

1992

Juanita Wintle v. Georgia Ferguson : Brief of Appellee

Utah Supreme Court

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DOCUMENT
11 BRIEF
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DOCKET NO. 920231

IN THE SUPREME COURT OF THE STATE OF UTAH

JUANITA WINTLE,)	
)	Supreme Court No. 920231
Plaintiff/Appellee,)	
)	
vs.)	
)	
GEORGIA FERGUSON, aka)	
GEORGIA CARBAJAL,)	Priority No. 16
)	
Defendant/Appellant.)	

BRIEF OF APPELLEE

APPEAL FROM THE SECOND JUDICIAL DISTRICT COURT FOR WEBER COUNTY
STATE OF UTAH
JUDGE DAVID E. ROTH

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FILED

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CLERK SUPREME COURT
UTAH

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)	Supreme Court No. 920231
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SUMMARY OF ARGUMENT

Defendant-Appellant (the daughter, Georgia) asserts 3 points: (1) plaintiff-appellee (the mother, Juanita) made a late and prejudicial amendment to her cause of action by arguing the law of constructive trusts at trial (Br. Point I), (2) the trial court misapplied the law of constructive trusts (Br. Point II), and (3) findings of fact

are supported by a deposition not signed by the deceased mother contrary to the daughter's claim that the deposition is not reliable (not set out as a separate point but alluded to extensively, Br. 6-10, 12, 15, 17-19).

The mother asserts the trial court's decision is supported by clear and convincing evidence of both a constructive trust founded on confidential relationship and a purchase money resulting constructive trust.

In the view of the mother's counsel, all constructive trusts look alike at a distance; that is, they look like trusts imposed to prevent the unjust enrichment of persons holding legal or documentary title to another's property. Close up, an infinite verity of constructive trust subspecies and hybrids can be distinguished, each with subtle distinctive markings, all running wild on the judicial constructive trust range, where a lot of constructive trust inbreeding occurs.

A distinction sometimes made between a purchase money resulting constructive trust and a constructive trust founded on a confidential relationship is illustrated in Osterberg v. Osterberg, 563 P.2d 696 (Oregon 1977). This distinction is recognized in the Matter

of Estate of Hock, 655 P.2d 1111 (Utah 1982). A constructive trust founded on a confidential relationship is imposed where there is a breach or abuse of confidence, although absent a breach of fiduciary duty, resulting in unjust enrichment. Osterberg, 563 P.2d at 698. A purchase money resulting constructive trust is a constructive trust imposed on a mere showing that (1) one person paid for property (2) the title to which is placed in another's name without consideration, and (3) a gift to a spouse or child of the payor is not intended. The mother argues that a breach of confidence, or a breach of fiduciary duty, is evidence that a gift is not intended; and that such breach of confidence is evident in this case. The mother also argues that one set of facts can give rise to more than one legal reason to impose a constructive trust, and therefore, it does not matter on appeal which specific designation a trial court attaches to a finding of constructive trust. A canny constructive trustee could be a mere title holder, breach a confidence, breach a fiduciary duty, embezzle, lie, cheat and steal, all within the same factual background. Juanita claims that Georgia was a mere title holder, and also breached a confidence.

The trial court concluded "1. Based upon the above findings, it is the Court's opinion that defendant, Georgia Ferguson,

will be unjustly enriched if allowed to keep the property,” and “2. The Court finds that a construction [constructive] trust was created when Juanita Wintle transferred the property to herself and her daughter and that the intended result was that upon Juanita Wintle’s death all her children would share equally in the property” (Conclusions of Law, R. 109-110), which appears to be a correct application of constructive trust law to the facts in this case.

The pleadings, findings of fact, supporting evidence and conclusions of law, with references to the record, are discussed as follows.

ARGUMENT

POINT I

NO AMENDMENT TO THE PLEADINGS WAS NECESSARY

The daughter asserts the trial court permitted a “defacto” amendment to the complaint by listening to the legal argument of the mother’s counsel at trial that the law of constructive trusts applied to the facts in this case. Br. at 4, 15. Rule 8(e)(1) of the Utah Rules of Civil Procedure requires that “Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.” The mother’s complaint substantially

complies with this rule, and the trial court granted relief as prayed in the complaint based upon facts alleged in the complaint. The daughter does not point out the defects complained of and the details desired in the mother's pleadings, other than to assert the mother's legal argument at trial about the facts should have been expressly set out in the pleadings before trial.

Generally, one pleads facts, not legal theories, and prays judgment based on the facts alleged in the complaint. It is the duty of the trial court to find the law applicable to the facts established by the evidence. A trial court does not always or necessarily consider only those legal theories argued by counsel in reaching its decision.

POINT II

THE EVIDENCE SUPPORTS THE TRIAL COURT'S FINDING OF A CONSTRUCTIVE TRUST

Standard of review. "In our review of an equity case such as this, we will not disturb the trial court's findings of facts unless the evidence clearly preponderates against it." Matter of Estate of Hock, 655 P.2d 1111 (Utah 1982) at p. 1114.

The mother claims there is substantial evidence supporting the imposition of a constructive trust; and that the evidence supports the imposition of both a so-called constructive trust founded on a

confidential relationship and a so-called purchase money resulting constructive trust, arguing that both are variations of the concept of unjust enrichment.

Since the the daughter's counsel emphasized her own evidence without marshalling and attacking the evidence supporting the trial court's decision, counsel for the mother has searched the record for specific examples of evidence supporting the trial court's decision. Some of this evidence would support a finding of a purchase money resulting constructive trust, some would support a finding of a constructive trust founded on a confidential relationship, and some would support a finding of both a purchase money resulting constructive trust and a constructive trust founded on a confidential relationship. Juanita Wintle's testimony necessarily would be the more persuasive evidence before the trial court . A complete copy of the short deposition of Juanita is attached hereto as Appendix A for easy reference. Counsel has abstracted parts of the deposition here to assess factors claimed to be supportive of the trial court's findings.

The following factors gleaned from Juanita's deposition adequately support the trial court's decision impose a constructive

trust.

1. Intent. There is much testimony about Juanita's intent, including the following:

Q SO WHEN YOU SIGNED THIS QUIT-CLAIM DEED, WHAT WAS YOUR INTENT? WHAT WERE YOU TRYING TO ACCOMPLISH?

A TO KEEP IT FROM HAVING TO GO THROUGH PROBATE. (Dep. 11)

Q THAT'S WHAT THE DOCUMENT DOES. BUT WHO DID YOU WANT THE HOUSE TO GO TO?

A I WANTED IT TO GO TO ALL FOUR OF THEM.

Q ALL FOUR OF YOUR CHILDREN?

A YES. (Dep. 11)

2. No consideration.

Q DID YOU RECEIVE ANY MONEY OR COMPENSATION FROM ANYONE FOR SIGNING THIS DEED?

A NO. (Dep. 15)

3. Not a gift.

Q NOW, AT THIS PARTICULAR TIME, GEORGIA WAS -- SHE IS YOUR YOUNGEST DAUGHTER, AS I UNDERSTAND YOU?

A SURE.

Q AND YOU WERE ON GOOD TERMS WITH HER THEN?

A THAT'S RIGHT.

Q YOU'VE INDICATED THE REASON YOU PUT HER NAME ON IT AS THE TIME WAS THAT YOU DIDN'T WANT TO GO THROUGH PROBATE?

A YES.

Q NOW, ISN'T IT TRUE THAT YOU ELECTED AND DECIDED TO USE GEORGIA BECAUSE YOU DIDN'T TRUST ANY OF YOUR OTHER CHILDREN TO DISPERSE IT WHEN YOU BECAME DECEASED?

A NO, THAT'S NOT RIGHT. (Dep. 18, 19)

4. The mother's trust placed in a confidential relationship with her daughter.

Q WAS IT ABOUT THE SAME TIME AS YOU SIGNED A QUIT-CLAIM

DEED?

A SHE WAS LIVING WITH ME AT THE TIME I SIGNED THAT.

Q TELL US A LITTLE BIT ABOUT THE RELATIONSHIP THAT YOU HAD WITH YOUR DAUGHTER, GEORGIA, BACK IN 1979 WHEN SHE WAS LIVING WITH YOU.

A WELL, I HAD A GOO RELATIONSHIP WITH HER. I TRUSTED HER AND WE GOT ALONG REAL GOOD. (Dep. 7)

Q NOW --

A I KNEW IT WOULD GO TO GEORGIA, BUT SHE WAS SUPPOSED TO, LIKE I SAID, SUPPOSED TO HAVE SOLD IT AND DIVIDED IT EQUALLY.

Q BUT YOU KNEW IT WENT TO HER FIRST AND THEN SHE WAS SUPPOSED TO CARRY FORWARD AND THEN HAVE IT SOLD AND DIVIDED FOUR WAYS, RIGHT?

A SHE WAS TO LET LARRY SELL IT.

Q BUT YOU KNEW FIRST OF ALL THAT SHE WAS TO GET IT, RECEIVE THE PROPERTY, DIDN'T YOU?

A I DON'T KNOW THAT. (Dep. 26)

Q BUT HAS GEORGIA EVER TOLD YOU THAT SHE WOULDN'T DO JUST THAT THING, DIVIDE IT THE FOUR WAYS?

A I DON'T TRUST HER NO MORE. I USED TO TRUST HER SOMETIME, BUT I DON'T NO MORE.

5. Promises.

Q WHEN YOU SAY WE WERE TALKING, WHO WERE YOU TALKING WITH?

A GEORGIA AND I. AND SO THEN I GUESS I DECIDED TO LET HER PUT HER NAME ON THERE WITH ME SO IT WOULDN'T GO THROUGH PROBATE. SHE PROMISED ME IF ANYTHING HAPPENED TO ME SHE WOULD LET LARRY -- HE WAS EXECUTOR OF MY WILL -- SHE WOULD LET HIM SELL IT AND EVERYTHING WOULD BE DIVIDED EQUALLY THAT THEY GOT OUT OF THE HOUSE, THE PROPERTY. (Dep. 11)

Q TELL US, THEN, WHAT YOU DESIRED TO ACCOMPLISH BY SIGNING THIS QUIT-CLAIM DEED?

A WELL, I JUST FIGURED THAT IT WOULD PROBABLY KEEP IT

FROM GOING THROUGH PROBATE AND SHE PROMISED ME THAT SHE WOULD LET LARRY SELL IT AND IT WOULD BE DIVIDED UP EQUAL. (Dep. 12)

Q BUT SHE DIDN'T TELL YOU ANYTHING THAT YOU CAN REMEMBER THAT MADE YOU SIGN THAT DOCUMENT, DID SHE?

A ONLY THAT SHE WOULD SEE THAT LARRY SOLD IT AND DIVIDE IT EQUAL. (Dep. 30)

6. Susceptibility to influence.

Q AT THE TIME OF SIGNING THIS QUIT-CLAIM DEED, DID YOU UNDERSTAND WHAT IT MEANT AT THE TIME YOU SIGNED IT?

A I DON'T THINK I EVEN THOUGHT ABOUT IT, TO BE TRUTHFUL WITH YOU.

Q WHO WAS IT THAT EXPLAINED TO YOU THE LAW ABOUT PROBATE?

A WELL, SHE DID BECAUSE SHE HAD BEEN A LEGAL SECRETARY TO ALL THESE LAWYERS UP IN ALASKA. (Dep. 12)

Q I'LL REPHRASE IT FOR YOU. IT SAYS THAT GEORGIA KNOWINGLY AND FRAUDULENTLY TOLD YOU THE SIGNIFICANCE OR THE MEANING OF THE DOCUMENT OF THE QUIT-CLAIM DEED. SHE MADE SOME FALSE MISREPRESENTATIONS TO YOU SO THAT THE PROPERTY WOULD BE PUT IN HER NAME.

A SHE KNEW BECAUSE SHE HAD BEEN A LEGAL SECRETARY ALL ABOUT PROPERTY, WHICH I DIDN'T. (Dep. 29)

A SHE KNOW ALL THIS LEGAL STUFF, WHICH I DIDN'T. (Dep. 31)

7. Procurement.

Q MRS. WINTLE, GOING BACK TO 1979 WHEN YOU SIGNED THIS. YOU SAY GEORGIA WAS LIVING WITH YOU AT THE TIME?

A SHE WAS.

Q NOW, AS FAR AS THE NOTION AND PREPARATION FOR THIS QUIT-CLAIM DEED WHICH IS EXHIBIT 1, THE IDEA WAS YOUR IDEA, WASN'T IT?

A IT WAS BOTH OUR IDEAS.

Q THEN YOU'VE TESTIFIED THAT GEORGIA DIDN'T EXERT ANY

PRESSURE ON YOU TO DO IT, CORRECT?

A THAT'S RIGHT.

Q NOW, YOU UNDERSTAND YOU ARE UNDER OATH AND YOU HAVE TO TELL THE FULL TRUTH?

A WELL, I DID, THAT'S RIGHT.

Q OKAY.

A WE JUST TALKED ABOUT IT TOGETHER AND THAT WAS IT.

Q RIGHT. NOW, THE WAY THIS WAS ACCOMPLISHED IN DOING IT, FIRST OFF YOU KNEW THAT GEORGIA HAD WORKED AS A LEGAL SECRETARY IN AN ADMIRALTY OFFICE UP IN ALASKA?

A WELL, I DIDN'T KNOW WHAT OFFICE SHE WORKED IN, BUT I KNEW SHE WORKED AS A LEGAL SECRETARY.

Q BUT IN ANY EVENT, IN ORDER TO PREPARE THIS QUIT-CLAIM DEED TO FIND OUT HOW TO DO IT, YOU AND GEORGIA WENT DOWN TO THE COUNTY BUILDING, DIDN'T YOU?

A THAT'S RIGHT.

Q AND THEY TOLD YOU HOW TO DO IT, CORRECT?

A YES. (Dep. 16, 17)

8. Daughter's acknowledgement of trust and motive not to honor it.

Q OKAY. NOW, GOING BACK A LITTLE WHILE. YOU WANTED TO SELL THIS PARTICULAR HOUSE, DIDN'T YOU?

A THAT'S RIGHT, BECAUSE I CAN'T KEEP THE YARD UP AND DO ANYTHING IN IT.

Q AND YOU WANTED TO BUY A DUPLEX FROM LARRY AND BRENT, YOUR TWO SONS?

A I WAS GOING TO BUY ONE.

Q AND YOU WERE GOING TO SELL THIS PROPERTY AND THEN MOVE INTO THIS DUPLEX?

A THAT'S RIGHT.

Q AND IT WAS AFTER YOU WEREN'T ABLE TO SELL THIS HOUSE THAT YOU DECIDED TO DO THIS?

A NO, I WASN'T. IT WASN'T AFTER I WASN'T ABLE TO SELL. IT WAS BECAUSE SHE, ON THE LAST SATURDAY IN APRIL, SHE TOLD ME SHE WOULD SIGN THE DEED BACK TO ME. THEN ON SUNDAY LARRY AND MY OTHER DAUGHTER GOT IN A BIG ARGUMENT. SO THE DAUGHTER UP IN BRIGHAM CALLED HER, GEORGIA, AND BETWEEN THE TWO OF THEM SHE SAID SHE WOULD SIGN IT NO MORE.

- Q NOW --
- A WASN'T BECAUSE I COULDN'T SELL MY PROPERTY BECAUSE IT'S IN A CHOICE AREA.
- Q NOW, DIDN'T GEORGIA REFUSE TO LET YOU SELL IT BECAUSE SHE DIDN'T THINK IT WOULD BE THE BEST THING FOR YOU TO MOVE INTO A NEW DUPLEX?
- A SHE JUST DIDN'T WANT ME TO MOVE, PERIOD. SHE CLAIMED THAT PEOPLE HAD TROUBLE ADJUSTING AFTER THEY MOVED AND LIVED IN THEIR HOME FOR SO LONG. (Dep. 20, 21)

The foregoing testimony well supports the trial court's findings. It is not suggested that the trial court should have made more detailed findings. The mother claims the trial court's findings are sufficient grounds to impose a constructive trust and the findings are adequately supported by substantial evidence.

POINT III

THE DEPOSITION OF THE DEAD PLAINTIFF WAS ADMISSIBLE

Throughout her appeal brief Georgia alludes to Juanita's deposition as being suspect (Br. 6-10, 12, 15, 17-19) The Deposition of Juanita Wintle was not signed by Juanita, who died June 3, 1987, but it is certified by the court reporter on October 30, 1986. The the daughter's trial counsel was present and cross examined the witness. The deposition may be used by the trial court under Rules 30(e) and 32(a)(3)(A) of the Utah Rules of Civil Procedure. The original deposition of Juanita Wintle was filed with the trial court after the

trial. The reasons for the delay in obtaining the deposition are not disclosed or challenged on appeal, except by vague allusions to trustworthiness, and obviously were adequate to the trial court.

CONCLUSION

The trial court judge applied the law to the facts he found to be supported by the evidence. The law applied by a trial court need not necessarily be the same law counsel chose to plead or argue. The daughter complains more about the choice of law applied to the facts by the trial court than about the applicability of the law as found by the trial court. The judgment of the trial court should be affirmed without requiring further findings.

DATED September 3, 1992.

A handwritten signature in cursive script, reading "Larrie A. Carmichael", written over a horizontal line.

LARRIE A. CARMICHAEL

Attorney for Plaintiff-Appellee

CERTIFICATE OF MAILING

This certifies that the undersigned mailed 4 copies of the Appellee's Brief to the following this 3rd day of September, 1992.

RONALD W. PERKINS, ESQ.
Attorney for Defendant-Appellant
205 26th Street # 34
OGDEN UT 84401

A handwritten signature in cursive script, reading "Larrie A. Carmichael", written over a horizontal line.

LARRIE A. CARMICHAEL
Attorney for Plaintiff-Appellee

APPENDIX A

DEPOSITION OF JUANITA WINTLE

IN THE SECOND DISTRICT COURT OF WEBER COUNTY

STATE OF UTAH

* * *

JUANITA WINTLE,

PLAINTIFF,

VS.

GEORGIA FERGUSON, A/K/A
GEORGIA CARBAJAL,

DEFENDANT.

CIVIL NO. 96935

DEPOSITION OF:

JUANITA WINTLE

* * *

BE IT REMEMBERED THAT ON THE 16TH DAY OF
OCTOBER, 1986, THE DEPOSITION OF JUANITA WINTLE, PRODUCED AS A
WITNESS HEREIN, AT THE INSTANCE OF THE DEFENDANTS HEREIN, IN
THE ABOVE-ENTITLED ACTION NOW PENDING IN THE ABOVE-NAMED COURT,
WAS TAKEN BEFORE JOANNE PRATT, A CERTIFIED SHORTHAND REPORTER
AND NOTARY PUBLIC IN AND FOR THE STATE OF UTAH, COMMENCING AT
THE HOUR OF 11:15 A.M. OF SAID DAY AT THE LAW OFFICES OF
DOUGLAS M. DURBANO, UNITED SAVINGS PLAZA, #320, 4185 HARRISON
BOULEVARD, OGDEN, STATE OF UTAH.

THAT THE SAID DEPOSITION WAS TAKEN PURSUANT TO
NOTICE.

* * *

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A P P E A R A N C E S

FOR THE PLAINTIFF: DOUGLAS M. DURBANO
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 4185 HARRISON BOULEVARD
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FOR THE DEFENDANT: RONALD W. PERKINS
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 205 26TH STREET
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ALSO PRESENT: LARRY WINTLE

* * *

I N D E X

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* * *

E X H I B I T S

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1 P R O C E E D I N G S

2
3 JUANITA WINTLE

4 CALLED AS A WITNESS FOR AND IN BEHALF OF THE PLAINTIFF,
5 AFTER BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:
6

7 EXAMINATION

8 BY MR. DURBANO:

9 Q WE'VE TALKED A LITTLE BIT ABOUT A DEPOSITION AND
10 YOU NEED TO ANSWER OUT LOUD. WE RECOGNIZE THAT IT IS THE
11 FIRST TIME YOU'VE EVER HAD YOUR DEPOSITION TAKEN. PLEASE
12 DON'T BE NERVOUS.

13 THE PURPOSE OF THIS DEPOSITION IS TO DISCOVER
14 FACTS AND INFORMATION AROUND A DEED THAT WAS GIVEN BACK IN
15 -- A DEED GIVEN SOMETIME IN 1979 IN REGARDS TO PROPERTY
16 KNOWN AS ALL OF LOT 19, BLOCK FIVE, LOMAND ACRES
17 SUBDIVISION NORTH OGDEN CITY, WEBER COUNTY, UTAH.

18 NOW, COULD YOU STATE YOUR FULL NAME AND ADDRESS?

19 A YEAH. ALICE JUANITA -- DO YOU WANT MY MAIDEN
20 NAME? WAYMENT WINTLE.

21 Q AND YOUR DATE OF BIRTH?

22 A WHAT?

23 Q YOUR DATE OF BIRTH.

24 A FEBRUARY 24, 1912.

25 MR. PERKINS: BEFORE WE GO ANY FURTHER, I WOULD LIKE

1 TO JUST PUT ON THE RECORD THAT ALL OBJECTIONS AS TO THE FORM
2 OF THE QUESTION ARE GOING TO BE RESERVED UNTIL THE TIME OF
3 TRIAL. BUT THE RECORD SHOULD REFLECT THAT THE DEPONENT IS
4 THE PLAINTIFF IN THE MATTER AND THE DEPOSITION HAS BEEN
5 NOTICED BY THE PLAINTIFF'S COUNSEL AND THEREFORE THE
6 OBJECTIONS EXCEPT AS TO THE FORM WILL BE RESERVED UNTIL THAT
7 TIME OF TRIAL.

8 Q (MR. DURBANO) IT'S JUST LEGAL TALK. DON'T
9 WORRY ABOUT IT. COULD YOU GIVE US A LITTLE BIT OF YOUR
10 HISTORY, YOUR EDUCATIONAL BACKGROUND, WHERE YOU'VE LIVED,
11 THAT TYPE OF THING.

12 A I'VE LIVED OUT IN WARREN, UTAH; ASHFORD, IDAHO
13 AND THEN JUST AROUND THE AREA, OGDEN AREA, MOST OF THE TIME.

14 Q WHERE DO YOU LIVE NOW?

15 A NORTH OGDEN.

16 Q CAN YOU GIVE THE ADDRESS?

17 A 478 EAST 3050 NORTH.

18 Q IS THAT IN NORTH OGDEN?

19 A JUST OGDEN, UTAH 84404.

20 Q HOW LONG HAVE YOU LIVED THERE?

21 A THIRTY -- LET'S SEE. I'VE BEEN IN MY HOUSE 32
22 YEARS, SINCE '54, ANYWAY. I THINK IT'S ABOUT THAT.

23 Q AND THAT'S THE SAME HOME THAT IS THE SUBJECT
24 MATTER OF THIS LAWSUIT; IS THAT CORRECT?

25 A THAT'S RIGHT.

1 Q DO YOU KNOW THE LEGAL DESCRIPTION OF THAT HOME?
2 DO YOU KNOW WHAT I MEAN BY THAT? DO YOU KNOW WHAT A LEGAL
3 DESCRIPTION OF A PIECE OF PROPERTY IS?

4 A NOT REALLY.

5 Q THAT'S FINE. TELL US ABOUT YOUR EDUCATIONAL
6 BACKGROUND. DID YOU --

7 A HIGH SCHOOL.

8 Q -- FINISH HIGH SCHOOL, THEN?

9 A YES.

10 Q DID YOU GO TO COLLEGE?

11 A NO.

12 Q WHAT HAVE YOU DONE MOST OF YOUR LIFE?

13 A WELL, FOR YEARS I JUST STAYED AT HOME AND RAISED
14 MY KIDS AND I'VE JUST WORKED AT TWO OR THREE DIFFERENT
15 PLACES.

16 Q WHAT TYPE OF WORK?

17 A WELL, I WORKED OUT TO MORQUARDT WHEN THEY WERE
18 HERE, IN THE CAFETERIA. I'VE WORKED AT THAT SIERRA LINGERIE
19 FOR QUITE A FEW YEARS.

20 Q IS THAT MOSTLY LABOR TYPE WORK OR WAS IT --
21 COULD YOU JUST GIVE US A LITTLE BIT OF BACKGROUND THERE?

22 A WELL, OUT TO SIERRA LINGERIE I RAN A SEWING
23 MACHINE.

24 Q HOW ABOUT AT MORQUARDT?

25 A WELL, I JUST WORKED IN THE CAFETERIA HELPING

1 PREPARE THE FOODS THEY SERVED FOR THEIR LUNCHES AND DINNER.

2 Q COULD YOU TELL US A LITTLE BIT ABOUT YOUR
3 HEALTH?

4 A WELL, I WAS IN GOOD HEALTH UNTIL A FEW -- I
5 THINK IT WAS 1970, RIGHT AROUND THERE. THEN I GOT DIABETES
6 AND THEN FIVE YEARS AGO THIS LAST AUGUST I HAD A REAL BAD
7 HEART ATTACK. THEN I WAS IN THE HOSPITAL ABOUT A YEAR AGO
8 NOW BECAUSE MY HEART -- LUNGS STARTED FILLING UP WITH WATER.

9 Q ARE YOU MARRIED AT THE PRESENT TIME?

10 A NO.

11 Q IS YOUR HUSBAND DECEASED?

12 A YES.

13 Q AND DO YOU RECALL WHEN IT WAS THAT HE PASSED
14 AWAY?

15 A GOT IN AN AUTOMOBILE ACCIDENT.

16 Q DO YOU REMEMBER WHEN THAT WAS APPROXIMATELY?

17 A WELL, IT'S THE 19TH OF JULY. IT'S TEN YEARS
18 AGO.

19 Q 1976? DOES THAT SOUND RIGHT? IN FACT, I HAVE
20 HERE A CERTIFICATE OF DEATH THAT SHOWS THE 19TH OF JULY OF
21 1976. DOES THAT SOUND RIGHT?

22 A YES.

23 Q HAVE YOU LIVED ALONE SINCE THEN?

24 A YES, EXCEPT WHEN GEORGIA MOVED IN WITH ME FOR A
25 FEW MONTHS.

1 Q ALL RIGHT. TELL US A LITTLE BIT ABOUT WHEN
2 GEORGIA MOVED IN WITH YOU. GEORGIA IS THE DEFENDANT IN THIS
3 LAWSUIT; IS THAT CORRECT?

4 A YES.

5 Q THIS IS YOUR DAUGHTER?

6 A YEAH, YOUNGEST DAUGHTER. SHE WAS LIVING UP IN
7 ALASKA AT THE TIME AND HER -- SHE GOT A DIVORCE FROM HER
8 HUSBAND AND SHE COME DOWN HERE AND MOVED IN WITH ME FOR
9 ABOUT SIX MONTHS OR MORE.

10 Q DO YOU REMEMBER WHEN THAT WAS?

11 A OH, IT WAS ABOUT NINE YEARS AGO.

12 Q SO SHORTLY AFTER SHE GOT DIVORCED FROM HER
13 HUSBAND?

14 A YES.

15 Q AND SHE LIVED WITH YOU FOR ABOUT SIX MONTHS?

16 A YES.

17 Q WAS IT ABOUT THE SAME TIME AS YOU SIGNED A QUIT-
18 CLAIM DEED?

19 A SHE WAS LIVING WITH ME AT THE TIME I SIGNED
20 THAT.

21 Q TELL US A LITTLE BIT ABOUT THE RELATIONSHIP THAT
22 YOU HAD WITH YOUR DAUGHTER, GEORGIA, BACK IN 1979 WHEN SHE
23 WAS LIVING WITH YOU.

24 A WELL, I HAD A GOOD RELATIONSHIP WITH HER. I
25 TRUSTED HER AND WE GOT ALONG REAL GOOD.

1 Q HAD SHE BEEN LIVING IN ALASKA FOR A LONG TIME?

2 A NO; ABOUT A YEAR.

3 Q WERE YOU HAPPY TO HAVE HER TO COME AND STAY WITH
4 YOU FOR A FEW MONTHS?

5 A YES.

6 Q DID YOU SOCIALIZE TOGETHER, GO OUT TO LUNCH OR
7 DO THINGS?

8 A WELL, NOT TOO OFTEN.

9 Q HOW ABOUT WHEN SHE WAS LIVING WITH YOU?

10 A WE WOULD GO OUT AND EAT ONCE IN A WHILE, BUT --

11 Q WAS SHE WORKING AT THE TIME?

12 A WELL, NOT AT THE TIME. SHE FINALLY GOT HER A
13 JOB. IT TOOK HER QUITE A WHILE. THEY ALWAYS TOLD HER SHE
14 WAS TOO QUALIFIED.

15 Q WHAT ARE HER QUALIFICATIONS, DO YOU KNOW?

16 A WELL, I JUST KNOW THAT SHE HAD BEEN A LEGAL
17 SECRETARY UP THERE IN ALASKA FOR DIFFERENT LAWYERS.

18 Q WHAT KIND OF JOB DID SHE FINALLY GET, DO YOU
19 REMEMBER?

20 A SHE WORKED WITH WEBER COUNTY MENTAL HEALTH, I
21 THINK, FOR THE FIRST JOB SHE GOT.

22 Q AND WHAT WAS HER JOB THERE, DO YOU KNOW?

23 A JUST SECRETARIAL WORK.

24 Q WHILE SHE LIVED WITH YOU FOR THOSE SIX MONTHS
25 BACK IN '79, DID SHE FINANCIALLY SUPPORT YOU AT ANY TIME OR

1 WERE YOU HELPING HER?

2 A I WAS HELPING HER.

3 Q AND WHY WAS THAT?

4 A WELL, I GUESS SHE DIDN'T HAVE ANY MONEY AND SHE
5 COME DOWN HERE AND I HELPED HER OUT AND BOUGHT THE KIDS ALL
6 THEIR SCHOOL CLOTHES.

7 Q WHY WAS SHE LIVING WITH YOU?

8 A WELL, SHE DIVORCED HER HUSBAND AND SHE COME BACK
9 HOME.

10 Q SHE DIDN'T HAVE ANY OTHER PLACE TO LIVE?

11 A NO.

12 Q AT THE TIME WHILE SHE WAS LIVING WITH YOU,
13 APPARENTLY THERE WAS A QUIT-CLAIM DEED SIGNED THAT APPEARS
14 TO HAVE BEEN RECORDED ON JULY 9 OF 1979. LET ME SHOW YOU
15 WHAT'S BEEN MARKED AS EXHIBIT NUMBER 1 AND SEE IF YOU CAN
16 TELL ME WHAT THIS IS. NO, THAT'S A PHOTOCOPY OF A DOCUMENT.
17 CAN YOU IDENTIFY THAT DOCUMENT?

18 A NO. I JUST HAD ONE AT HOME. I THINK I GOT IT
19 WHEN I WENT DOWN TO THE CITY AND COUNTY BUILDING. IT
20 DOESN'T HAVE ANYTHING LIKE THAT ON IT.

21 Q LIKE WHAT?

22 A THIS SQUARE WHERE IT SAYS EXHIBIT NUMBER 1. DID
23 YOU JUST PUT THAT ON?

24 Q I JUST PUT THAT ON THERE.

25 A WELL, IT SAYS ABOUT THE SAME THING UP HERE.

1 Q CAN YOU TELL ME WHAT THAT DOCUMENT IS, OR DO YOU
2 EVEN KNOW?

3 A WELL, I GUESS IT'S JUST -- TURNS MY HOUSE OVER
4 TO HER.

5 Q DO YOU KNOW THAT BECAUSE OF WHAT LARRY HAS TOLD
6 YOU OR DO YOU RECOGNIZE WHAT THIS DOCUMENT IS?

7 A NO. I RECOGNIZE WHAT IT IS. BUT LIKE I SAY, I
8 DIDN'T THINK SHE WOULD DO THIS TO ME.

9 Q WHAT IS THIS DOCUMENT CALLED? COULD YOU READ US
10 THE CAPTION?

11 A QUIT-CLAIM DEED.

12 Q IS YOUR SIGNATURE AT THE BOTTOM OF THAT
13 DOCUMENT, MRS. WINTLE?

14 A YES, IT IS.

15 Q DO YOU RECALL WHEN YOU SIGNED THAT QUIT-CLAIM
16 DEED?

17 A I DON'T RECALL THE DATE, BUT I REMEMBER GOING
18 DOWN THERE AND SIGNING IT.

19 Q WHEN YOU SAY GOING DOWN THERE --

20 A WEBER CITY AND COUNTY BUILDING.

21 Q YOU WENT TO THE OGDEN CITY, WEBER COUNTY
22 BUILDING?

23 A YES.

24 Q DO YOU KNOW WHY YOU WENT THERE TO SIGN IT?

25 A WELL, BECAUSE WE WERE TALKING ABOUT THE PROPERTY

1 AND EVEN IF YOU LEFT A WILL, WHICH I HAD A WILL, AND IT ENDS
2 UP GOING THROUGH PROBATE.

3 Q WHEN YOU SAY WE WERE TALKING, WHO WERE YOU
4 TALKING WITH?

5 A GEORGIA AND I. AND SO THEN I GUESS I DECIDED TO
6 LET HER PUT HER NAME ON THERE WITH ME SO IT WOULDN'T GO
7 THROUGH PROBATE. SHE PROMISED ME IF ANYTHING HAPPENED TO ME
8 SHE WOULD LET LARRY -- HE WAS THE EXECUTOR OF MY WILL -- SHE
9 WOULD LET HIM SELL IT AND EVERYTHING WOULD BE DIVIDED
10 EQUALLY THAT THEY GOT OUT OF THE HOUSE, THE PROPERTY.

11 Q SO WHEN YOU SIGNED THIS QUIT-CLAIM DEED, WHAT
12 WAS YOUR INTENT? WHAT WERE YOU TRYING TO ACCOMPLISH?

13 A TO KEEP IT FROM HAVING TO GO THROUGH PROBATE.

14 Q KEEPING THE HOUSE FROM GOING THROUGH PROBATE?

15 A YES.

16 Q AND WHO WAS THE HOUSE SUPPOSED TO GO TO AFTER
17 YOU PASSED AWAY?

18 A WELL, I WOULD -- IT WENT TO GEORGIA BECAUSE SHE
19 HAS HER NAME ON HERE.

20 Q THAT'S WHAT THE DOCUMENT DOES. BUT WHO DID YOU
21 WANT THE HOUSE TO GO TO?

22 A I WANTED IT TO GO TO ALL FOUR OF THEM.

23 Q ALL FOUR OF YOUR CHILDREN?

24 A YES.

25 Q SO WHEN YOU SIGNED THIS QUIT-CLAIM DEED, WAS IT

1 YOUR INTENT THAT THE HOME SHOULD GO SOLELY TO GEORGIA ALONE?
2 A NO, IT WASN'T.
3 Q TELL US, THEN, WHAT YOU DESIRED TO ACCOMPLISH BY
4 SIGNING THIS QUIT-CLAIM DEED?
5 A WELL, I JUST FIGURED THAT IT WOULD PROBABLY KEEP
6 IT FROM GOING THROUGH PROBATE AND SHE PROMISED ME THAT SHE
7 WOULD LET LARRY SELL IT AND IT WOULD BE DIVIDED UP EQUAL.
8 Q AT THE TIME OF SIGNING THIS QUIT-CLAIM DEED, DID
9 YOU UNDERSTAND WHAT IT MEANT AT THE TIME YOU SIGNED IT?
10 A I DON'T THINK I EVEN THOUGHT ABOUT IT, TO BE
11 TRUTHFUL WITH YOU.
12 Q WHO WAS IT THAT EXPLAINED TO YOU THE LAW ABOUT
13 PROBATE?
14 A WELL, SHE DID BECAUSE SHE HAD BEEN A LEGAL
15 SECRETARY TO ALL THESE LAWYERS UP IN ALASKA.
16 Q AND WHAT PROMPTED THE CONVERSATION?
17 A WELL, FRIENDS OF LARRY'S HAD DIED AND THEY TOLD
18 HER IF SHE HAD HAD A \$100 BILL IN THE WILL THAT IT WOULD
19 HAVE TO GO THROUGH PROBATE. THAT'S WHAT WE WERE TALKING
20 ABOUT. THAT'S HOW I CAME TO LET HER PUT HER NAME ON IT.
21 Q SO IT WAS YOUR DESIRE TO SOMEHOW AVOID PROBATE?
22 A YES.
23 Q DID SHE EXPLAIN TO YOU -- DID GEORGIA EXPLAIN TO
24 YOU WHAT THIS QUIT-CLAIM DEED WOULD DO IF YOU SIGNED IT?
25 A NO.

1 Q DID SHE EVER EXPLAIN TO YOU OR DID, AT THE TIME
2 BEFORE SIGNING THIS, DID ANYONE EVER EXPLAIN TO YOU THAT BY
3 SIGNING THIS QUIT-CLAIM DEED YOU WERE GIVING ALL YOUR RIGHTS
4 TO THAT PROPERTY TO GEORGIA WHEN YOU PASSED AWAY?

5 A NOT ONLY JUST MYSELF, I GUESS.

6 Q WHAT DO YOU MEAN BY THAT?

7 A WELL, I DIDN'T TALK TO ANYBODY ELSE ABOUT IT.

8 Q SO YOU DIDN'T HAVE ANY IDEA WHAT THIS DOCUMENT
9 WOULD DO EXCEPT WHAT GEORGIA HAD TOLD YOU; IS THAT CORRECT?

10 A YES.

11 Q MRS. WINTLE, MAYBE YOU DIDN'T UNDERSTAND MY
12 QUESTION. WOULD YOU LIKE ME TO REPEAT IT?

13 A YES, PLEASE.

14 Q DID YOU UNDERSTAND WHAT THIS DOCUMENT WOULD DO
15 OR DID YOU JUST RELY ON WHAT GEORGIA HAD TOLD YOU THAT IT
16 WOULD DO?

17 A WELL, I THINK I JUST RELIED ON WHAT SHE SAID.

18 Q DID YOU TRUST HER BACK THEN?

19 A YES.

20 Q KNOWING WHAT YOU KNOW TODAY, THAT THIS QUIT-
21 CLAIM DEED GIVES THE HOME TO GEORGIA WHEN YOU DIE, WOULD YOU
22 SIGN IT AGAIN TODAY?

23 A NO, I WOULDN'T.

24 Q DID YOU EVER DELIVER THIS DEE TO GEORGIA? DO
25 YOU UNDERSTAND WHAT I MEAN BY THAT? OR DID GEORGIA PRESENT

1 YOU WITH THE DEED FOR YOUR SIGNATURE?

2 A NO, I DIDN'T. I DON'T KNOW HOW TO WORD THIS.
3 BUT THE ONLY THING THAT I EVER WAS PUT MY NAME ON WAS UP IN
4 THE CITY AND COUNTY BUILDING; NO OTHER PLACE.

5 Q DID YOU ASK A LAWYER TO PREPARE THIS DEED FOR
6 YOU?

7 A NO.

8 Q DID YOU ASK ANYONE TO PREPARE THIS DEED FOR YOU?

9 A WELL, I HAD A LAWYER PREPARE THE DEED FOR ME
10 AFTER MY HUSBAND DIED. HE HAD IT TRANSFERRED TO MY FULL
11 NAME.

12 Q YES?

13 A THAT'S THE ONLY TIME I HAD A LAWYER.

14 Q ALL RIGHT, FINE. THAT WAS BACK WHEN YOUR
15 HUSBAND DIED AND THEY APPARENTLY DID AN AFFIDAVIT OF
16 SURVIVORSHIP WHICH INDICATED THAT YOUR HUSBAND HAD PASSED
17 AWAY IN 1976 AND THEN THEY TRANSFERRED THE HOME TO YOU? IS
18 THAT WHAT YOU RECALL?

19 A THAT'S RIGHT.

20 Q DO YOU REMEMBER WHO THE ATTORNEY WAS THAT DID
21 THAT?

22 A PETE VLAHOS.

23 Q HAVE YOU EVER GONE TO A LAWYER FOR ADVICE AFTER
24 YOUR HUSBAND'S DEATH?

25 A NO.

1 Q DID YOU EVER SEEK ANY LEGAL ADVICE IN REGARDS TO
2 THIS DEED THAT YOU SIGNED?

3 A NO.

4 Q DID YOU RECEIVE ANY MONEY OR COMPENSATION FROM
5 ANYONE FOR SIGNING THIS DEED?

6 A NO.

7 Q DID ANYONE EVER MAKE YOU ANY PROMISES THAT IF
8 YOU SIGNED THIS DEED YOU WOULD RECEIVE SOMETHING IN RETURN?

9 A NO.

10 Q WHEN YOU SIGNED THIS QUIT-CLAIM DEED, MRS.
11 WINTLE, DID YOU FEEL ANY PRESSURE FROM GEORGIA TO SIGN IT?

12 A NO, I DON'T THINK SO, NOT THAT I RECALL.

13 Q YOU SIGNED IT BECAUSE YOU WERE HOPING TO
14 ACCOMPLISH THE PURPOSE OF AVOIDING PROBATE; IS THAT CORRECT?

15 A YES.

16 Q IF YOU WOULD HAVE REFUSED TO SIGN IT, WHAT DO
17 YOU THINK WOULD HAVE HAPPENED? WOULD GEORGIA HAVE BEEN
18 OFFENDED BY THAT? WOULD SHE HAVE BEEN ANGRY?

19 A I DON'T THINK SO, NOT AT THAT TIME.

20 Q YOU HAD NEVER RECEIVED ANY ADVICE OR
21 INSTRUCTIONS FROM --

22 A NO ONE.

23 Q FROM NO ONE; IS THAT CORRECT?

24 A YES.

25 Q FROM A BANKER?

1 A NO.

2 Q FROM AN ATTORNEY?

3 A ONLY JUST WHAT SHE SAID.

4 MR. DURBANO: THOSE ARE ALL THE QUESTIONS THAT I
5 HAVE.

6

7

EXAMINATION

8 BY MR. PERKINS:

9 Q MRS. WINTLE, GOING BACK TO 1979 WHEN YOU SIGNED
10 THIS. YOU SAY GEORGIA WAS LIVING WITH YOU AT THE TIME?

11 A SHE WAS.

12 Q NOW, AS FAR AS THE NOTION AND PREPARATION FOR
13 THIS QUIT-CLAIM DEED WHICH IS EXHIBIT 1, THE IDEA WAS YOUR
14 IDEA, WASN'T IT?

15 A IT WAS BOTH OUR IDEAS.

16 Q THEN YOU'VE TESTIFIED THAT GEORGIA DIDN'T EXERT
17 ANY PRESSURE ON YOU TO DO IT, CORRECT?

18 A THAT'S RIGHT.

19 Q NOW, YOU UNDERSTAND YOU ARE UNDER OATH AND YOU
20 HAVE TO TELL THE FULL TRUTH?

21 A WELL, I DID, THAT'S RIGHT.

22 Q OKAY.

23 A WE JUST TALKED ABOUT IT TOGETHER AND THAT WAS
24 IT.

25 Q RIGHT. NOW, THE WAY THIS WAS ACCOMPLISHED IN

1 DOING IT, FIRST OFF YOU KNEW THAT GEORGIA HAD WORKED AS A
2 LEGAL SECRETARY IN AN ADMIRALTY OFFICE UP IN ALASKA?

3 A WELL, I DIDN'T KNOW WHAT OFFICE SHE WORKED IN,
4 BUT I KNEW SHE WORKED AS A LEGAL SECRETARY.

5 Q BUT IN ANY EVENT, IN ORDER TO PREPARE THIS QUIT-
6 CLAIM DEED TO FIND OUT HOW TO DO IT, YOU AND GEORGIA WENT
7 DOWN TO THE COUNTY BUILDING, DIDN'T YOU?

8 A THAT'S RIGHT.

9 Q AND THEY TOLD YOU HOW TO DO IT, CORRECT?

10 A YES.

11 Q YOU TOLD THE YOUNG LADY THERE WHAT YOU WANTED,
12 RIGHT?

13 A I JUST SAID I WANTED TO HAVE HER NAME PUT ON IT
14 WITH ME.

15 Q AND SHE TOLD YOU WHAT WOULD BE NECESSARY, RIGHT?

16 MR. DURBANO: ONLY ANSWER IF YOU CAN RECALL. YOU
17 DON'T NEED TO SPECULATE OR GUESS. BUT ONLY ANSWER THE
18 QUESTION IF YOU CAN ACTUALLY RECALL, AND IF YOU CAN'T
19 RECALL, IT'S FINE TO SAY, I DON'T RECALL.

20 (THE LAST QUESTION WAS READ BACK)

21 Q (MR. PERKINS) IS THAT CORRECT, MRS. WINTLE?

22 A THAT'S RIGHT.

23 Q AND THEN AFTER THAT, THEN THIS DEED WAS THEN
24 PREPARED, CORRECT?

25 A THERE IN THE CITY AND COUNTY BUILDING.

1 Q WAS IT PREPARED THAT SAME DAY?
2 A YES.
3 Q WHO PREPARED IT?
4 A THE LADY THAT WAS IN CHARGE.
5 Q THAT WAS THERE AT THE WEBER COUNTY RECORDER'S
6 OFFICE?
7 A THAT'S RIGHT.
8 Q AND AFTER SHE PREPARED IT, YOU THEN SIGNED IT?
9 A THAT'S CORRECT.
10 Q AND THEN AFTER YOU SIGNED IT, YOU THEN PAID THE
11 LADY FOUR DOLLARS TO HAVE IT RECORDED?
12 A WELL, I DON'T RECALL PAYING HER.
13 Q IT SHOWS IN THIS FORM THAT FOUR DOLLARS WAS
14 PAID.
15 A PROBABLY SO, THEN.
16 Q AND YOU GOT IT OUT OF YOUR PURSE AND YOU PAID
17 THE YOUNG LADY TO HAVE IT RECORDED, DIDN'T YOU?
18 A THAT'S RIGHT.
19 Q NOW, AT THIS PARTICULAR TIME, GEORGIA WAS -- SHE
20 IS YOUR YOUNGEST DAUGHTER, AS I UNDERSTAND YOU?
21 A SURE.
22 Q AND YOU WERE ON GOOD TERMS WITH HER THEN?
23 A THAT'S RIGHT.
24 Q YOU'VE INDICATED THE REASON YOU PUT HER NAME ON
25 IT AT THE TIME WAS THAT YOU DIDN'T WANT TO GO THROUGH

1 PROBATE?

2 A YES.

3 Q NOW, ISN'T IT TRUE THAT YOU ELECTED AND DECIDED
4 TO USE GEORGIA BECAUSE YOU DIDN'T TRUST ANY OF YOUR OTHER
5 CHILDREN TO DISPERSE IT WHEN YOU BECAME DECEASED?

6 A NO, THAT'S NOT RIGHT.

7 Q ARE YOU ACQUAINTED WITH WILLY TAYLOR?

8 A WELL, I DON'T KNOW HIM THAT WELL, I KNOW WHO HE
9 IS.

10 Q ARE YOU ACQUAINTED WITH AUSTIN MILLIKIN?

11 A YES.

12 Q AND GINGER MILLIKIN?

13 A THAT'S RIGHT.

14 Q AND BERNICE BROWN?

15 A YES.

16 Q DIDN'T YOU TELL THESE PEOPLE THAT YOU PUT IT IN
17 GEORGIA'S NAME BECAUSE YOU DIDN'T TRUST YOUR OTHER CHILDREN?

18 A NO, I DIDN'T.

19 Q IF THESE PEOPLE TESTIFY TO THAT, THEY'LL BE
20 TELLING A LIE; IS THAT RIGHT?

21 A THAT'S RIGHT.

22 Q OKAY.

23 A THEY LIVE CLEAR DOWN IN NEW MEXICO AND I DIDN'T
24 TALK TO THEM.

25 Q NOW, YOU KNOW YOU ARE THE ONE WHO STARTED THIS

1 LAWSUIT, RIGHT?

2 A THAT'S RIGHT.

3 Q AND YOU STARTED IT AFTER, OH, IT'S PROBABLY
4 ABOUT SIX OR EIGHT MONTHS AGO OR MAYBE A LITTLE LESS?

5 A IT WAS AFTER THE LAST SATURDAY IN APRIL.

6 Q OKAY. NOW, GOING BACK A LITTLE WHILE. YOU
7 WANTED TO SELL THIS PARTICULAR HOUSE, DIDN'T YOU?

8 A THAT'S RIGHT, BECAUSE I CAN'T KEEP THE YARD UP
9 AND DO ANYTHING IN IT.

10 Q AND YOU WANTED TO BUY A DUPLEX FROM LARRY AND
11 BRENT, YOUR TWO SONS?

12 A I WAS GOING TO BUY ONE.

13 Q AND YOU WERE GOING TO SELL THIS PROPERTY AND
14 THEN MOVE INTO THIS DUPLEX?

15 A THAT'S RIGHT.

16 Q AND IT WAS AFTER YOU WEREN'T ABLE TO SELL THIS
17 HOUSE THAT YOU DECIDED TO DO THIS?

18 A NO, I WASN'T. IT WASN'T AFTER I WASN'T ABLE TO
19 SELL. IT WAS BECAUSE SHE, ON THE LAST SATURDAY IN APRIL,
20 SHE TOLD ME SHE WOULD SIGN THE DEED BACK TO ME. THEN ON
21 SUNDAY LARRY AND MY OTHER DAUGHTER GOT IN A BIG ARGUMENT.
22 SO THE DAUGHTER UP IN BRIGHAM CALLED HER, GEORGIA, AND
23 BETWEEN THE TWO OF THEM SHE SAID SHE WOULD SIGN IT NO MORE.

24 Q NOW --

25 A WASN'T BECAUSE I COULDN'T SELL MY PROPERTY

1 BECAUSE IT'S IN A CHOICE AREA.

2 Q NOW, DIDN'T GEORGIA REFUSE TO LET YOU SELL IT
3 BECAUSE SHE DIDN'T THINK IT WOULD BE THE BEST THING FOR YOU
4 TO MOVE INTO A NEW DUPLEX?

5 A SHE JUST DIDN'T WANT ME TO MOVE, PERIOD. SHE
6 CLAIMED THAT PEOPLE HAD TROUBLE ADJUSTING AFTER THEY MOVED
7 AND LIVED IN THEIR HOME FOR SO LONG.

8 Q GOING BACK TO HOW YOU STARTED. YOU STARTED IT
9 WITH A DOCUMENT THAT'S CALLED A COMPLAINT. HAVE YOU EVER
10 SEEN THIS COMPLAINT THAT WAS FILED ON YOUR BEHALF?

11 A I DON'T KNOW WHETHER THAT'S THE FIRST PAPER I
12 GOT OR --

13 Q OKAY.

14 A FROM YOU ON IT.

15 MR. DURBANO: YOU WOULD HAVE RECEIVED A COPY FROM MY
16 OFFICE. I'M NOT SURE IF SHE UNDERSTANDS WHAT THAT DOCUMENT
17 IS YOU ARE SHOWING.

18 MR. PERKINS: MAYBE WE -- I DON'T KNOW IF I HAVE
19 ANOTHER COPY SO SHE CAN LOOK AT IT. MAYBE I BETTER COME
20 OVER HERE SO WE CAN GO THROUGH IT.

21 MR. DURBANO: I CAN GET ANOTHER COPY UP FOR YOU, RON.

22 MR. PERKINS: SHE CAN LOOK AT IT AS I ASK HER ABOUT
23 IT.

24 MR. DURBANO: THIS IS THE DOCUMENT THAT HE'S TALKING
25 ABOUT. IT'S ENTITLED A COMPLAINT.

1 Q (MR. PERKINS) NOW, WITHOUT READING IT, PERHAPS
2 JUST A COUPLE OF PRELIMINARY THINGS, MRS. WINTLE. JUST A
3 COUPLE OF PRELIMINARY THINGS.

4 NOW, THIS PARTICULAR COMPLAINT STARTED THE
5 LAWSUIT. YOU ARE AWARE OF THAT, AREN'T YOU?

6 A THAT'S RIGHT.

7 Q NOW, IT HAS A NUMBER OF DIFFERENT PARAGRAPHS IN
8 IT WHICH IS SAYING, THESE ARE THE FACTS AS I SEE THEM, AND
9 IT'S WHY YOU SHOULD WIN. DO YOU UNDERSTAND THAT?

10 MR. DURBANO: IF YOU DON'T UNDERSTAND, IT'S FINE.

11 THE WITNESS: I DON'T.

12 Q (MR. PERKINS) LET'S GO INTO IT. LET'S GO TO
13 THE SECOND PAGE. ON THAT LOOK AT NUMBER SIX, THAT'S PRIOR
14 TO JUNE 7, 1979, PLAINTIFF HELD TITLE TO THE AFOREMENTIONED
15 REAL PROPERTY BY WAY OF A PROPER DEED. RIGHT? DO YOU SEE
16 THAT?

17 A YES.

18 Q AND THEN THE NEXT PARAGRAPH, NUMBER SEVEN, WHICH
19 TALKS ABOUT ON OR ABOUT JUNE 9, 1979, DEFENDANT GEORGIA
20 CARBAJAL BROUGHT A CERTAIN DEED INDICATING JOINT TENANCY TO
21 DEFENDANT AND PLAINTIFF OF THE AFOREMENTIONED PROPERTY WHICH
22 DEED PLAINTIFF ASSERTS IS INVALID. DO YOU SEE THAT?

23 A YES, SIR.

24 Q NOW, MRS. WINTLE, GEORGIA CARBAJAL WHO IS ALSO
25 KNOWN AS GEORGIA FERGUSON DIDN'T FILE THAT DEED, DID SHE?

1 A NO.

2 Q YOU DID, DIDN'T YOU?

3 A I DON'T UNDERSTAND WHAT YOU MEAN BY FILING A
4 DEED.

5 MR. DURBANO: THAT'S FINE. THAT'S YOUR ANSWER. YOU
6 DON'T UNDERSTAND THE QUESTION.

7 Q (MR. PERKINS) I'LL REPHRASE IT FOR YOU. YOU
8 WENT TO THE WEBER COUNTY RECORDER'S OFFICE?

9 A NOT BY MYSELF.

10 Q THAT'S FINE. BUT YOU SIGNED IT THERE IN FRONT
11 OF A NOTARY PUBLIC, CORRECT?

12 MR. DURBANO: DO YOU UNDERSTAND WHAT A NOTARY PUBLIC
13 IS?

14 THE WITNESS: I DON'T KNOW WHETHER SHE WAS A NOTARY
15 PUBLIC OR NOT. IT WAS JUST A LADY THAT HELPED YOU WHEN YOU
16 GO IN THERE.

17 Q (MR. PERKINS) AND THEN ON THAT QUIT-CLAIM DEED
18 SHOWS THAT A PERSON BY THE NAME OF KEVIN VAN BUREN IS THE
19 NOTARY THAT SIGNED THE QUIT-CLAIM DEED NOTARIZING YOUR
20 SIGNATURE?

21 MR. DURBANO: IS IT KEVIN OR KAREN?

22 Q (MR. PERKINS) KAREN VAN BUREN. AND YOU SIGNED
23 THIS DOCUMENT IN FRONT OF HER, DIDN'T YOU?

24 A WELL, I CAN'T REMEMBER WHETHER IT WAS HER OR WHO
25 IT WAS OR WHETHER -- HOW I SIGNED THE DOCUMENT OR GOT BACK

1 TO THE CITY AND COUNTY BUILDING.

2 Q BUT IN ANY EVENT, YOU SIGNED IT WHILE YOU WERE
3 THERE IN FRONT OF A YOUNG LADY WHOSE NAME YOU DON'T
4 REMEMBER, RIGHT?

5 A WELL, I REMEMBER WHO KAREN IS, BUT --

6 Q BUT YOU REMEMBER SIGNING IT THERE AT THE
7 COURTHOUSE, DON'T YOU?

8 A YES.

9 Q AND THEN AFTER YOU SIGNED IT, THIS OTHER PERSON
10 SIGNED IT AND THEN YOU HAD IT RECORDED. YOU PAID THE MONEY
11 AND THEY TOOK THE DOCUMENT FROM YOU AND THEY SENT IT BACK TO
12 YOU ABOUT TWO WEEKS LATER?

13 MR. DURBANO: AGAIN, MRS. WINTLE, YOU ONLY HAVE TO
14 ANSWER IF YOU CAN RECALL.

15 THE WITNESS: I DON'T RECALL THEM SENDING IT BACK TO
16 ME.

17 Q (MR. PERKINS) THIS SHOWS IT WAS SENT TO YOUR
18 ADDRESS.

19 MR. DURBANO: SHE HAS INDICATED SHE DIDN'T GET A
20 COPY. BECAUSE OF HER AGE AND SO FORTH, I CAN'T LET YOU PUSH
21 HER TOO HARD.

22 MR. PERKINS: I STILL HAVE A RIGHT TO GO FORTH. SHE
23 INITIATED THE ACTION. IF IT MEANS REPHRASING THE QUESTION
24 FIVE OR SIX TIMES, MRS. WINTLE, THAT'S WHAT I'LL DO.
25 BECAUSE WE'VE GOT TO GET TO THE BOTTOM OF THIS THING.

1 THAT'S WHY I'M HERE. OKAY?

2 THE WITNESS: YES, SIR.

3 Q (MR. PERKINS) NOW, IN REFERENCE TO IT, YOU
4 SIGNED IT THERE IN FRONT OF A YOUNG LADY?

5 MR. DURBANO: THAT'S NOT HER TESTIMONY.

6 MR. PERKINS: I'M GOING TO ASK THE QUESTION ANYWAY.

7 MR. DURBANO: I'M GOING TO ASK YOU TO REPHRASE THE
8 QUESTION. THAT'S NOT HER TESTIMONY.

9 MR. PERKINS: THEN YOU MAKE AN OBJECTION FOR THE
10 RECORD. I HAVE A RIGHT TO ASK THE QUESTION.

11 DID YOU SIGN IT IN FRONT OF A YOUNG LADY THERE?

12 MR. DURBANO: THAT'S BEEN ASKED AND ANSWERED AND SHE
13 SAYS SHE DOESN'T RECALL.

14 MR. PERKINS: I'M GOING TO ASK HER.

15 MR. DURBANO: I'M GOING TO INSTRUCT HER NOT TO
16 ANSWER. SHE'S ALREADY ANSWERED ONCE.

17 Q (MR. PERKINS) YOU PAID THE YOUNG LADY THE FOUR
18 DOLLARS UP THERE, DIDN'T YOU?

19 MR. DURBANO: SHE'S ANSWERED THAT ALREADY. YOU'VE
20 ALREADY ASKED THIS. SHE INDICATED SHE DIDN'T RECALL.

21 YOU DON'T HAVE TO ANSWER ANYMORE.

22 THE WITNESS: OKAY.

23 Q (MR. PERKINS) YOU KNEW AT THE TIME, DIDN'T YOU,
24 MRS. WINTLE, THAT WHEN YOU PUT GEORGIA'S NAME ON IT THAT
25 WHEN YOU DIED IT WENT TO GEORGIA?

1 A NO, I DIDN'T.

2 Q NOW --

3 A I KNEW IT WOULD GO TO GEORGIA, BUT SHE WAS
4 SUPPOSED TO, LIKE I SAID, SUPPOSED TO HAVE SOLD IT AND
5 DIVIDED IT EQUALLY.

6 Q BUT YOU KNEW IT WENT TO HER FIRST AND THEN SHE
7 WAS SUPPOSED TO CARRY FORWARD AND THEN HAVE IT SOLD AND
8 DIVIDED FOUR WAYS, RIGHT?

9 A SHE WAS TO LET LARRY SELL IT.

10 Q BUT YOU KNEW FIRST OF ALL THAT SHE WAS TO GET
11 IT, RECEIVE THE PROPERTY, DIDN'T YOU?

12 A I DON'T KNOW THAT.

13 Q I SEE. LET'S GO FORWARD WITH THIS COMPLAINT.

14 NOW, WE GO DOWN TO THE NEXT PAGE ON PAGE THREE.
15 LET'S START WITH NUMBER 11. IT SAYS THAT YOU ARE UNEDUCATED
16 AS TO REAL ESTATE MATTERS.

17 A THAT'S TRUE.

18 Q NOW, HAVE YOU WORKED OR AT LEAST ASSISTED YOUR
19 SONS, LARRY WINTLE AND BRENT WINTLE IN THE OPERATION OF THEIR
20 BUSINESS?

21 A YES.

22 Q AND THEY ARE INVOLVED IN REAL ESTATE, AREN'T
23 THEY?

24 A THEY ARE.

25 Q NOW, BEFORE YOU SIGNED THIS PARTICULAR DEED, DID

1 YOU TALK TO LARRY OR BRENT?

2 A NO. I WASN'T WORKING FOR THEM AT THE TIME. WAS
3 I? YES, I GUESS I WAS. BUT I DIDN'T TALK TO THEM OVER IT.
4 I DIDN'T EVEN MENTION IT TO THEM.

5 Q YOU DIDN'T REALLY WANT THEM TO KNOW, DID YOU?

6 A I DIDN'T TELL ANYONE.

7 Q YOU DIDN'T WANT LARRY AND BRENT TO KNOW, DID
8 YOU?

9 A NO.

10 Q GOING ON, WE GO ON TO THE NEXT NUMBER, TO NUMBER
11 12. IT SAYS THAT ON OR ABOUT JUNE 9, 1979, THE DEFENDANT --
12 THE DEFENDANT IS GEORGIA -- IT SAYS, SHE CONFRONTED YOU WITH
13 A LEGAL DOCUMENT.

14 NOW, I ASSUME YOU ARE TALKING ABOUT THE ONLY
15 DOCUMENT THAT WE HAVE WHICH IS THE QUIT-CLAIM DEED?

16 A THAT'S RIGHT.

17 Q NOW, YOU SAY SHE CONFRONTED YOU WITH IT IN YOUR
18 COMPLAINT. NOW, THAT'S NOT QUITE TRUE, IS IT?

19 A WELL, SHE DIDN'T CONFRONT ME WITH A PAPER, BUT
20 SHE JUST TALKED TO ME ON THE PHONE.

21 Q AS I UNDERSTOOD YOUR TESTIMONY, AND CORRECT ME
22 IF I'M WRONG, YOU ARE SAYING THE TWO OF YOU TALKED ABOUT IT
23 AND YOU DECIDED TO GO DOWN TO THE COUNTY BUILDING AND DO IT?

24 A THAT'S RIGHT.

25 Q THEN IT SAYS WITH A LEGAL DOCUMENT WHICH GEORGIA

1 -- WHERE IT SAYS DEFENDANT, THE DEFENDANT IS GEORGIA --
2 FRAUDULENTLY REPRESENTED OR FRAUDULENTLY TOLD YOU THAT --
3 "THAT" REFERRING TO THE DOCUMENT QUIT-CLAIM DEED -- WAS A
4 TESTAMENTARY DOCUMENT. TESTAMENTARY DOCUMENT. DO YOU
5 UNDERSTAND WHAT THAT MEANS?

6 A WELL, I GUESS I DON'T. I DON'T SEE IT ON HERE.

7 Q LET'S GO FORWARD WITH THIS SAME PARAGRAPH.
8 WHICH WOULD FACILITATE THE TRANSFER OF THE PROPERTY UPON
9 YOUR DEATH EQUALLY AMONG YOUR CHILDREN. WHEN, IN FACT, THE
10 DOCUMENT WAS A DEED GRANTING GEORGIA JOINT TENANCY WITH THE
11 RIGHT OF SURVIVORSHIP IN THE PROPERTY. SAID DOCUMENT WAS
12 PREPARED BY GEORGIA OR BY GEORGIA'S AGENTS AT GEORGIA'S
13 REQUEST AND ON GEORGIA'S BEHALF.

14 NOW, THAT LAST STATEMENT ISN'T QUITE TRUE, IS
15 IT?

16 A WELL, SHE WAS SUPPOSED TO SEE THAT IT WAS
17 DIVIDED EQUALLY.

18 Q BUT WHEN YOU SIGNED IT AT THE WEBER COUNTY
19 BUILDING AND PAID THE MONEY TO HAVE IT RECORDED, YOU KNEW IT
20 WAS BECOMING A RECORD AT THAT TIME, DIDN'T YOU?

21 A WELL, I KNEW THAT, BUT --

22 Q OKAY. NOW, LOOKING THERE AT NUMBER 14. MAYBE
23 WE BETTER GO THROUGH 13 FIRST. 13 AND 14 ARE THE NEXT TWO.
24 IF YOU WANT TO TAKE A MINUTE AND READ THOSE, THEN I'LL GO
25 THROUGH IT WITH YOU. WE CAN DO THAT.

1 A WELL, I TELL YOU, I DON'T KNOW WHAT SHE WAS
2 THINKING AT THE TIME. BUT I DIDN'T INTEND HER TO HAVE THE
3 PROPERTY SOLELY.

4 Q I HAVEN'T ASKED YOU ANY QUESTIONS YET. SO YOU
5 JUST READ IT AND I'LL ASK YOU SOME QUESTIONS. YOU'VE READ
6 13?

7 A YES.

8 Q IT SAYS THAT GEORGIA KNOWINGLY AND FRAUDULENTLY
9 TOLD YOU THE SIGNIFICANCE AND MEANING OF THE DOCUMENT SO
10 THAT SHE COULD OBTAIN THE RIGHT TO YOUR PROPERTY. IN
11 ESSENCE, THAT'S WHAT IT SAYS, AT LEAST IN LAYMAN'S TERMS.

12 DO YOU UNDERSTAND THAT AS BEING BASICALLY WHAT
13 NUMBER 13 SAYS?

14 A WELL, I UNDERSTAND MOST OF IT.

15 Q DO YOU UNDERSTAND WHAT I JUST SAID?

16 A NO.

17 Q I'LL REPHRASE IT FOR YOU. IT SAYS THAT GEORGIA
18 KNOWINGLY AND FRAUDULENTLY TOLD YOU THE SIGNIFICANCE OR THE
19 MEANING OF THE DOCUMENT OF THE QUIT-CLAIM DEED. SHE MADE
20 SOME FALSE MISREPRESENTATIONS TO YOU SO THAT THE PROPERTY
21 WOULD BE PUT IN HER NAME.

22 A SHE KNEW BECAUSE SHE HAD BEEN A LEGAL SECRETARY
23 ALL ABOUT PROPERTY, WHICH I DIDN'T.

24 Q MY QUESTION IS, WHAT DID GEORGIA SAY TO YOU THAT
25 WAS FALSE OR FRAUDULENT, IF ANYTHING?

1 A WELL, I DON'T KNOW. I DON'T REMEMBER WHAT SHE
2 SAID TO ME. I DON'T RECALL ALL OF OUR CONVERSATIONS.

3 Q SO YOU CANNOT RECALL ANY FALSE REPRESENTATIONS
4 BY GEORGIA?

5 A WELL, SHE KNEW WHAT SHE WAS DOING MORE THAN I
6 DID.

#2 7 Q BUT SHE DIDN'T TELL YOU ANYTHING THAT YOU CAN
8 REMEMBER THAT MADE YOU SIGN THAT DOCUMENT, DID SHE?

9 A ONLY THAT SHE WOULD SEE THAT LARRY SOLD IT AND
10 DIVIDE IT EQUAL.

11 Q HAS SHE EVER TOLD YOU SHE WOULD DO ANYTHING
12 DIFFERENTLY THAN THAT?

13 A NO, BUT SHE REFUSED TO SIGN IT SO I CAN'T DO
14 SOMETHING WITH IT.

15 Q BUT HAS GEORGIA EVER TOLD YOU THAT SHE WOULDN'T
16 DO JUST THAT THING, DIVIDE IT THE FOUR WAYS?

17 A I DON'T TRUST HER NO MORE. I USED TO TRUST HER
18 SOMETIME, BUT I DON'T NO MORE.

19 Q BUT MY QUESTION WAS, HAS GEORGIA EVER TOLD YOU
20 THAT SHE WOULD NOT GO AHEAD AND DIVIDE IT FOUR WAYS?

21 A SHE HASN'T TOLD ME, BUT I KNOW SHE WON'T.

22 Q SHE HASN'T TOLD YOU, THEN? OKAY.

23 THEN WE GO OVER TO THE NEXT PAGE. THEN WE GO
24 DOWN TO THE THIRD CAUSE OF ACTION. THEN WE GO DOWN TO
25 NUMBER 17. DO YOU WANT TO TAKE A MINUTE AND READ THAT OVER

1 AND THEN I'LL TALK TO YOU ABOUT IT.

2 HAVE YOU READ THAT OVER, MRS. WINTLE?

3 A YES.

4 Q LET'S GO THROUGH THAT, THEN. WHAT YOUR
5 COMPLAINT IS SAYING THAT AT THE TIME THAT YOU WERE INDUCED
6 BY GEORGIA TO SIGN THE QUIT-CLAIM DEED. OKAY? THAT YOU DID
7 NOT INTEND TO PUT THE PROPERTY IN BOTH YOUR NAME AND
8 GEORGIA'S NAME. IS THAT TRUE OR FALSE?

9 A SHE KNEW ALL THIS LEGAL STUFF, WHICH I DIDN'T.

10 Q THAT'S NOT MY QUESTION, THOUGH, MA'AM. MY
11 QUESTION IS, IF YOU WOULD LIKE ME TO REPEAT IT, IS THAT YOU
12 KNEW THAT YOU WERE SIGNING A DOCUMENT THAT PUT THE PROPERTY
13 IN YOUR NAME AND GEORGIA'S NAME, DIDN'T YOU?

14 A YES.

15 Q AND YOU KNEW THAT IT WAS BEING RECORDED THAT DAY
16 BECAUSE YOU SIGNED IT RIGHT THERE AT THE COUNTY BUILDING,
17 RIGHT?

18 A YES.

19 Q AND IT'S JUST THAT NOW -- AND AT THAT TIME YOU
20 TRUSTED GEORGIA?

21 A THAT'S RIGHT.

22 Q AND NOW YOU DON'T TRUST GEORGIA?

23 A THAT'S RIGHT.

24 Q BUT AT THE TIME YOU SIGNED IT, AND WHEN YOU
25 SIGNED IT IN 1979, AT THAT TIME YOU KNEW THAT YOU WERE

1 CONVEYING IT IN GEORGIA'S NAME?

2 A YES.

3 Q AND SHE DIDN'T LIE TO YOU ABOUT ANYTHING
4 REGARDING YOU SIGNING IT, DID SHE?

5 A NO.

6 MR. PERKINS: I DON'T HAVE ANY OTHER QUESTIONS.

7

8 FURTHER EXAMINATION

9 BY MR. DURBANO:

10 Q MRS. WINTLE, WHEN YOU SIGNED THAT DEED, DID YOU
11 INTEND TO CONVEY THAT PROPERTY, THE HOME THAT YOU LIVE IN,
12 TO GEORGIA SO THAT SHE COULD HAVE IT AS HER OWN?

13 A NO.

14 Q IN FACT, YOUR INTENTION WAS TO AVOID PROBATE?

15 A THAT'S RIGHT.

16 Q AND YOU ASSUMED THIS QUIT-CLAIM DEED WOULD
17 ACCOMPLISH THAT TASK; IS THAT CORRECT?

18 A YES.

19 Q IT WASN'T YOUR INTENTION OR DESIRE TO HAVE
20 GEORGIA OWN THE HOME OUTRIGHT, WAS IT?

21 A NO.

22 MR. PERKINS: I'M GOING TO OBJECT. I'VE LET YOU DO A
23 COUPLE OF LEADING QUESTIONS, BUT THE FORM OF THE QUESTIONS,
24 THEY ARE LEADING.

25 Q (MR. DURBANO) YOU DIDN'T DESIRE TO HAVE GEORGIA

1 OWN THE HOME OUTRIGHT, DID YOU?

2 A NO.

3 Q THEN WHEN GEORGIA GAVE YOU THIS DOCUMENT KNOWN
4 AS THE QUIT-CLAIM DEED AND INDICATED TO YOU THAT IT WOULD
5 AVOID PROBATE --

6 A YES.

7 Q WAS THIS DOCUMENT REALLY ACCURATE AS TO WHAT YOU
8 WANT TO ACCOMPLISH?

9 A NO.

10 Q THEN SHE DID MAKE SOME MISREPRESENTATIONS TO
11 YOU, DIDN'T SHE?

12 A WELL, I GUESS. SHE KNEW MORE WHAT SHE WAS DOING
13 THAN I DID.

14 MR. DURBANO: ALL RIGHT. THANK YOU, MRS. WINTLE.
15 THAT'S ALL I HAVE.

16

17 FURTHER EXAMINATION

18 BY MR. PERKINS:

19 Q WHAT MISREPRESENTATIONS DID GEORGIA MAKE TO YOU?

20 A WELL, I DON'T THINK THAT SHE WOULD HAVE HAD THE
21 HOUSE SOLD AND DIVIDED.

22 Q THAT'S WHAT YOU THINK NOW. BUT BACK THEN, WHAT
23 MISREPRESENTATIONS DID SHE MAKE TO YOU?

24 A WELL, I DON'T REMEMBER.

25 Q YOU DON'T REMEMBER ANY?

1 A NOT ALL OF THE CONVERSATIONS.

2 Q BUT WE'RE TALKING ABOUT MISREPRESENTATIONS. DO
3 YOU REMEMBER ANY MISREPRESENTATIONS?

4 A NO.

5 MR. PERKINS: I DON'T HAVE ANY OTHER QUESTIONS.

6 MR. DURBANO: THAT'S ALL.

7 (THE DEPOSITION WAS CONCLUDED AT
8 12:00 P.M.)

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STATE OF UTAH)
 : SS.
COUNTY OF WEBER)

JUANITA WINTLE DEPOSES AND SAYS: THAT SHE IS
THE WITNESS REFERRED TO IN THE FOREGOING DEPOSITION; THAT
SHE HAS READ THE SAME AND KNOWS THE CONTENTS THEREOF; THAT
THE SAME ARE TRUE OF HER OWN KNOWLEDGE.

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY
OF _____, 1986.

NOTARY PUBLIC
RESIDING AT _____

MY COMMISSION EXPIRES:

1 STATE OF UTAH)
2 : SS.
3 COUNTY OF WEBER)

4 I, JOANNE PRATT, CERTIFIED SHORTHAND REPORTER
5 AND NOTARY PUBLIC IN AND FOR THE STATE OF UTAH, CERTIFY:

6 THAT THE FOREGOING DEPOSITION OF JUANITA WINTLE
7 WAS TAKEN BEFORE ME PURSUANT TO NOTICE AT THE TIME AND PLACE
8 THEREIN SET FORTH, AT WHICH TIME THE WITNESS WAS PUT ON OATH
9 BY ME;

10 THAT THE TESTIMONY OF THE WITNESS AND ALL
11 OBJECTIONS MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
12 STENOGRAPHICALLY BY ME, AND WERE THEREAFTER TRANSCRIBED;

13 THAT THE FOREGOING DEPOSITION IS A TRUE RECORD
14 OF THE TESTIMONY AND OF ALL CHANGES MADE BY THE WITNESS AND
15 OF ALL OBJECTIONS MADE AT THE TIME OF THE EXAMINATION.

16 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR
17 NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANYWISE
18 INTERESTED IN THE OUTCOME THEREOF.

19 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME/
20 AND AFFIXED MY SEAL THIS 30 DAY OF October, 1986.

21
22 Joanne Pratt
23 JOANNE PRATT, CSR

24 MY COMMISSION EXPIRES:
25 JANUARY 14, 1989