J.

8 Q. Oh, 7J. The 7J Stock Farm is where you went

9 and met Ben and Deidre?

10 A. That's right.

11 Q. Okay. And you hadn't called up there to see if

12 anybody was available, you just --

13 A. No, they was there all the time usually, but

14 Brenda just happened to be gone that day.

15 Q. Okay. So you had thought that you could drive

16 up there, see Brenda and since she was a notary, she

17 could notarize this will?

18 A. That's right.

19 Q. Okay. And that was your idea to go up there,

20 correct?

21 A. That was my idea to go up there.

22 Q. Okay. And how was Janice doing that day on

23 June 10, 2009, how would you describe her physically?

24 A. Well, she had that same leg problem, but

25 everything else about the same, you know.

1 Q. Well, and I don't know what about the same is.
2 What would you describe her daily physical limitations,
3 if any?

4 A. She didn't do much of anything except sit there
5 and worked on that little old computer set in her lap.
6 That was her main pastime, watch TV, talk on the phone.
7 That's basically it.

8 Q. Would she be in pain on a daily basis?

9 A. She what?

10 Q. Would she be in pain on a daily basis?

11 A. I guess she was. I'd say. She took them pills
12 all the time.

13 Q. And would she take these pills first thing in
14 the morning or all throughout the day every so many
15 hours?

16 A. I guess just all through -- I don't know. I
17 didn't pay that much attention to it.

18 Q. Would she seem tired when she took these pills?

19 A. No, she was basically the same about like --
20 she slept in that chair. She didn't get up and go to
21 bed. She slept in that chair.

22 Q. Would you -- if people had described her as
23 being lethargic, would that sound about right?

24 A. I don't know what you're talking about.

25 Q. Well, do you know what it means to be

1 lethargic?

2 A. No.

3 Q. So somebody just seems to be kind of not all
4 there, they just kind of like seem like they're tired --

5 A. No.

6 Q. -- or they're slurring somewhat?

7 A. No.

8 Q. I'm saying do you understand that that's what I
9 mean when I'm saying lethargic?

10 A. Yeah.

11 Q. Would you have described her -- Janice to be
12 like that when she was on her medication?

13 A. She was basically the same all the time. Like
14 I say, she just spent her time in that recliner and
15 watched TV. Mostly worked on that little old computer.

16 Q. Okay. So your testimony is that you never
17 experienced her being lethargic when she was -- at any
18 time during the --

19 A. Well, she was down at times, like I say. She
20 get to talking about her daddy and down and out about
21 that.

22 Q. And I understand that being -- I think you said
23 that's more like depression when she was down?

24 A. That's what I thought you called it. I don't
25 know.

1 Q. And so what I'm trying to clarify. There is
2 two differences. You know, when somebody is on
3 medication, you see the warnings may cause drowsiness.
4 Do you recall ever seeing any warnings like that on any
5 medication?

6 A. Oh, she would be different from time to time,
7 you know, she would be -- wasn't really drowsy, I guess.
8 She just didn't talk much or anything, just kind of a
9 mood change.

10 Q. Just a mood change. So it all seemed to be
11 more either she was happy or sad?

12 A. Yes, pretty much.

13 Q. Okay. Did you ever -- did Janice drink at all?

14 A. Drink alcohol?

15 Q. Alcohol at all.

16 A. Not that I know of.

17 Q. Okay. And only reason I'm asking is just
18 because sometimes when you take pain meds, you're not
19 supposed to mix them with alcohol, but if she didn't
20 drink then --

21 A. I never did see her drink nothing.

22 Q. Okay. I'm not saying she did. I'm just trying
23 to ask --

24 A. Neither one of us drink anything.

25 Q. Okay. As far as the medications, about how

1 many medications would she take on a daily basis that
2 you recall?

3 A. I couldn't tell you for positive. Seemed like
4 she took four or five every day it seemed like. She was
5 taking them. She kept them in a little old plastic box.

6 Q. Okay. Do you know if these are pills that she
7 would take one time a day or would it be throughout the
8 whole day?

9 A. She took different times of the day. I don't
10 know whether she was taking the same thing or different
11 ones or what. I didn't -- like I say, I don't know
12 anything about medication anyway.

13 Q. Okay. As far as the, the date that she
14 executed this document, June -- June 10th of 2009, was
15 this in the morning, the afternoon or the evening when
16 you drove over to the 7J Stock Farm?

17 A. I don't remember. About -- probably that
18 morning I imagine.

19 Q. Okay. Probably before lunchtime you think?

20 A. Probably.

21 Q. As you sit here today you don't have a
22 recollection one way or the other?

23 A. Not exactly the time, no. Pretty sure it was
24 in the morning.

25 Q. Was there a set time that Janice would normally

1 wake up?

2 A. No, like I say, she didn't go to bed. She
3 just -- she was usually awake.

4 Q. So --

5 A. I guess she --

6 Q. It wouldn't be like 6:00 in the morning she
7 would normally be awake or --

8 A. Yes, probably. I didn't get up that early.
9 Usually I get up about quarter of 7:00, somewhere along
10 in there. She would usually be awake then.

11 Q. So if you were to go do something like this
12 like -- you wouldn't normally wake up until quarter to
13 7:00 yourself?

14 A. Yeah.

15 Q. So is it fair to assume that it was sometime
16 after 7:00 that you went up to this 7J Stock Farm?

17 A. Oh, yeah.

18 Q. Okay.

19 A. I would just guess, it would probably be middle
20 of the morning.

21 Q. Like 10:00 to 11:00 frame?

22 A. Yeah.

23 Q. Okay.

24 A. I'm sure we didn't get there around noon
25 because Deidre and Brenda usually drove off for lunch,

1 so I wouldn't have got there at lunchtime. I knew they
2 wouldn't be there then.

3 Q. Okay. Earlier you had mentioned that you spoke
4 to Ben and Deidre about this will contest. What all did
5 you talk about?

6 A. Do what now?

7 Q. Earlier when I asked you if you spoke -- since
8 the -- about this will contest with Ben and Deidre, you
9 said --

10 A. That was a conversation when that guy showed up
11 over there investigating whatever.

12 Q. And what did, what did they tell you?

13 A. I never did see him. I don't know what he did.

14 Q. What did they say to you? What did they say
15 about that?

16 A. Dee?

17 Q. Yes.

18 A. She just said they asked some questions about
19 her. She said I didn't really know her that well.

20 Q. He was asking questions --

21 A. Ben -- I think she said Ben talked to him about
22 it, but Ben he was pretty familiar with her. He helped
23 build a house and he was over at the house several times
24 over the years, you know.

25 Q. So is it -- so Janice really didn't know

1 Deidre?

2 A. Huh-uh.

3 Q. Is that a "no"?

4 A. No.

5 Q. She didn't. Okay.

6 A. She heard me talk about her, you know, but --

7 Q. Had she -- are you aware of her ever meeting
8 Deidre prior to this date?

9 A. No, I don't think so.

10 Q. Okay. Do you know if anything was -- when this
11 will was signed in front of -- your testimony is that
12 Janice signed this will in front of Deidre and Ben; is
13 that correct?

14 A. That's right.

15 Q. Was anything said before it was signed in front
16 of --

17 A. Yeah, we talked about Brenda. Like I say, she
18 was gone. That was the reason we went over there to
19 start with, you know.

20 Q. Was anything said about the terms of the will,
21 though?

22 A. No.

23 Q. Okay.

24 A. No, we didn't talk about what was in the will.

25 Q. Was anything said about -- you're not aware of

1 any kind of self-proving affidavit, are you --

2 A. I don't know what you're talking about.

3 Q. -- that was attached to this will?

4 A. (Indicating.)

5 Q. Is that a "no"?

6 A. I don't even know what you're talking about.

7 Q. Okay. Nothing that you're aware of was read to
8 Deidre or Ben before Janice signed this will or before
9 they signed this will? Is that -- you don't recall
10 anything?

11 A. I just told them what it was and I asked them
12 if they would sign it and be witnesses and they said
13 yeah.

14 Q. So is it your testimony -- did they have a
15 conversation with Janice at that time?

16 A. No, we just talked. Just wasn't nothing --
17 just told them what we was doing, you know, when we
18 first got there and went over that.

19 Q. Did they talk about --

20 A. We signed the thing. Then we just -- general
21 conversation, you know.

22 Q. Did anyone talk about what assets Janice had at
23 that time?

24 A. No, not over there.

25 Q. Okay. So you don't know if Deidre or Ben could

1 testify whether Janice knew, knew what her assets were
2 at that time?

3 A. Not that I know of.

4 Q. Okay. Did they talk about who her family
5 members were during that visit?

6 A. Janice's family members?

7 Q. Yes.

8 A. No.

9 Q. Okay. You don't recall any conversation about
10 who her mother was or who her children were in front of
11 them?

12 A. No, not really. I don't remember exactly what
13 we talked about. Like I say, just idle conversation.

14 Q. So, to the best of your knowledge, they
15 couldn't testify who the natural objects of Janice's
16 bounty are? And when I say that, that's usually her
17 family, her immediate family members.

18 MR. BANKHEAD: Objection, form of the
19 question --

20 A. No, like I say, Dee, Dee didn't know. Just
21 like she told me, she said, I didn't really know
22 anything to tell the man. I didn't know that much about
23 her. I met her that one time. Ben, like I say, he's
24 pretty familiar with her.

25 Q. (BY MR. LEGERE) Okay. You say Ben was

1 familiar with Janice?

2 A. Uh-huh.

3 Q. Is that a "yes"?

4 A. Yes, he helped build a house over there,
5 visiting times, time to time he come over there and he
6 might have come over there and helped me do something
7 around the house or something there. We was pretty good
8 friends.

9 Q. Was that in the last two years of Janice's life
10 or was that prior to that?

11 A. Oh, yeah, that's -- we built that house way
12 back. We started that house as soon as that divorce was
13 final.

14 Q. Okay.

15 A. My divorce.

16 Q. And what I mean though is earlier I was asking
17 you if -- who had come over and visited with Jan and I
18 think I said in the last two years and you said you
19 didn't know of anybody other than somebody out of --
20 some lady out of Palestine or Centerville?

21 A. Centerville.

22 Q. Centerville. Centerville. But you don't know
23 who that lady was?

24 A. No.

25 Q. You have no idea who she worked for?

1 A. No, I have no idea.

2 Q. But Ben apparently had come over and visited --

3 A. Yeah, he come over from time to time. Like I
4 say, he was over there back right after that, 2000 or
5 2001 whenever we started the house. He helped on that
6 house lots of times.

7 Q. And what I'm looking at is the last two years,
8 though. Let's say from 2008 to 2010 was Ben over there?

9 A. He might have been. I couldn't say for sure.

10 Q. Okay. Anybody else that might have been over
11 there the last two years?

12 A. No, I can't think of anybody.

13 Q. Okay. Were there any incidents or anything
14 that you observed with Jan during the last two months --
15 two weeks of her life that were out of the ordinary?

16 A. No, there wasn't -- nothing really stood out.

17 Q. Okay. Any illness or anything that you were
18 aware of during the last --

19 A. Any what?

20 Q. Any illness or --

21 A. Just that normal, normal aches and pains like
22 she had with that back and her leg on account of she had
23 a lot of pain with that leg.

24 Q. Was she behaving --

25 A. After she broke it that, that just come and go.

1 I mean, it could crop up any time, you know.

2 Q. Was she behaving the same way the last two
3 weeks of her life that she was for the last four years
4 let's say? Anything different that you noticed?

5 A. I don't know. Seemed like pain might have been
6 a little greater the latter part of the time.

7 Q. When you say "latter part," are you talking
8 about the last couple of weeks or the last couple of
9 years?

10 A. Last couple of years. Mainly whenever --
11 mainly after she broke her leg. That thing -- that just
12 compounded the rest of the problems.

13 Q. Were you aware of whether she had any
14 limitations physically other than her leg not being able
15 to walk, did she have any problems with either of her
16 arms?

17 A. No, she had use of her arms.

18 Q. Okay. Did she have -- was she right-handed or
19 left-handed?

20 A. She wrote left-handed. Done everything else
21 right-handed.

22 Q. Would she hold things in -- like she was
23 drinking her coffee, she would hold it with her right
24 hand?

25 A. Uh-huh.

1 Q. Is that a "yes"?

2 A. She set in the chair there and set that tea on
3 it. She drank tea all the time. She put it on the
4 right. She operated with her right hand. Done pretty
5 much everything with her right hand except write.

6 Q. Okay. Now do you -- were you aware of her ever
7 complaining about problems with her left hand as far as
8 strength or writing or anything like that?

9 A. No.

10 Q. Were you aware of whether or not she had
11 surgery on her left arm? Were you aware of any
12 surgeries she had on her left arm?

13 A. Not that I know of. Nothing on her arm that I
14 know anything about.

15 Q. Were you aware of any scars she had on her left
16 arm?

17 A. Yeah, she had some scars I think on the left
18 arm. Said somebody broke in on her when she was living
19 down there in Orange and cut her arm right there across
20 there. She had a scar on that left arm.

21 Q. Okay. Did she ever tell you she had a surgery
22 on her left arm?

23 A. No, never did say nothing about it.

24 Q. Were you aware of any kind of tumors or
25 anything she may have had on her left arm?

1 A. No.

2 Q. Or any tumors that she had in general?

3 A. No, I can't think of nothing.

4 Q. Who would check the mail at y'all's house?

5 Would she go out and get that or did you?

6 A. I did.

7 Q. Okay. Were you aware of any letters she wrote
8 to the post office or to the mailman saying not to put
9 the mail so far back in the box because she has a hard
10 time with her left arm reaching it?

11 A. She didn't go to the mailbox. I did.

12 Q. And you had gone there the last couple of years
13 or did she stop after she broke her leg going to the
14 mailbox or did she ever go to the mailbox?

15 A. Yeah, she didn't go anywhere after she broke
16 her leg.

17 Q. Okay.

18 A. By herself she couldn't -- she couldn't handle
19 that walker getting in and out of the car. Especially
20 that wheelchair when she first done it.

21 Q. All right. Now what are you -- as far as your
22 knowledge, what were the assets of the estate at the
23 time of Ms. Wilhelm's passing?

24 A. Assets, are you talking about what we had?

25 Q. Yeah. What did she own at the time of her

1 passing? What did you have -- and I'm going to say I
2 don't know if you understand the difference. Do you
3 know if she had any separate property assets?

4 A. Not that I know of. Everything was just me and
5 her. That land, we got that from her mother and daddy
6 over there, that seven acres and we built that house. I
7 built that house myself, me and her, she helped what she
8 could do.

9 Q. Now you said --

10 A. That was in our name, so everything is in both
11 our names.

12 Q. So the land you said -- how much land is in the
13 estate at the time of her passing?

14 A. I think the deed reads around seven, seven
15 some-odd acres.

16 Q. Are you aware if she had any investments
17 anywhere?

18 A. Not that I know of.

19 Q. Are you aware of any mineral interests that she
20 had?

21 A. Not except on that land.

22 Q. Okay. So only the seven acres is all that
23 you're aware of?

24 A. That's all I'm aware of.

25 Q. And do you know how she got that seven acres?

1 A. Yeah, we got it from her mother and daddy.

2 Q. Did you purchase it?

3 A. Yeah, we just made a deal. I done a bunch of
4 work over there for them, for her mother and daddy and
5 they just kind of helped us out with it, you know. We
6 didn't pay them any cash money. Like I say, I done a
7 lot of work for them on the house and such as that.

8 Q. When you say on the house, on which house, the
9 house y'all were living in?

10 A. The house they lived in, you know, changing
11 faucets and doing this and doing that.

12 Q. Okay. When, when did -- I guess when was that
13 land deeded over, that seven acres?

14 A. I'd say it would be right after that divorce in
15 2000 after that was final.

16 Q. Do you know if any land that she -- that Jan
17 received when her father passed away?

18 A. I didn't know anything -- I don't know anything
19 about.

20 Q. Are you aware of any mineral interests that she
21 may have received when her father passed away?

22 A. Not that I know anything about.

23 Q. Are you aware of any land or mineral interests
24 she received from her grandparents?

25 A. Not anything that I know of.

1 Q. Okay. So the only land you're aware of that
2 was in her name at any time was the seven acres?

3 A. That's right.

4 Q. Okay. And then also the minerals associated
5 with the seven acres?

6 A. That's it.

7 Q. Okay. Any vehicles?

8 A. We had a car and I had a truck. That's all --
9 I guess they was both in my name. I don't know. That
10 car -- that car might have been in both of our names. I
11 don't remember. I sold the car anyways.

12 Q. Okay. Was -- did you sell the car before or
13 after she passed away?

14 A. After.

15 Q. Okay. When did you acquire that vehicle, the
16 car, was it before or after the marriage?

17 A. Oh, it was after the marriage. She had a car
18 she owed a bunch of money on and I just told her let
19 that thing go back and I'll buy her a car. She was
20 paying a bunch of interest on it.

21 Q. Okay. Well, I'm just talking about the
22 vehicles that y'all had at the time of her passing.
23 Okay?

24 A. Well, the first vehicle we bought, I told her
25 to let that car go back. I had got her -- we got a

1 little pickup, a little Toyota pickup. She drove that
2 thing for several years.

3 Q. So at the time Janice passed away is it your
4 testimony that there was only a car and a truck that
5 y'all owned?

6 A. Car and a truck.

7 Q. And what type of vehicle -- car was it?

8 A. It was Toyota Camry.

9 Q. Do you know about what year?

10 A. Probably '06.

11 Q. Okay.

12 A. '06.

13 Q. What about the truck?

14 A. That's a 2000 model.

15 Q. Do you still have the truck?

16 A. Yeah, I still got the truck.

17 Q. How much did you sell that Camry for?

18 A. I think it was five or 6,000.

19 Q. Was anything owed on that vehicle when you sold
20 it?

21 A. No.

22 Q. Okay. Any other vehicles that you guys owned
23 at the time of her passing?

24 A. Nothing but that 2000 Chevy truck. I got
25 another one now, but I didn't have it then.

1 Q. I'm just talking about the time of the passing.
2 Any bank accounts at that time?

3 A. Just a joint account me and her there at
4 Citizens State Bank.

5 Q. Was it a checking account or a saving or both?

6 A. Yeah, just a checking account. We didn't have
7 no saving. We just had a joint checking account.

8 Q. Approximately how much was in that account at
9 the time of her passing?

10 A. It wasn't much. A couple of thousand maybe.

11 Q. Like would you say --

12 A. I had, I had trouble -- insurance didn't pay,
13 life insurance didn't pay because she committed suicide.

14 Q. All right. Would you say about \$2,000?

15 A. About that maybe.

16 Q. And then there was the seven acres and the
17 house?

18 A. Yeah.

19 Q. What would you say the approximate value of the
20 house and the seven acres were back at the time of
21 her --

22 A. If I was going to sell it, I figured up there,
23 guy asked about buying it, I figured up about 95,000 for
24 the house and land. I got a shop on it and well shed
25 and a bunch of tools and junk.

1 Q. So about 95,000 for the house and land?

2 A. Uh-huh. And we drilled a well on it when --
3 before we moved out there, you know, before we built the
4 house.

5 Q. You say a well --

6 A. Drilled a deep water well.

7 Q. A water well?

8 A. Uh-huh.

9 Q. And the 95 would include all the improvements
10 on the house and the land?

11 A. Yeah, total package.

12 Q. Okay. What about the minerals there? Was
13 there ever a lease signed or anything for the minerals?

14 A. Not when she was living, it wasn't.

15 Q. Okay. Had anyone approached you before she
16 passed away regarding the minerals?

17 A. No.

18 Q. Were you aware of there being wells being dug
19 on land right around yours prior to her passing?

20 A. Not at the time.

21 Q. When did you first become aware of any minerals
22 or any wells being dug in that area?

23 A. Let's see, I don't remember what year they
24 drilled that well. I think it was about '02 or '3,
25 somewhere along in there. '5. I don't remember now

1 but -- what is this, '15?

2 Q. We're in 2015.

3 A. Probably about a couple of three years ago, I
4 imagine, when they come in there -- they come in there
5 and talked about leasing it, you know.

6 Q. And did you ever execute a lease on that land?

7 A. Do what?

8 Q. Did you ever sign a lease or anything?

9 A. On the minerals?

10 Q. Yes.

11 A. Yes, I let them drill it. They put the well on
12 the place there.

13 Q. And are they -- is it producing, are you aware
14 of?

15 A. Yeah. It ain't much now but it -- you know,
16 the price of oil and everything now.

17 Q. I understand. Do you recall about how much
18 that you received from that well?

19 A. It started out getting about, oh, right at the
20 very beginning, oh, a couple, 2500, 3,000 a month. The
21 last check I got was \$225. That's basically what range
22 you pull.

23 Q. Did they give like a sign-on bonus or anything
24 like that when you signed the lease?

25 A. Only thing I got check wise was a damage check.

1 Q. That's what I mean, the damage check.

2 Approximately how much was that?

3 A. 15,000.

4 Q. Okay. And then do you know approximately how
5 much you received over these years if you had to add it
6 all up, like a rough guesstimate?

7 A. Oh, I think last year -- I think my income tax
8 deal I think about 9500, 9400.

9 Q. And that was for 2014?

10 A. Yeah.

11 Q. And then in 2013?

12 A. Probably about half that much again.

13 Q. So about \$4500 roughly?

14 A. About how much?

15 Q. \$4,500 for the year 2013?

16 A. No. It was 9,000 the year -- last year.

17 Q. You said about half that much?

18 A. No, I said about half that much again.

19 Q. And I guess that's what --

20 A. 9,000 plus half of 9,000 more, say 9 and 4.

21 Q. So -- okay. So you -- so in 2013 you probably
22 got about 13,000, 13 or so?

23 A. Yeah.

24 Q. And that would get us back to 2000 -- that's
25 2013, 2014. So then in 2012 did you ever have a real

1 big year or anything?

2 A. Like I say, that first year it started out
3 about -- first check I think was like around 4,000 and
4 then it dropped -- it steady dropped down to about --
5 every month I'd say it dropped about \$500 a month.

6 Q. Okay.

7 A. And just on down to about 1500 a month there
8 for about a year thereabout.

9 Q. Okay.

10 A. And then after that it just went to, like I
11 say, this year, hell, it ain't been two or \$300 a month.

12 Q. So if the lowest was for at least a one-year
13 period was 1500 a month, we're looking at 15 -- about
14 18,000 --

15 A. The lowest was 200 and something.

16 Q. No, no, no. You said for about a year it was
17 going for about 1500 a month, right?

18 A. Oh, yeah.

19 Q. So for about a 12-month period -- so in that --
20 for a year then at 12 times 1500, you're looking at
21 about 18,000 for that year?

22 A. Yeah, that would be about right.

23 Q. So about 2012 you think it might have been
24 about 18,000 and then before --

25 A. No, it's probably closer to 14 or 15 now.

1 Q. Well, no, I understand now. I'm just trying
2 to -- what I'm trying to do is get an idea overall since
3 her passing what -- so I know there is about 15,000
4 damage. There was 9500 last year for -- you had said
5 for 2014 is what your tax thing --

6 A. For a full year, yeah.

7 Q. And then the year before you thought about
8 13,000 maybe?

9 A. Yes.

10 Q. And then there was one year, though, it sounds
11 like you were getting 4,000, then 3500, then 3,000, then
12 about 2500?

13 A. I'd say the biggest part of the year probably
14 was closer to \$2,000. Like the first three or four
15 months, it was pretty good. Then the next it started
16 dropping. It kind of leveled off probably about --

17 Q. If I just go back two years, '14 and '13, right
18 there we're looking at roughly 22 5, 22,500 plus the
19 damage of 15,000. We're looking at 37,500 and that just
20 gives those two years. Now if there was the year that
21 you had the 4 -- or 3,000 and all those things would
22 you -- if we're at 37 roughly, would you say you
23 received more or less than 50,000 since that well has
24 been put in? And I didn't count for 2015 at all because
25 you said it's about \$200 or so a month?

1 A. Well, it dropped, just dropped. Been about
2 295, right up around 300, but then it dropped to \$225
3 last month.

4 Q. So if I said \$200 for this year times 12 which
5 I know it was 300 at one point, but let's just say 200,
6 you're looking at 2400 for 2015.

7 A. That's about what it will be. Something like
8 that maybe. Maybe half more but it won't be much. It
9 will be less.

10 Q. So if I just take '15, '13 and '14 we're
11 looking at about 40,000 including the damages, but then
12 there was a time period before. So would you say that
13 you're about 50,000 if we added the 2012?

14 A. It might come up to that much. I couldn't say
15 exactly.

16 Q. Okay. Do you have documents that would show --

17 A. All I got is the income tax returns.

18 Q. And you had filed taxes in 2000 -- in all these
19 years since her passing?

20 A. Oh, yeah. Yeah.

21 Q. Okay. And do you have those tax returns from
22 2010 to the present?

23 A. Yeah, I think I've got those papers.

24 Q. Okay. Did you ever do a 2010 -- I'm sorry,
25 yeah, 2010 tax return, the year that Janice passed away?

1 A. Yeah.

2 Q. You would have filed a joint income tax return
3 I assume?

4 A. I don't remember how we done it.

5 Q. Okay.

6 A. To be honest with you.

7 Q. Did you always file joint tax returns?

8 A. Yeah, up until the time she died.

9 Q. Did you guys have a CPA or an accountant that
10 you used?

11 A. Yeah, we used Ann Minze there in Madisonville.

12 Q. Ann who?

13 A. Minze. I think it's M-i-n-z, might be an E.

14 Q. In Madisonville?

15 A. Yeah.

16 Q. And she did your taxes how far back would you
17 say?

18 A. Oh, good Lord, been doing my taxes for the last
19 25, 30 years, I imagine.

20 Q. So the entire -- I understand this is the last
21 question. So the entire time y'all were married would
22 she do your taxes for those --

23 A. Oh, yeah. Yeah.

24 MR. LEGERE: Let's go ahead and take a
25 break.

1 (Short recess.)

2 (Exhibit No. 1 marked.)

3 (Exhibit No. 2 marked.)

4 Q. (BY MR. LEGERE) All right. We just got back
5 from taking a break and I just want to go over a few
6 things here. What I've marked here as Exhibit No. 1 and
7 2 to the deposition. It looks like Exhibit No. 1 is the
8 statement of wish -- statement of wishes of Janice Lee
9 Willhelm and then there is another exhibit here that
10 says Last Will and Testament of Janice Lee Willhelm. Do
11 you see these two exhibits here?

12 A. Yeah.

13 Q. Okay. Now earlier when we were -- I took --
14 when we were talking, I had asked you on the statement
15 of wishes if this was your signature in your
16 handwriting. You said this was; is that correct?

17 A. That is, yeah.

18 Q. Where it says Gerald Willhelm?

19 A. Yeah.

20 Q. And then when I asked you on the will as far as
21 under bequests where it says husband Gerald Willhelm, I
22 asked you who wrote that. You said you did.

23 A. I said wrong there. That's her writing there.
24 I didn't write that.

25 Q. Okay. So is it your testimony -- did you see

1 her write this? Because I asked you earlier if you saw
2 her write this. Did you see her write this?

3 A. No, I didn't see her. This is her handwriting.

4 Q. Okay. So this is -- you recognize where it
5 says husband Gerald Willhelm, it's your testimony now
6 that you misspoke earlier, but that's your
7 handwriting -- that's her handwriting and not yours?

8 A. That's her handwriting.

9 Q. Okay. Is this her signature?

10 A. We done them at the same time, but I wasn't
11 paying no attention. She signed -- she put her deal in
12 there. I put mine in there on mine.

13 Q. Okay.

14 A. That's my signature.

15 Q. What was the reason --

16 A. Actually I didn't write on that paper at all.

17 Q. What was the reason you had said that this was
18 your handwriting before?

19 A. I just may have misunderstood what you was
20 talking about, I guess.

21 Q. So when I was showing you that document, I had
22 shown you this document and asked you if you seen this
23 before. Do you remember me asking you that?

24 A. Yeah, I've seen the document before.

25 Q. Okay. And then I had asked you about the

1 different people, who Ben was and who Deidre was?

2 A. Yeah, remember that.

3 Q. And I had asked you who had written this down
4 as far as husband Gerald Willhelm.

5 A. I just misunderstood something, but I didn't
6 write that.

7 Q. Okay.

8 A. That's her writing.

9 Q. Okay. Did you sign the oath of independent
10 execut -- or the oath of executor in this proceeding?
11 Do you recall signing a document that says oath of
12 independent executor?

13 A. It looks like my writing there.

14 Q. Okay. So what I'm -- this is something that
15 has been filed with the court.

16 A. Yeah.

17 Q. And it has a notary here -- or not a notary.

18 It has -- yes, a notary. The deputy -- Christy
19 Wakefield it says here, but that's not Christy. It says
20 by -- I can't --

21 MR. BANKHEAD: Amy somebody.

22 Q. (BY MR. LEGERE) Yeah, Amy something back on
23 April 18th of 2011. Do you recall signing this
24 instrument?

25 A. I don't really recall it, but that looks like

1 my handwriting.

2 Q. Okay. So it's your testimony that the
3 signature on the oath of independent executor is your
4 signature?

5 A. Yeah.

6 Q. Okay. Would you also say then this signature
7 on the proof of death and other facts, is that your
8 signature?

9 A. Yeah, it looks like it.

10 Q. Okay. It's signed the same date, April 18th,
11 2011?

12 A. Yeah.

13 Q. Okay. And finally it looks like here there is
14 an inventory, appraisalment and list of claims and it has
15 another signature here, Gerald Eugene Wilhelm.

16 A. Yeah.

17 Q. Do you recall signing that instrument?

18 A. No, I don't remember, but it looks like my
19 handwriting.

20 Q. Does that look like your handwriting?

21 A. Yeah, this does.

22 Q. Okay. And then the same thing, it says on the
23 next page: I, Gerald, having been duly sworn hereby
24 state on oath the foregoing inventory, so it's an
25 acknowledgment basically it says. Do you recall signing

1 that?

2 A. No.

3 Q. Does that look like --

4 A. No, I don't remember signing, but it looks like
5 my signature.

6 Q. So these signatures I've shown you you would
7 say that those are all your signature?

8 A. Except this one (indicating).

9 Q. Except the --

10 A. This one right here where it says husband.

11 Q. Under bequests next to husband?

12 A. I was mistaken about that or whatever. I
13 didn't understand the question I don't guess, but that's
14 not my handwriting. I didn't sign that.

15 Q. Okay.

16 A. This is my handwriting here (indicating), this
17 here.

18 Q. Okay. This handwriting on the statement of
19 wishes you're saying is yours where it says --

20 A. This is right here (indicating).

21 Q. -- where it says Gerald Wilhelm?

22 A. Yeah.

23 Q. And it's also your handwriting on all those
24 other instruments I showed you related to the oath, the
25 inventory and the proof of death, you acknowledge that

1 to be your handwriting and your signature?

2 A. Yeah.

3 Q. Okay. Now would, would Janice print or would
4 she write in cursive when she was writing things?

5 A. I couldn't say for sure.

6 Q. You recognize her handwriting, though, correct?

7 A. Yeah.

8 Q. Janice's handwriting?

9 And I've just got some things here. These
10 are -- I'm not going to introduce these right now, but
11 I'm just going to identify them so you can see what I'm
12 talking about. This is a copy of -- it looks like
13 Janice Wilhelm's driver's license. Do you see this?

14 A. Yeah, I see it.

15 Q. And at the bottom of this page it says K1 here,
16 but do you recognize that to be Janice's handwriting or
17 her signature?

18 A. It looks like her handwriting.

19 Q. Okay. From what you recall of her handwriting?

20 A. Yeah, best I, best I can recollect, it looks
21 like hers.

22 Q. Okay. And then this has a marking on the
23 bottom. It says K2. This was an agreement to transfer
24 investment account and there's a signature of Janice
25 Wilhelm. Do you recognize that signature?

1 A. It looks like hers.

2 Q. Okay. Do you have any reason to believe that
3 this is not Janice's signature from what you know of her
4 signature, her handwriting?

5 A. Yeah.

6 Q. Okay. And this final one, it's back when she
7 was a Farmer, Jan Farmer. It says K3. Do you see how
8 she signed her name Janice Lee Farmer?

9 A. Yeah, that looks like hers.

10 Q. Okay. And this would also be back, a check
11 that has her signature. It just says Jan Farmer, K4 on
12 there.

13 A. Yeah.

14 Q. And do you believe that looks like her
15 handwriting?

16 A. That looks like her.

17 Q. And I mean everything where it says Allstate
18 Insurance, do you recognize her handwriting or just her
19 signature?

20 A. I guess her signature. I can't swear to that,
21 you know.

22 Q. So you're not familiar with her handwriting
23 more than you are just her signature?

24 A. That's right.

25 Q. Okay. So are you sure it was Janice that

1 signed -- that wrote husband Gerald Wilhelm or could it
2 have been Ben or Deidre that wrote that?

3 A. That was her wrote it. That ain't his writing
4 or her writing either one.

5 Q. All right. Well, the reason I'm asking is
6 because you said you recognize her signature but not her
7 handwriting. So this is -- that's not her signature.
8 That's your name, correct?

9 MR. BANKHEAD: Objection, form.

10 A. Yeah.

11 Q. (BY MR. LEGERE) Okay. So where it says
12 husband, that would be her handwriting, that wouldn't be
13 her signature?

14 A. No.

15 Q. Okay. Did you personally see her handwrite
16 this husband Gerald Wilhelm?

17 A. Like I say, we was right there together at the
18 house and we sealed it out. I didn't just watch her
19 write it down there, but standing right there by one
20 another at that desk, you know. She was sitting down.
21 I was standing up.

22 Q. Okay. And you saw her typing, correct?

23 A. Yeah, I saw her typing.

24 Q. So you didn't see her write anything on these
25 instruments, did you? You saw her type, but you didn't

1 see her write anything?

2 A. We done it right there -- we was right there at
3 the desk when she got through with all of it. She done
4 her filling in, I done mine.

5 Q. You said filling it in?

6 A. Writing it.

7 Q. Okay. Well, what did she write on this
8 instrument here?

9 A. Like I say, I wasn't watching her write it.
10 That's just what --

11 Q. So you didn't see her write husband Gerald
12 Wilhelm is your testimony?

13 A. No, I didn't see her write it.

14 Q. Okay. And did she sign it there at that desk
15 in front of you? When you said that you finished this
16 out and then she -- you said she filled it out in front
17 of you at that desk. What did she fill out?

18 A. Just that signature I guess. That's the only
19 writing on there. I signed it there.

20 Q. Okay.

21 A. This and this, I guess we done this whenever
22 went over there to 7J office.

23 Q. Okay. So do you know if she signed it there at
24 the house at the desk with you and then you went over to
25 see Ben and Deidre and then they --

1 A. No, I said she --

2 MR. BANKHEAD: Wait up. Objection, form.
3 You've asked this now about six times. If you keep
4 asking him, I'm just going to keep objecting.

5 MR. LEGERE: I understand. You can
6 object.

7 A. She put this in there and we signed this over
8 there at the office.

9 Q. (BY MR. LEGERE) When did she put this in
10 there?

11 MR. BANKHEAD: Objection, form.

12 If he's going to keep asking this, just
13 say I've already answered this. I'm not sitting here
14 all afternoon --

15 THE WITNESS: I've answered it about three
16 times.

17 MR. BANKHEAD: If you want to bring
18 something before the court do it. I've listened to this
19 now for 30 minutes.

20 MR. LEGERE: He's given several different
21 answers.

22 MR. BANKHEAD: Okay. Then he's answered
23 it. He just told you --

24 MR. LEGERE: Well, he's given me two
25 different answers, three now.

1 MR. BANKHEAD: He just told you I'm --

2 MR. LEGERE: I have a right to find out
3 what is the truth here.

4 MR. BANKHEAD: You're asking the same
5 thing over and over again.

6 MR. LEGERE: And I'm getting different
7 answers over and over again. So I object to your
8 narrative response. In a deposition the correct
9 objection is objection, form and if I ask you --

10 MR. BANKHEAD: I stated objection.

11 MR. LEGERE: That's enough then.

12 MR. BANKHEAD: And I'll make it from here
13 on out if you keep asking the same stuff over and over
14 again.

15 MR. LEGERE: I object to sidebar and
16 everything else you're stating.

17 MR. BANKHEAD: I'm going to keep
18 objecting.

19 Q. (BY MR. LEGERE) All right. So I just asked
20 you did you see Janice write husband Gerald Wilhelm and
21 you told me you did not see her --

22 MR. BANKHEAD: Objection, form.

23 Q. (BY MR. LEGERE) -- write that; is that
24 correct?

25 A. I told you we was standing right there together

1 and she filled that in and I filled mine in and I didn't
2 just stand there and stare at her, but she done it while
3 I was standing there by her.

4 Q. And my question, though, was it a typewriter
5 that filled it in or by pen?

6 MR. BANKHEAD: Objection, form.

7 A. This, this and this (indicating) she wrote in
8 there at the time I was standing up at the desk.

9 Q. (BY MR. LEGERE) Okay. What -- when you say
10 this, this and this, a court reporter doesn't see this.
11 It's not being videotaped so you have to describe --

12 A. Husband Gerald Willhelm.

13 Q. So while you were standing --

14 A. She signed -- wrote that in there while I was
15 standing right up there beside her.

16 Q. So your testimony now is that you saw her write
17 husband --

18 A. It wasn't my testimony now. I said I was
19 standing right there by her.

20 Q. So as you sit here you have an independent
21 recollection of having her write husband Gerald
22 Willhelm?

23 MR. BANKHEAD: Objection, form, asked and
24 answered.

25 Q. (BY MR. LEGERE) Do you have an independent

1 recollection as you sit here that she wrote husband
2 Gerald Willhelm?

3 MR. BANKHEAD: Objection, form.

4 Q. (BY MR. LEGERE) There is only two times that
5 you can -- unless your attorney instructs you not to
6 answer. So did -- my question is that you have not
7 answered is did you --

8 MR. BANKHEAD: You may answer. I'm going
9 to object when he gets through.

10 Q. (BY MR. LEGERE) Did you personally observe as
11 you sit here today Janice write husband Gerald Willhelm?

12 A. I didn't --

13 MR. BANKHEAD: Objection, form.

14 Q. (BY MR. LEGERE) You can still answer.

15 A. I'm going to do what he says.

16 MR. BANKHEAD: You can answer the way
17 you've answered it ten times.

18 Q. (BY MR. LEGERE) So my question he's going
19 to -- subject to objection, form, I'll just preface the
20 question did you --

21 MR. BANKHEAD: Let him finish. I'm going
22 to object every time.

23 Q. (BY MR. LEGERE) Did you personally observe
24 Janice write the word husband Gerald Willhelm?

25 MR. BANKHEAD: Objection, form.

1 You can answer.

2 THE WITNESS: Can?

3 MR. BANKHEAD: Yeah, you can answer.

4 A. No, I didn't actually watch her write it.

5 Q. (BY MR. LEGERE) Okay. So you're basing your
6 testimony on this -- from what you recognize of her
7 handwriting?

8 MR. BANKHEAD: Objection, form.

9 Q. (BY MR. LEGERE) Is that your testimony?

10 MR. BANKHEAD: Objection, form.

11 A. I'm basing it that she done it while I was
12 standing there by her. It wasn't on there when I
13 looked. When I looked back, I done my deal and I looked
14 over there and it was on there. There wasn't nobody
15 else in the room.

16 Q. (BY MR. LEGERE) Okay. So this was done --

17 A. If you're trying to pin me down, I mean that
18 ain't going to --

19 Q. And so this was done then outside of the
20 presence of the witnesses?

21 A. Yes.

22 Q. Okay. And at that time when you're saying that
23 it was written down that you're not sure if she wrote
24 that in front of you or not, you're saying that you
25 looked, it wasn't there and then you looked back and it

1 was there. Did she also sign the bottom of this or was
2 that done at a later time?

3 MR. BANKHEAD: Objection, form,
4 multifarious question.

5 Q. (BY MR. LEGERE) When you looked down on the
6 paper that you're saying that this husband Gerald
7 Willhelm was written on here, did you also see the
8 signature Janice Lee Willhelm at the same time?

9 MR. BANKHEAD: Objection, form.

10 A. She signed that over there in front of them two
11 witnesses.

12 MR. BANKHEAD: He's told that you ten
13 times.

14 MR. LEGERE: Well, I just want to clarify.

15 MR. BANKHEAD: I'm going to keep
16 objecting.

17 MR. LEGERE: That's fine.

18 Q. (BY MR. LEGERE) And then on the statement of
19 wishes that's on Exhibit No. 1 where you acknowledge
20 this is your signature Gerald Willhelm, correct?

21 A. Yes.

22 Q. Okay. Was that done at your residence when,
23 when this husband Gerald Willhelm was written or was
24 this done at a later time?

25 A. I don't know. I couldn't say.

1 Q. Okay. And I believe you testified that your
2 wife -- she wrote left-handed but did everything else
3 right-handed?

4 A. Pretty much.

5 Q. Do you know any other things that she did with
6 her left hand that she didn't do with her right hand?

7 A. Not that I can think of.

8 Q. Okay. And is it your testimony that she
9 couldn't get around the house without the assistance of
10 a cane or a walker?

11 A. That's right.

12 Q. Okay. So if she were to get out of her chair
13 and walk to the kitchen, would she have to have a cane
14 or a walker with her?

15 A. That's right.

16 Q. Could she -- where would she keep her cane?

17 A. Right there by her chair.

18 Q. Okay.

19 A. It went step by step. It first happened, she
20 got out of the hospital, she was in a wheelchair. Then
21 it got up to you get in and out of a walker, but she
22 couldn't unload it in and out of a car. And then she
23 finally got to where she could get around a little bit.
24 Any time we left the house she went on a walker.

25 Q. At the time of her passing, the day of her

1 passing could she walk a little bit without the
2 assistance of a cane or a walker?

3 A. Nope.

4 Q. Okay. Could she even just stand up without the
5 assistance of a cane or a walker?

6 A. Not without something to hold on to. That leg
7 wouldn't hold her up.

8 Q. Okay.

9 A. She couldn't put no pressure on that leg to
10 amount to anything. That doctor when he told me the
11 first thing right after the operation, he come in there,
12 she's got soft bones he said.

13 Q. But -- and that was you think a couple of years
14 prior to her passing; is that correct?

15 A. About the soft bones, yes. When she broke her
16 leg, when he had to put screws in that leg, screw that
17 bone back together.

18 Q. Okay.

19 A. That bone split.

20 Q. Now you responded to some disclosure requests
21 and I just want to go over these with you that -- I
22 think one of the things you stated was the relationship
23 between Wayne and Janice that over -- that they were --
24 I guess the last five years of her life was very seldom
25 and few things Howard Wayne Farmer came around with her.

1 How would you describe the relationship she had with
2 Howard?

3 A. Last two or three years it wasn't no
4 relationship with either one of them. She didn't --
5 they wouldn't talk to her.

6 Q. Well, you said the last five years. So what --

7 A. I -- it could have been. I don't know exactly
8 the time.

9 Q. Okay. Isn't it true that Jennifer had a
10 relationship with her mother the last --

11 A. No.

12 Q. -- five years of her life?

13 A. No. Wouldn't even talk to her. Wouldn't even
14 let her see her grandkids. Wouldn't do nothing.

15 Q. And when did that, when did that happen that
16 she wouldn't let her see her grandkids?

17 A. Whenever them kids was born, she never did see
18 the grandkids.

19 Q. So it's your testimony under oath that Janice
20 never saw her grandchildren?

21 A. Yes.

22 Q. And you're as certain about that statement as
23 you are about every other statement you've made today?

24 MR. BANKHEAD: Objection, form.

25 A. Yes.

1 Q. (BY MR. LEGERE) So you're as certain about
2 that statement as you are --

3 MR. BANKHEAD: Objection, form.

4 MR. LEGERE: I haven't finished my
5 question.

6 MR. BANKHEAD: You said the same thing.
7 You say everything two or three times.

8 Q. (BY MR. LEGERE) I'm saying you're as certain
9 about that statement about her not seeing her grandkids
10 as you are about the relationship that she had with
11 Janice?

12 MR. BANKHEAD: Okay. Objection, form.
13 You said the same question two times in a row.

14 Q. (BY MR. LEGERE) That Jennifer had with Janice
15 the last --

16 A. Yes.

17 Q. Okay. And you're not aware of any photographs
18 with, with Janice and her grandkid in the same photo?

19 A. She never seen the grandkids.

20 Q. Okay.

21 A. She made a bunch of clothes for the grandkids
22 and bought a bunch of toys and sent them up there to her
23 and we were sitting there one day and they all come back
24 in a box.

25 Q. Okay. Do you know why?

1 A. No, I don't have a clue why.

2 Q. Okay. Did Janice ever tell you about the
3 relationship she had with her daughter Jennifer?

4 A. There wasn't no relationship. She told me
5 there wasn't none.

6 Q. So that's all she told you about --

7 A. That's all she told me about.

8 Q. You had written a lot more stuff, though, on
9 your disclosures so I'm asking you right now if you
10 could be completely honest with me?

11 A. Do what?

12 Q. In your disclosures you're saying that, that
13 you would show the court that there was -- Janice
14 discovered that Jennifer was using her mother's name and
15 address --

16 A. That was on that drug deal. We got that stuff
17 in the mail.

18 Q. Let me finish my question. To abstain -- to
19 obtain prescription medications. Was there ever a
20 confrontation between Janice and Jennifer regarding that
21 incident?

22 A. Called her on the phone. I know she called her
23 husband on the phone. He didn't want to hear nothing
24 about it.

25 Q. How did you hear that she called -- how are you

1 aware of this incident?

2 A. She told me.

3 Q. Who told you?

4 A. Janice told me.

5 Q. Okay. So this is something that you were told
6 by somebody else. You didn't personally observe this
7 firsthand?

8 A. I seen my -- seen the papers, the mail, stuff
9 come in the mail. I don't remember exactly what it was
10 all about, but I remember seeing them.

11 Q. What, what did you see --

12 A. We talked about that.

13 Q. We didn't -- what did you see in the mail?

14 A. I seen our name, mine and Janice's name on some
15 kind of -- she wrote out trying to get some kind of
16 drugs. I don't know what it was.

17 Q. Well, let's go back. You said that she wrote
18 out trying get to some kind of drugs. Who wrote out?

19 A. Her.

20 Q. Who is her?

21 A. Jennifer.

22 Q. You saw something that Jennifer filled out?

23 A. I seen something come in the mail. Some of it
24 had my name on it.

25 Q. Okay. But how do you know Jennifer filled it

1 out?

2 A. I don't know who filled it out, but it just had
3 my name come from her.

4 Q. Well, you're testifying --

5 A. It had her name on the damn stuff.

6 Q. Whose name?

7 A. Jenn.

8 Q. It had Jennifer's name on what?

9 A. On that form, whatever it was trying to get
10 that stuff. We didn't neither one of us know what it
11 was.

12 Q. What form are you talking about?

13 A. I don't know what the form was for. All I know
14 it was about some kind of getting prescription drugs or
15 something.

16 Q. Okay.

17 A. In our name.

18 Q. Okay. Is this the same company that you were
19 ordering prescriptions in the mail from?

20 A. No.

21 Q. No?

22 A. No.

23 Q. Do you have a copy of this form anywhere?

24 A. No.

25 Q. Okay. So you're just saying that there is some

1 form that you recall seeing at some time that had
2 Jennifer's name on it, but you have no idea who filled
3 it out, you just recall seeing a form that had your name
4 and Janice's name on it?

5 MR. BANKHEAD: Objection, form.

6 Q. (BY MR. LEGERE) Is that your testimony?

7 A. That's right.

8 Q. Okay. You know how ridiculous that sounds?

9 MR. BANKHEAD: Objection, form.

10 Q. (BY MR. LEGERE) You're saying you have a
11 form --

12 MR. BANKHEAD: Objection, form.

13 Q. (BY MR. LEGERE) You saw a form that had
14 Jennifer's name on it, but you have no proof of this
15 form anywhere. Is that your testimony?

16 MR. BANKHEAD: Objection, form. He saw
17 it.

18 A. I saw the thing with my eyes.

19 Q. (BY MR. LEGERE) Okay. Where is that form?

20 MR. BANKHEAD: Objection, form.

21 A. I don't know where it is.

22 MR. BANKHEAD: Let me finish. Let me make
23 my objection before you answer. Okay?

24 Q. (BY MR. LEGERE) What other documents have you
25 seen that had Jennifer's name on it as well as your

1 mother's name, if any?

2 A. My mother's name?

3 Q. I'm sorry. Jennifer's name as well as her
4 mother, Jennifer's mother which would be Janice.

5 MR. BANKHEAD: Objection, form.

6 Q. (BY MR. LEGERE) Do you know of any other forms
7 out there other than the one you've referenced?

8 A. No.

9 Q. Okay. And do you know what the -- was it --
10 you said it was a prescription form?

11 MR. BANKHEAD: Objection, form.

12 A. Something about prescription drugs.

13 Q. (BY MR. LEGERE) Do you know what kind of
14 prescription drugs?

15 A. No.

16 Q. Do you know where this company was located?

17 A. No.

18 Q. Do you know if it was like a mail order
19 prescription company?

20 A. Yeah, I guess it was. They come in the mail.

21 Q. So did the forms come in the mail or did the
22 prescription drugs come in the mail?

23 A. I didn't get no prescription drugs. Got one
24 from us -- they wanted me and Janice to sign the thing.
25 We wouldn't sign it.

1 Q. Okay. Was this form to acquire prescription
2 medication or do you know what this form was for?

3 A. No, I don't know what it was for.

4 Q. Okay. So you don't know if this was a request
5 for medical records?

6 A. All I know it was some kind of prescription
7 drugs is all I can tell you.

8 Q. Okay. Do you know if it was prescriptions that
9 were in Jennifer's name or were they in your name, the
10 prescriptions that --

11 A. They was trying to get them in my name and
12 Janice's name.

13 Q. So this form said that they're trying to get
14 prescriptions for you and for Janice. Is that what the
15 form said?

16 A. That's what they said. Wanting our signature
17 on the thing.

18 Q. Well, and this is the thing. So from the best
19 of your recollection what did the form actually say?

20 A. I don't remember.

21 MR. BANKHEAD: Objection, form.

22 A. All they wanted my signature.

23 Q. (BY MR. LEGERE) It just wanted your
24 signatures. You don't know what it was for, though?

25 A. No, except drugs. They had a pill name on

1 there.

2 Q. It had a pill name?

3 A. Some kind of drug name. I guess it was a pill.

4 Q. Do you know if it was for a class action suit
5 regarding a medication?

6 A. No.

7 Q. No, it wasn't or you don't know?

8 A. No, I don't know.

9 Q. Okay. So then you can't sit here under oath
10 and say that you know that Jennifer was trying to get
11 prescriptions under your name and Janice's name for
12 herself, can you?

13 MR. BANKHEAD: Objection, form.

14 Q. (BY MR. LEGERE) Do you know if she was doing
15 this?

16 A. Her name was on the thing and they was trying
17 get me and her to sign the damn thing.

18 Q. And you keep saying the thing, but you're not
19 saying what this thing is. It's just the form.

20 A. That form that come in the mail.

21 MR. BANKHEAD: He's told you somebody was
22 trying to get drugs. What more is there to do?

23 MR. LEGERE: Well, when I asked him if it
24 was for a prescription --

25 MR. BANKHEAD: You're just badgering him

1 until he agrees and gives in and says something. He
2 said -- the judge ain't going to let you do this a
3 hundred times.

4 MR. LEGERE: I'm not trying to do it. I
5 want to get --

6 MR. BANKHEAD: No, you want him to agree
7 with you. He said somebody was trying to get some
8 drugs.

9 MR. LEGERE: I'm going to object to
10 everything other than objection, form. And I object to
11 the sidebar and his characterization of what the
12 testimony is.

13 Q. (BY MR. LEGERE) My question is: You're
14 telling me that this was a form to get prescription
15 medication?

16 MR. BANKHEAD: That's right.

17 MR. LEGERE: I object to your response.
18 The witness needs to answer.

19 MR. BANKHEAD: Are you asking him a
20 question?

21 Q. (BY MR. LEGERE) So you're saying --

22 MR. LEGERE: Let me finish before you
23 interrupt again.

24 Q. (BY MR. LEGERE) What you're saying is that you
25 received a form that was for somebody trying to get

1 prescription medication and my question is: Do you
2 recall what the words were on this form?

3 MR. BANKHEAD: Objection, form. Three or
4 four questions in one.

5 Q. (BY MR. LEGERE) Do you recall what -- it
6 wasn't a question. I was just stating where we were at.
7 So do you recall what the words were on this form?

8 MR. BANKHEAD: Objection, form.

9 Q. (BY MR. LEGERE) It's just a yes or no. Do you
10 know what the words were on the form?

11 A. I done answered the question.

12 Q. You said it was for prescription, but you don't
13 know what it said.

14 A. You keep asking me the same question.

15 Q. You've told me you don't know what it said.

16 MR. BANKHEAD: He says he didn't know what
17 drug it was. It was some kind of drug.

18 MR. LEGERE: You're misstating the
19 representation.

20 Q. (BY MR. LEGERE) I said do you know if this was
21 for a class action and you said you don't know. I said
22 do you know if this had to do with someone trying to get
23 prescriptions.

24 MR. BANKHEAD: Objection, form.

25 Q. (BY MR. LEGERE) Did it say that someone was

1 trying to get prescriptions?

2 MR. BANKHEAD: Objection, form.

3 A. I said we got a form in the mail --

4 Q. (BY MR. LEGERE) Okay.

5 A. -- that had her name on it that she was trying
6 to get prescription drugs in my name.

7 Q. Okay. And what did this form specifically say
8 that made you believe she was trying to get
9 prescriptions in your name?

10 MR. BANKHEAD: Objection, form.

11 A. It had the name of the pill or drug or whatever
12 it was on the thing.

13 Q. (BY MR. LEGERE) Did it say she was trying to
14 get prescriptions --

15 MR. BANKHEAD: Objection, form.

16 Q. (BY MR. LEGERE) -- or is that your assumption?

17 A. I told you it had her name on it and trying to
18 get drugs in my name.

19 Q. All right. So what were the words, if you
20 recall, that made you think she was trying to get drugs
21 in your name?

22 MR. BANKHEAD: Objection, form.

23 A. I don't remember the exact words. I just
24 remember the form, the damn thing.

25 Q. (BY MR. LEGERE) All right. And this is a form

1 that you don't have any more?

2 MR. BANKHEAD: Objection, form.

3 Q. (BY MR. LEGERE) Did you report this to the
4 police?

5 A. No, I didn't report it to the police. I just
6 didn't sign the thing.

7 Q. Did you report it to the company that --

8 A. I didn't report it to anybody. I just didn't
9 sign it.

10 Q. So the only proof of this is your testimony
11 that you can recall?

12 MR. BANKHEAD: Objection, form.

13 A. That's right.

14 Q. (BY MR. LEGERE) Do you recall Jennifer ever
15 having a conversation with Janice in which she said she
16 would come around if Janice would stay off the
17 medications?

18 A. Nope.

19 Q. Do you recall that several people -- I mean,
20 when I asked you how -- you said she was on pain
21 medicines, that Janice was on pain medications every
22 day. Is that your testimony?

23 A. I assumed she took them every day. All I know
24 she was taking some pain medicine. I guess I just
25 assumed she took them every day.

1 Q. Up to the time of her passing was she taking
2 them every day to the best that you recall?

3 MR. BANKHEAD: Objection, form.

4 A. As far as I know, she was.

5 Q. (BY MR. LEGERE) Okay. And you were never
6 concerned about not having any pain medications for your
7 wife up until the time of her passing; is that correct?

8 A. Right before.

9 Q. Okay. Well, right before. When was this?

10 A. It was about two weeks before that the
11 government outlawed some drug. She couldn't take but
12 two pain medicines and the government outlawed one of
13 them and she sent me up there to get it filled and they
14 wouldn't fill it.

15 Q. Okay. But she still had the other prescription
16 that she could take for pain?

17 A. Yeah, but they didn't send the pills.

18 Q. Okay. So is it your testimony for the two
19 weeks up to her passing she didn't have pain medication?

20 A. The two weeks she didn't have the one the
21 government outlawed and the last week or three or four
22 days, five days she didn't have the one from the drug
23 company because they didn't send it. They did send it,
24 but she was done dead and gone when they sent it. So it
25 didn't do her any good.

1 Q. So is it the last --

2 A. The last four or five days she didn't have
3 nothing.

4 Q. So the last four or five days before she passed
5 she had no pain medication?

6 A. No pain medication of no kind.

7 Q. Have you seen the autopsy report?

8 A. No.

9 Q. So you're not aware of the drugs that were in
10 her system at the time she passed?

11 A. No.

12 Q. So you're not aware that there was pain
13 medication in her system at the time she passed?

14 A. No.

15 Q. But your testimony is under oath that she
16 hadn't had pain medication in the last four or five days
17 before her passing?

18 A. That's right. Because I was the one that
19 picked the things up. I went to pick them up and they
20 wouldn't fill them.

21 Q. Have you seen the photos from the -- I guess
22 the sheriff's department took at the time of your wife's
23 passing?

24 A. Huh-uh.

25 Q. You have not?

1 A. No.

2 Q. Would it surprise you if there were pictures of
3 prescription pill bottles sitting right next to Janice
4 at the time of her passing?

5 A. No, it wouldn't surprise me, but there wasn't
6 no pain pills there because she didn't have none.

7 Q. Okay. Where was -- where did you locate the
8 will after Ms. Wilhelm's passing?

9 A. Just sitting on that desk in there.

10 Q. Okay. Now when you say on that desk in there,
11 where is there?

12 A. In the bedroom.

13 Q. So the will was on the desk. Okay. Now you
14 said you did your will at the same time that Janice did
15 her will?

16 A. She typed them both up. All I done was sign --
17 when we went over there and signed it, you know, fill in
18 that clause there about who I was going to leave it to.

19 Q. So did you have to fill in the same clause on
20 your will then as far as who it was going to, the
21 bequest?

22 A. I didn't fill in hers. I filled in mine.

23 Q. Okay. And did you fill in that or did she fill
24 in that on your will?

25 A. I filled -- she filled it in -- let's see.

1 Q. Your will is not in front of us. I'm just
2 saying.

3 MR. BANKHEAD: Do you know?

4 Q. (BY MR. LEGERE) Did you recall filling in
5 the -- who the bequest went to?

6 A. Yeah, on my will.

7 Q. On your will you filled it in?

8 A. Yeah. Yeah.

9 Q. And did you do it on the same date June -- in
10 June of 2009?

11 A. I don't recall.

12 Q. I think you said earlier y'all did them side by
13 side?

14 A. That was the deal on the -- who we were going
15 to leave it to.

16 Q. Who you were going to leave it to. You did
17 that side by side --

18 A. Yeah.

19 Q. -- at the same time?

20 A. Yeah.

21 Q. So at the time that you're saying that Janice
22 filled out husband Gerald Wilhelm, you had filled out
23 your will --

24 A. Done it at the same time.

25 Q. Done it at the same time. Okay. Do you still

1 have that will?

2 A. What will?

3 Q. The will that you filled out for yourself at
4 that time.

5 A. I may have a copy of it.

6 Q. Okay.

7 A. I don't know. I didn't worry about it after we
8 went to the judge. Like I say, I may have a copy of it
9 there at the house. I don't know.

10 Q. Do you recall touching anything after your wife
11 passed away? Did you touch anything in that room, you
12 know, as far as --

13 A. When she shot herself?

14 Q. Yes, sir.

15 A. Only thing I touched was the telephone.

16 Q. Okay. You didn't touch the weapon at all?

17 A. Hell, no, I didn't even see the weapon.

18 Q. Okay. Or you didn't touch her cane at all?

19 A. Huh?

20 Q. You didn't touch her cane?

21 A. No, only thing I done I put -- I guess she laid
22 it there as a -- on that old end table between me and
23 her, mine and her chair. I took that rag and put it on
24 her neck there where blood was pouring out of it and she
25 was already dead. It wasn't doing anything.

1 Q. And you had testified that she would have to
2 keep the cane, though, right next to her, next to her
3 chair?

4 A. Yeah, right next to her chair.

5 Q. She wouldn't keep it on the other end of the
6 couch?

7 A. She didn't sit on the couch. She sat in the
8 recliner all the time.

9 Q. So if the photos of the scene, though, show a
10 cane that's pretty far over at the end of the couch, you
11 don't know how it would have gotten there?

12 A. I don't have a clue.

13 Q. And if the gun was in there -- was anyone else
14 in the house at the time of her passing?

15 A. No, it was me and her.

16 Q. Had anyone been over to visit earlier that day?

17 A. No, not that I know of.

18 Q. Had she talked anything about being --

19 A. Only thing --

20 Q. -- in more pain that day than other days?

21 A. Only thing she told me, I needed to go to
22 Wal-Mart and get a -- pick up a prescription.

23 Q. When did she tell you that?

24 A. Probably about an hour and a half before she
25 shot herself.

1 Q. And she didn't seem any more depressed than --

2 A. All she said was you need to go to Madisonville
3 and pick up a prescription.

4 Q. Were these pain meds that you were trying to go
5 pick up?

6 A. I don't know what it was. There wasn't no pain
7 meds because she couldn't get no pain meds, but I don't
8 know what it was, but I know it wasn't no pain medicine
9 because it wasn't but two of them and the last time I
10 tried to get the pain medicine filled, they wouldn't
11 fill it.

12 Q. Okay.

13 A. Because the government outlawed it.

14 Q. That's fine. Now the -- had you ever observed
15 your wife shoot a gun before?

16 A. Yeah.

17 Q. Okay. When was that?

18 A. I don't know the date. Several times.

19 Q. Okay. So she would keep a gun with her?

20 A. She kept her gun down there beside the chair.
21 There was a guy breaking into houses and raping old
22 women and things.

23 Q. Sure. Now was she -- I asked you earlier what
24 she did. You said she wrote with her left hand, but
25 would do everything else with her right hand. Is that

1 your statement from before?

2 A. Yeah.

3 Q. So when you observed her with the gun before,
4 did she shoot with her right hand?

5 A. Yeah, shot a rifle right-handed and a pistol
6 right-handed.

7 Q. Are you aware of anyone making threats to
8 Janice prior to her passing?

9 A. Not that I know of.

10 Q. Is that something she would tell you? Had she
11 ever told you if anyone ever made threats to her before?

12 A. No, the only thing she told me she was
13 concerned about that guy breaking into houses, you know,
14 molesting them old women.

15 Q. When was that? Was that like around the same
16 time frame or was that --

17 A. It was before. I don't remember what year it
18 was.

19 Q. So it was about 2010 this was going on?

20 MR. BANKHEAD: Can we go off the record?

21 MR. LEGERE: Yeah, we can go off the
22 record.

23 (Discussion off the record.)

24 Q. (BY MR. LEGERE) So at the time of your wife's
25 passing you were sitting on the couch next to --

1 A. I wasn't sitting on the couch. I was sitting
2 in a recliner about as close as me and this lady here
3 (indicating), just about that far.

4 Q. Okay. So there is two recliners?

5 A. Yeah.

6 Q. Are they side by side?

7 A. It's a little old table between them.

8 Q. Okay. I'm just trying to get a layout here.
9 I'm not going to -- okay. Oh, I'm going to ask you some
10 names that you've listed here as people with knowledge
11 of relevant facts on this case. Who is Zeta Roberson or
12 "Zeta"?

13 A. That's Sam's wife.

14 Q. Are you aware of whether or not she has any --
15 well, I take it -- you said that she would have
16 knowledge whether or not Janice Lee Willhelm was
17 influenced at the time she made her last will and
18 testament. Did Ms. Roberson ever talk to you about
19 Janice's last will?

20 A. No, she just asked if she was in her right
21 mind, you know, is what I was talking about.

22 Q. From what -- who told you that?

23 A. Who told me what?

24 Q. That she was in her right mind. You said from
25 what I was told. When I just asked you what Zeta

1 Roberson would say as far as whether or not Janice
2 Lee --

3 A. I just said Zeta Roberson would have said she
4 was in her right mind because we went to their house
5 several times.

6 Q. Did you ever talk to Ms. Roberson about that,
7 about whether or not she thought Janice Lee Willhelm
8 would have been unduly influenced at the time she did
9 the 2010 will?

10 A. I didn't talk to --

11 Q. Or the 2009 will?

12 A. I didn't talk to -- you're talking about after
13 the suicide?

14 Q. Yeah. I mean, at the time she -- we sent some
15 requests for disclosures asking for people with
16 knowledge of relevant facts and one of the names you
17 wrote down was "Zeta" or Zeta Roberson and you had
18 listed that she would --

19 (Discussion off the record).

20 Q. (BY MR. LEGERE) Okay. So, as far as you know,
21 you haven't spoken to Ms. Roberson yourself about this
22 will contest, have you?

23 A. No.

24 Q. Okay. How about Homer Coleman, who is that?

25 A. He lived down the road from us there. He knew

1 Janice all his life.

2 Q. Okay. Had you talked to him about this will
3 contest at all?

4 A. Not about the will, but he could see she was in
5 her right mind. I talked to him after she died, but I
6 didn't talk to him about --

7 Q. How about Deeann Craft, who is Deeann Craft?

8 MR. BANKHEAD: Deputy. She's the deputy.

9 THE WITNESS: Who? Oh, yeah, yeah. It
10 slipped my mind.

11 A. Yeah, she was -- she lived down the road from
12 us. She's a deputy out there in Madison -- I mean out
13 there in Centerville. She knew her.

14 Q. (BY MR. LEGERE) All right. Did -- do you have
15 any knowledge whether or not she knew the -- what the
16 contents of Ms. Wilhelm's will were?

17 A. As far as I know, she didn't.

18 Q. Okay. Do you recall the last time Ms. Craft
19 would have seen Ms. Wilhelm?

20 A. Yeah, she was out there at the house about --
21 let's see, when did she come out there. Something about
22 some cows that got out or something out on the road and
23 she come there wanting to know if they was ours.

24 Q. Did she talk to Janice or to you?

25 A. Both of us. We were just sitting there. I was

1 standing there, I guess, or sitting there, I guess.

2 Q. And was that in the last 12 months of
3 Ms. Wilhelm's life or was that before that?

4 A. I couldn't truly say.

5 Q. Do you know if it was before or after she
6 signed the will?

7 A. I couldn't say.

8 Q. So it could have been, it could have been more
9 than three years ago -- or before her passing I mean?

10 A. It wouldn't be any further than three years.

11 Q. How about Dorothy Crowmeens?

12 A. Yeah, that's my sister. Her and her man came
13 to the house a few times.

14 Q. Whose sister?

15 A. My sister.

16 Q. That's your sister?

17 A. Uh-huh.

18 Q. Did she ever tell you she was aware of Janice's
19 will?

20 A. No.

21 Q. Okay. And now on here I had asked you about
22 Deidre Kyle earlier and you said she didn't really know
23 Janice and you don't think she had ever met her before?

24 A. I don't think she had. She only met her one
25 time.

1 Q. When I asked you earlier if she had ever met
2 her, you said no.

3 A. They wasn't -- they didn't -- they wasn't real
4 acquainted.

5 Q. You had -- on your answer you had said she had
6 known her for over ten years.

7 A. I had known her.

8 Q. Okay. It said the decedent, which would be
9 your wife so --

10 A. I don't really know when Janice met her. Like
11 I say, I went over there in '93 and we was there the
12 whole time together, worked together.

13 Q. Have you talked to James O. Hill at all?

14 A. Yeah, I talk to him every once in a while.

15 Q. Do you still talk to him?

16 A. Yeah.

17 Q. Have you talked to him about this will contest?

18 A. No, I didn't talk to him about the will. I
19 told him that they was contesting or whatever they're
20 doing.

21 Q. And is James -- did he used to be a judge?

22 A. Who?

23 Q. James O. Hill.

24 A. Not that I know of. Might have been. I don't
25 know what it was.

1 Q. I just wanted to see if this is the same James
2 O. Hill that I had talked to in another matter so --
3 Doyle Cobler?

4 A. What about him?

5 Q. Who is that? It just says a friend of Janice.
6 Earlier I asked you, you know, her best friend was.

7 MR. BANKHEAD: It doesn't matter, he's
8 dead.

9 MR. LEGERE: Okay.

10 Q. (BY MR. LEGERE) John Runyon?

11 A. He knew Janice real well. He lived right
12 across the road from us.

13 Q. Do you know the last time that he had spoken
14 with Janice?

15 A. I don't know exact day. It was probably -- he
16 was over there every week or two.

17 Q. Did you talk to him about this will contest?

18 A. About the will?

19 Q. Yes, sir.

20 A. I just told him we made out a will and left
21 everything to one another.

22 Q. I'm sorry, I didn't hear that last part.

23 A. Oh, I just said I told him we made out a will
24 and left everything to one another.

25 Q. When did you tell him that, before or after

1 Janice passed away?

2 A. Before.

3 Q. Okay. About when?

4 A. I don't know.

5 Q. Okay. And is that --

6 A. I don't remember exactly.

7 Q. And that was you had told him that or Janice
8 told him that?

9 A. I told him that.

10 Q. Okay. So you're not aware of Janice telling
11 him that that was --

12 A. No.

13 Q. Okay. Keith Ketchum, who is that?

14 A. He's a friend of mine, worked together off and
15 on. Done some work for him.

16 Q. Do you recall the last time -- or do you know
17 the last time that he had spoken with Janice?

18 A. Yeah, he was over there at the house, I don't
19 remember the date but --

20 Q. Do you know if it was before or after the will
21 was executed? And when I say "the will," actually I'm
22 talking about the instrument that you've submitted for
23 probate, the June 10th, 2009.

24 A. Yeah, probably after I imagine.

25 Q. After. Okay. Do you know if he has knowledge

1 about the contents of the will?

2 A. No, I don't know whether I ever mentioned it to
3 him or not. I might have.

4 Q. Ronnie Dartez?

5 A. That's just a guy I used to work with. He's
6 over there at the house a few times.

7 Q. Before or after the will was executed?

8 A. Probably both.

9 Q. Okay. Do you know if he has knowledge as to
10 the contents of the will?

11 A. I probably talked to him about it.

12 Q. Okay. Do you know if Janice ever told him what
13 the contents were of --

14 A. I couldn't say.

15 Q. And are you aware of Janice telling anybody of
16 the contents of her will?

17 A. Not while I was around unless it would be John
18 Runyon maybe or Keith. She might have talked. I don't
19 recollect to be honest with you.

20 Q. But as far as you recall, you don't recall
21 hearing her ever tell anyone the contents of the will?

22 A. I don't remember.

23 Q. Okay. Do you have any e-mails or letters in
24 which she had written to anybody about the contents of
25 her will?

1 A. Huh-uh. Nope.

2 Q. Would she communicate by e-mail with people?

3 A. Yeah.

4 Q. And who would she typically e-mail?

5 A. I don't know. I didn't have nothing to do with
6 the computer. That's all hers.

7 Q. Do you know if she had -- what her e-mail
8 account was?

9 A. No, I don't know a damn thing about a computer.

10 Q. Do you still have the computer she used?

11 A. Nope.

12 Q. Do you know what happened to it?

13 A. Huh?

14 Q. Do you know what happened to it?

15 A. I probably give it to somebody, I imagine.

16 Probably give it to Ben Partlou or Dee, I imagine. I
17 didn't have no use for it.

18 Q. You probably would have given it to Ben or
19 Deidre?

20 A. I figured I would. I probably give it to
21 somebody. I don't even remember. That's been too long
22 ago.

23 Q. Did she have any jewelry at the time of her
24 passing, Janice?

25 A. Yeah, she had a few things. I don't know what

1 all she had.

2 Q. Do you still have those items?

3 A. No.

4 Q. Do you know what happened to them?

5 A. Yeah, I give them to a friend of mine.

6 Q. And who was that?

7 A. It was a girl that works there at the Citizens
8 State Bank?

9 Q. And who is that?

10 A. I ain't going to get her name into it.

11 Q. Do you know what the value of those items were?

12 A. Nah, it wasn't much.

13 Q. Did you list those on your inventory? Do you
14 recall listing the jewelry on the inventory?

15 A. I don't know if I did or not. I don't know.

16 Q. The inventory that I see just basically lists
17 90,000 for the four acres and then 35,000 for 3.104
18 acres and then it had household furnishings and personal
19 effects, a total of \$2500. Was the jewelry included in
20 that \$2500 value?

21 A. I'm sure it was. I don't remember exactly.

22 Q. What kind of jewelry are we talking about?

23 A. Just a few little old knickknacks, earrings,
24 maybe some stuff like that. It wasn't much to it.

25 Q. Earrings. Any rings?

1 A. Nah, there was one little old ring looked like
2 she had when she was a kid. Still there at the house.

3 Q. Well, I'm just talking about the jewelry that
4 you would have given away that's not with the estate any
5 more.

6 A. Not that I seen wasn't no rings in there.

7 Q. So what was given away, what jewelry was given
8 away?

9 A. Probably just three or four little old earrings
10 or something. Probably didn't even use it. It wasn't
11 that much to it.

12 Q. And so how would we be able to find out those
13 items or photos of those items to figure out the value
14 of those?

15 A. I don't know. Like I say, I ain't going to get
16 her involved in it.

17 Q. Well, if the -- if it comes back that this
18 estate, they set aside the will, we're going to have --
19 we need to know the value of all the items from the
20 estate.

21 A. Probably \$50. It wasn't much to it. Just a
22 few little old odds and ends.

23 Q. Now and you also put that there was a -- under
24 personal property, household furnishings and personal
25 effects, you wrote 2500. There is no vehicles listed on

1 here.

2 A. Well, like I say, whenever she got that, only
3 had that Toyota Camry and I had an old 2000 model
4 Chevrolet truck.

5 Q. And you had gotten you said between five and
6 6,000 for the Camry.

7 A. Toyota Camry, yeah.

8 Q. Okay. So that's over double this household
9 furnishings and personal effects value that you listed
10 on your inventory. Okay. So there is jewelry, there is
11 vehicles that were purchased during the marriage, the
12 Toyota Camry and the Chevy pickup?

13 A. No, I bought, I bought the Chevy truck before
14 we was married.

15 Q. Okay. So if earlier when you testified that
16 there were two vehicles and I asked you if you purchased
17 them during the marriage, you said yes. Did you
18 misspeak?

19 A. I don't remember saying that. If I did, I made
20 a mistake. I bought that 2000 truck -- I had that 2000
21 truck when we met.

22 Q. Okay. So you bought that 2000 truck between --
23 sometime before June or July of 2000?

24 A. Yeah.

25 Q. So you bought it -- you purchased it brand new

1 then?

2 A. Yeah, I bought it brand new.

3 Q. And you still have that vehicle?

4 A. I've still got that 2000 Chevy.

5 Q. Okay. Where did you purchase it from?

6 A. Over there in Crockett. I forget the name of
7 the place, Chevrolet place. It's all gone now. I can't
8 remember. The Chevrolet place is all I know.

9 Q. What city?

10 MR. BANKHEAD: Crockett.

11 A. Crockett.

12 MR. BANKHEAD: It's folded. They took all
13 the dealerships away from Crockett.

14 Q. (BY MR. LEGERE) Okay. Is there any other
15 items other than jewelry -- and you said there was a
16 couple of thousand in the bank account at the time of
17 the passing that --

18 A. That's a guess.

19 Q. Okay. Were there any life insurance policy
20 that you were aware of?

21 A. Yeah, we had one on me and one on her. They
22 wouldn't pay because she committed suicide.

23 Q. Okay.

24 A. I didn't get life insurance.

25 Q. Any debts of the estate that you are aware of?

1 A. At the time of the, of the death.

2 Q. At the time of her passing. Like credit card
3 bills, things that had balances, loans or anything like
4 that.

5 A. I don't think there was any loans with the
6 bank. I think there might have been some credit cards
7 or something charged on a credit card, you know.

8 Q. Do you have an idea about how much that was --

9 A. No, I don't know.

10 Q. -- that was owed on the credit card?

11 A. I don't have any idea.

12 Q. Do you know if those were ever paid or if
13 they're still outstanding?

14 A. Yeah, they was paid.

15 Q. Did you pay them from that Citizens account?

16 A. Yeah, the account I've had since we was
17 married. I went up there and changed it over whenever.

18 Q. Was that account, did it have a pay on death
19 beneficiary or a joint tenancy right of survivorship
20 designation?

21 A. A what?

22 Q. Do you know if it had a joint tenancy with
23 right of survivorship designation or if it had a POD
24 designation, that Citizens Bank account?

25 A. I imagine it was just if one of us died, it

1 went to the other. It was joint account is all I can
2 tell you. I don't know anything else about it.

3 Q. Did you have to fill any additional paperwork
4 out or did it just automatically transfer over to you,
5 or do you know?

6 A. Well, that's what the paperwork I filled -- I
7 just changed it over from her -- her and my name to my
8 name. I just took her name out of it.

9 Q. And do you still have bank statements from the
10 December of 2010 bank statement?

11 A. Maybe. I don't know.

12 Q. Okay. And are you aware of any investment
13 accounts or IRAs, like retirement plans or anything?

14 A. That she had?

15 Q. Yes.

16 A. Not that I know of.

17 Q. You said she worked at the hospital earlier.
18 She was working at the time in 1999?

19 A. Yeah.

20 Q. And do you know if the hospital had any kind
21 of -- well, I take it back. Was she working at the
22 hospital at that time or was she working somewhere else?

23 A. She was working in the hospital when I met her.

24 Q. You said she was a nurse, so I'm just a
25 assuming that she was at a hospital.

1 A. Yeah.

2 Q. So it wasn't like a doctor's office?

3 A. No, it was the hospital in Madisonville.

4 Q. And you don't know if they had any kind of
5 employee retirement plans or anything like that?

6 A. (Indicating.)

7 Q. Is that a no?

8 A. I don't think she worked there long enough to
9 get any kind of retirement. They might have had
10 something. If she did, she drew it all at one time I
11 guess.

12 Q. Okay. Are you aware of any inheritances she
13 received from anybody?

14 A. Not that I know of.

15 Q. Okay. I think you had testified that you knew
16 of the seven acres that her parents gave --

17 A. We got that from the time whenever we met and
18 decided to get married.

19 Q. Okay. And you're not aware --

20 A. Made a trade with her mother and daddy to build
21 a house on it.

22 Q. And you're not aware of any land in any other
23 states that she had?

24 A. Not that I know of.

25 Q. Okay. So other than what's on the inventory

1 and the vehicle you told me about and the jewelry, were
2 there any farm equipment or anything or any boats or
3 motor --

4 A. No, just lawn mower and such as that, just
5 normal junk, you know.

6 Q. No trailers or anything like that?

7 A. I had an old tool trailer. I had an old tool
8 trailer I pulled around.

9 Q. Did you have that before the marriage?

10 A. Huh?

11 Q. Did you have that before the marriage?

12 A. Yeah.

13 Q. Okay. But sometimes people forget things like,
14 like ATVs or anything like that?

15 A. No, no ATVs.

16 Q. Okay. Any condos or time shares?

17 A. No, nothing like that.

18 Q. Any memberships at any country clubs or
19 anything?

20 A. No.

21 Q. Okay. I'm just going over my list that I have
22 on everything.

23 MR. BANKHEAD: Country club.

24 Q. (BY MR. LEGERE) Did she belong to any kind of
25 organizations, like church groups or craft groups or

1 anything like that?

2 A. Not that I know of.

3 Q. So then basically you're not aware of any other
4 people than who we've already discussed that would have
5 visited or talked to Janice since June of 2009?

6 A. No.

7 Q. Do you know if she spoke to any attorneys
8 during that time period?

9 A. Between when?

10 Q. Well, let's just go to 2008. From 2008 to her
11 passing do you know if she had talked to any attorneys?

12 A. 2000?

13 Q. 2008.

14 A. No, not that I know of.

15 Q. Okay. And as far as the phone -- did she have
16 a cell phone?

17 A. Yeah, but it didn't work out there. We didn't
18 get a signal on it.

19 Q. What -- if she were to call somebody or receive
20 a call, what number would she place that call on? Like
21 would it be the home phone?

22 A. House phone. I'd get it -- the number changed.
23 She had the number changed for some reason. I don't
24 remember what that other one is. It's 903-536-1026 now.

25 Q. When you say now, though, is that after her

1 passing it was changed or before her passing?

2 A. No, it was before. She's the one that changed
3 it. I never did change it after she was gone.

4 Q. And was it changed like in the last -- before
5 or after she did this will?

6 A. It was before.

7 Q. Okay. And you said it was 903-536?

8 A. 1026. That's the current number.

9 MR. BANKHEAD: Now.

10 A. I don't remember what the other one was.

11 MR. BANKHEAD: He doesn't know the other
12 number.

13 Q. (BY MR. LEGERE) But that's the number -- she
14 had changed that number, though, prior to her executing
15 the will that you're probating, though?

16 A. Yeah.

17 Q. So you guys had that number at least in 2009?

18 A. Yeah, that number was the one, I'm pretty sure.

19 Q. And do you know who the carrier is?

20 A. Yeah, let's see, Windstream.

21 Q. Windstream. And her cell phone carrier, who
22 was that?

23 A. I think it was AT&T. I don't remember for
24 sure.

25 Q. Do you know what her mobile number was?

1 A. No, I don't remember.

2 Q. All right. Have you understood all my
3 questions?

4 A. Huh?

5 Q. Have you understood all my questions?

6 A. As far as I can tell.

7 Q. And if you didn't, you would ask me to repeat
8 it or rephrase it or something?

9 A. Yeah.

10 MR. LEGERE: Okay. I'll pass the witness.

11 MR. BANKHEAD: Reserve questions.

12 (Deposition concluded.)

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CHANGES AND SIGNATURE

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1 I, GERALD WILLHELM, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.

4

5

6

GERALD WILLHELM

7

8 THE STATE OF _____)

9 COUNTY OF _____)

10

11 Before me, _____, on this day
 12 personally appeared GERALD WILLHELM, known to me or
 13 proved to me on the oath of _____ or through
 14 _____ (description of identity card
 15 or other document) to be the person whose name is
 16 subscribed to the foregoing instrument and acknowledged
 17 to me that he/she executed the same for the purpose and
 18 consideration therein expressed.

19 Given under my hand and seal of office on this _____
 20 day of _____, _____.

21

22

23

NOTARY PUBLIC IN AND FOR

24

THE STATE OF _____

25 My Commission Expires: _____

1 CAUSE NO. 0-12-12
2 ESTATE OF) IN THE DISTRICT COURT OF
3 JANICE LEE WILLHELM) LEON COUNTY, T E X A S
4 DECEASED) 369TH JUDICIAL DISTRICT

5 REPORTER'S CERTIFICATE
6 ORAL DEPOSITION OF GERALD WILLHELM
7 November 18, 2015

8 I, Suzanne Marlow, Certified Shorthand Reporter in
9 and for the State of Texas, hereby certify to the
10 following:

11 That the witness, GERALD WILLHELM, was duly sworn
12 and that the transcript of the deposition is a true
13 record of the testimony given by the witness;

14 That the deposition transcript was duly submitted on
15 _____ to the witness or to the attorney for
16 the witness for examination, signature, and return to me
17 by _____.

18 That pursuant to information given to the deposition
19 officer at the time said testimony was taken, the
20 following includes all parties of record and the amount
21 of time used by each party at the time of the
22 deposition:

23 Mr. Joseph E. Legere (2h25m)
24 Attorney for Howard Wayne Farmer and Jennifer
25 Davis
26 Mr. John R. Bankhead (0h0m)
27 Attorney for Gerald Willhelm

1 That a copy of this certificate was served on all
2 parties shown herein on _____ and filed
3 with the Clerk.

4 I further certify that I am neither counsel for,
5 related to, nor employed by any of the parties in the
6 action in which this proceeding was taken, and further
7 that I am not financially or otherwise interested in the
8 outcome of this action.

9 Further certification requirements pursuant to
10 Rule 203 of the Texas Code of Civil Procedure will be
11 complied with after they have occurred.

12 Certified to by me on this 7th day of December,
13 2015.

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Suzanne Marlow, CSR
Texas CSR 5193
Expiration: 12/31/2016
DepoTexas
Firm Registration 95
13101 Northwest Freeway, Suite 210
Houston, Texas 77040
(281) 469-5580

1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2 The original deposition was/was not returned to the
3 deposition officer on _____.

4 If returned, the attached Changes and Signature
5 page(s) contain(s) any changes and the reasons therefor.

6 If returned, the original deposition was delivered
7 to Mr. Joseph E. Legere, Custodial Attorney.

8 \$_____ is the deposition officer's charges to the
9 Contestants for preparing the original deposition and
10 any copies of exhibits;

11 The deposition was delivered in accordance with Rule
12 203.3, and a copy of this certificate, served on all
13 parties shown herein, was filed with the Clerk.

14 Certified to by me on this _____ day of

15 _____, _____.

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