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4
5 Mr. Paul D. Morris WDM Architects
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7

8 ALSO PRESENT: Robert Brooks, John Brewer, Steve Brigance,
9 Mitzi Bailey, Ben Freeny - Videographer

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1 Deposition of PEGGY BRIGANCE was taken on 10th of
2 August, 2009, at Chronister, Fields & Flake, 309 North 7th
3 Street, Fort Smith, Arkansas.

4 STIPULATION

5 IT IS HEREBY STIPULATED AND AGREED by and between
6 counsel for the parties hereto that the deposition testimony
7 of PEGGY BRIGANCE, may be taken before Laurence D. Martin, a
8 Certified Court Reporter and Notary Public, at the above
9 captioned time and place.

10 Said deposition is taken pursuant to Rule 32(a)(3),
11 Arkansas Rules of Civil Procedure, (Rule 30, Federal Rules of
12 Civil Procedure), with the specific understanding that any
13 objections as to relevance, immateriality, or incompetency are
14 reserved and may be made at the time the deposition is first
15 offered into evidence. Objections as to form of questions are
16 to be noted at the time of taking of the deposition. All
17 formalities with reference to taking, transcribing, forwarding
18 and filing of said deposition are waived.

19
20
21
22
23 *REPORTER'S NOTE: "Uh-huh" denotes an affirmative
24 response; "Unh-unh" denotes a negative response.

25

1 "Deposition of PEGGY BRIGANCE taken on the 10th day of
2 August, 2009."

3 THE VIDEOGRAPHER: This is the videotaped
4 deposition of Peggy Brigance taken on behalf of the
5 defendant in the case No. CV 2009-651 in Sebastian County
6 Court -- Circuit Court in Fort Smith, Arkansas. Today's
7 date is August the 10th. The time is now 9:24 a.m. and we
8 are officially on the record.

9 Would Counsel please introduce themselves and
10 state whom you are representing starting with Mr. Dossett.

11 MR. DOSSETT: Mark Dossett for the defendant,
12 Brookfield of Fianna Oaks.

13 MS. HARRISON: Michael Harrison for the defendant,
14 Crawford Construction Company.

15 MR. MORRIS: Paul Morris for the defendant, WDM
16 Architects.

17 MR. CHRONISTER: Rex Chronister on behalf of the
18 plaintiffs.

19 MR. CLAUSEN: Andy Clausen on behalf of the
20 plaintiffs.

21 THE VIDEOGRAPHER: Are there any stipulations any
22 of you would like to get on the record at this time?

23 MR. DOSSETT: We will just take the deposition
24 pursuant to Arkansas law.

25 THE VIDEOGRAPHER: Anything else?

1 MR. CHRONISTER: No.

2 THE VIDEOGRAPHER: Thank you. Would the court
3 reporter please swear in the witness.

4 PEGGY BRIGANCE, the witness herein named, having been
5 first duly sworn, testified under oath as follows:

6 DIRECT EXAMINATION

7 BY MR. DOSSETT:

8 Q. Could you please state your full name for the
9 record?

10 A. Peggy Brigance.

11 Q. Ms. Brigance, my name is Mark Dossett. We have
12 met previously and -- I reintroduced myself just a minute
13 ago. I am the attorney that represents The Brookfield at
14 Fianna Oaks in this lawsuit.

15 Have you ever given a deposition before today?

16 A. Yes.

17 Q. How many times?

18 A. Once or twice.

19 Q. And what were the occasions?

20 A. We were personally involved in a dog bite incident
21 years and years ago. And then I've had one medically with
22 -- involving my employment on behalf of a patient.

23 Q. You had one deposition previously regarding a dog
24 bite incident. Do I understand that correctly?

25 A. Yes.

1 Q. And you said we. Who is "we"?

2 A. My husband and I.

3 Q. Steve Brigance?

4 A. Yes.

5 Q. And where did this incident take place?

6 A. In northern Virginia.

7 Q. Was there a lawsuit filed?

8 A. I don't remember the specifics of that. We just
9 had to go and do some testimony.

10 Q. Was it your dog or somebody else's dog?

11 A. No, it was mine.

12 Q. And it bit someone else?

13 A. Yes.

14 Q. You have -- about how long ago was that? Roughly.
15 I'm just --

16 A. 25, 30 years.

17 Q. Okay. And with regards to the professional
18 deposition you gave for your employment -- we'll talk about
19 your employment in just a moment. But what is your area of
20 employment?

21 A. I'm currently a nurse practitioner.

22 Q. How long ago did you give a deposition with
23 regards to work?

24 A. It was probably 15 years.

25 Q. What was your professional status at that time?

1 A. I was a transplant coordinator, an RN.

2 Q. Was -- did this involve a lawsuit of some type?

3 A. Excuse me?

4 Q. Did the deposition you gave for work, did it
5 involve a lawsuit of some type?

6 A. I'm not exactly sure. It was -- it had to do with
7 a social services incident.

8 Q. Do you know if your employer was a defendant in
9 that lawsuit or claim?

10 A. I don't think so.

11 Q. You've had a couple of run-ins with this procedure
12 then, so you are vaguely familiar with it. But let me try
13 to lay a few guidelines if you and I both will try to
14 follow, it will help this go more smoothly. Okay.

15 First of all, the court reporter is taking down
16 everything that we say and a written transcript is going to
17 be made of our conversation here, so it's very important
18 that we not talk over one another. All right. Okay.

19 A. Okay.

20 Q. Another helpful hint is that if you intend to
21 answer a question that I ask, it's very important that you
22 give a verbal answer so the court reporter can take it down
23 into the transcript. If you nod your head or point or
24 something like that, you and I will be able to communicate,
25 but it won't come out well on the transcript.

1 A. Okay.

2 Q. You're doing a good job at this so far, but it's
3 important that if you intend to say yes or no, that you say
4 yes or no as opposed to uh-huh or unh-unh or umh-umh.
5 Those things don't translate well on paper either. Okay.

6 A. Yes.

7 Q. If at any time you need to take a break today, if
8 you will indicate that to me, I will be happy to take a
9 break at any time however often you need to do so. All
10 right.

11 A. Yes.

12 Q. If I ask you a question that is confusing or it is
13 a poor question or you don't understand it for whatever
14 reason, if you will indicate that to me, I will be happy to
15 repeat it or rephrase it or do whatever is necessary so
16 that you and I are on the same page. Okay.

17 A. Okay.

18 Q. There is a flip side to that. And that is, that
19 if I ask you a question and you answer it, I'm going to
20 assume that you understood my question and I'm going to
21 rely upon that answer as I prepare this case. Do you
22 understand?

23 A. Yes.

24 Q. If you would, give me your current residential
25 address.

1 A. 10101 Stephens Court, Fort Smith, Arkansas.

2 Q. How long have you lived at that address?

3 A. Eight years.

4 Q. And what is your date of birth?

5 A. 10/8/53.

6 Q. Where did you graduate high school and when?

7 A. Davidson High School in Mobile, Alabama, in '71.

8 Q. Did you grow up in Alabama?

9 A. Yes.

10 Q. All your life or --

11 A. Yes.

12 Q. Where were you born?

13 A. Well, I had a couple of years in Colorado when I
14 was maybe two years old.

15 Q. All right.

16 A. So I consider Mobile all my life.

17 Q. Okay. And you -- so when you were about two, you
18 moved to the Mobile, Alabama area?

19 A. I'm sorry. What?

20 Q. When you were about two years old, you moved to
21 the Mobile, Alabama area?

22 A. No. I was born in Mobile.

23 Q. Okay. So you were born in Mobile, went to
24 Colorado and came back to Mobile?

25 A. Yes.

1 Q. And lived there at least through high school, is
2 that right?

3 A. Yes.

4 Q. After you graduated high school, did you
5 immediately attend any type of higher education?

6 A. Yes. I went to nursing school.

7 Q. Where did you go to nursing school?

8 A. Mobile Infirmary School of Nursing.

9 Q. Did you receive any type of degree there?

10 A. Nursing diploma.

11 Q. And did you -- well, first of all, what year was
12 that?

13 A. '73.

14 Q. And did you become a registered nurse at that
15 point?

16 A. Yes.

17 Q. Do you still have an RN?

18 A. Yes.

19 Q. And have you been an RN continuously since that
20 time?

21 A. Yes.

22 Q. What states have you been a registered nurse in?

23 A. Alabama, Tennessee, Virginia, Texas, Arkansas,
24 Oklahoma.

25 Q. Have you had any further education beyond your

1 nursing education?

2 A. Not beyond nursing. I've had more education in
3 nursing.

4 Q. Okay. And describe that for me if you would.
5 When did you take additional education in nursing?

6 A. When I still lived in Texas, I started classes to
7 get a bachelor's in nursing. And then after moving to
8 Arkansas, then later on continued on to get a master's in
9 nursing.

10 Q. You received a bachelor's for nursing where and
11 when?

12 A. From Arkansas Tech -- I don't remember the year --
13 a few years ago. And then I got a master's in nursing from
14 University of South Alabama.

15 Q. And what year did you get your master's of
16 nursing?

17 A. I think it was December of '06.

18 Q. Okay. And what are you currently doing as
19 employment?

20 A. I am working as a nurse practitioner in Fort
21 Smith.

22 Q. When did you become a nurse practitioner?

23 A. Well, shortly after I graduated with that
24 master's, I took a certification exam in '07.

25 Q. And are you -- I'm sorry. I didn't mean to

1 interrupt you.

2 A. February of '07.

3 Q. And if -- I don't mean to interrupt you.

4 Sometimes I believe you are finished. If I do interrupt
5 you, if you will let me know, I will be quiet and let you
6 finish.

7 A. No, that's fine.

8 Q. Okay. What states do you have a certification to
9 be a nurse practitioner?

10 A. Well, I am licensed in Arkansas right now. It's a
11 national certification.

12 Q. Okay. You are licensed in Arkansas. Have you
13 been licensed in any other states?

14 A. Also Oklahoma.

15 Q. Are you currently licensed in Oklahoma?

16 A. Yes.

17 Q. Any other states?

18 A. No.

19 Q. How long have you held your license in Arkansas?

20 A. A little over two years.

21 Q. And how about Oklahoma?

22 A. Probably about a year and a half.

23 Q. Has your license in Arkansas or Oklahoma to be a
24 nurse practitioner ever been suspended or revoked?

25 A. No.

1 Q. Have you ever had a nursing license suspended or
2 revoked?

3 A. No.

4 Q. How long have you worked at your current employer?

5 A. About two years and several months.

6 Q. And what did you do before that?

7 A. I was a student.

8 Q. While you were going to get your master's degree I
9 assume?

10 A. Yes.

11 Q. And you did not work while you were going to
12 school I take it?

13 A. Well, for about a year and a half, I worked
14 part-time doing a little bit of home health here in Fort
15 Smith.

16 Q. And who did you work for then?

17 A. Gentiva.

18 Q. And you just told me, I think, but for how long
19 did you work as a home health care nurse?

20 A. I think it was about a year and a half.

21 Q. All right. And what was your previous employment
22 prior to being a home health care nurse?

23 A. When we lived in Texas, I was a nephrology nurse
24 and renal transplant coordinator.

25 Q. How long did you do that?

1 A. Ten years.

2 Q. Who was your employer at that time?

3 A. Cook Children's in Fort Worth.

4 Q. You said about ten years?

5 A. Uh-huh.

6 Q. What did you do before working in that role?

7 A. Then I lived in Virginia and I worked as a staff
8 nurse in a hospital.

9 Q. What hospital?

10 A. Fairfax Hospital in northern Virginia.

11 Q. And about how long did you work for that hospital?

12 A. About four years.

13 Q. Help me understand your residential history if you
14 would. Let's just go back to when you were in high school
15 and you graduated in Mobile. At what point did you leave
16 Mobile?

17 A. 1976.

18 Q. And where did you go?

19 A. Moved to Knoxville, Tennessee.

20 Q. What was the reason for moving to Tennessee?

21 A. My husband was going to school there.

22 Q. Was that Steve Brigance?

23 A. Yes.

24 Q. And so you left the Mobile area to go with your
25 husband to Knoxville, Tennessee, where he was attending

1 school?

2 A. Yes.

3 Q. And how long did you stay in Knoxville, Tennessee?

4 A. I think we were there about six years.

5 Q. And then where did you go?

6 A. And then we moved to Virginia.

7 Q. What area in Virginia?

8 A. Well, it was right outside of D.C. We lived in
9 Oakton.

10 Q. What was the reason you moved to the D.C. area?

11 A. Steve had a new job up there.

12 Q. So you went there for your husband's employment?

13 A. Yes.

14 Q. And how long did you stay in the D.C. area?

15 A. Four years.

16 Q. Then where did you go?

17 A. And then we moved to Arlington, Texas.

18 Q. What was the reason for moving to Arlington?

19 A. Steve had a new job there.

20 Q. Okay. And how long did you live in the Arlington
21 area?

22 A. 14 years.

23 Q. And from Arlington you went where?

24 A. Fort Smith.

25 Q. Where we are today?

1 A. Yes.

2 Q. Have you stayed in Fort Smith since that time?

3 A. Yes.

4 MR. DOSSETT: Let's go off the record for a
5 minute.

6 THE VIDEOGRAPHER: The time is now 9:35 a.m.
7 (Off the record).

8 THE VIDEOGRAPHER: The time is now 9:36 a.m. and
9 we are back on the record.

10 Q. (BY MR. DOSSETT) Ms. Brigance, we had a short
11 interruption, so we went off the record, but we are now
12 back on the record and everything we say is being recorded.
13 Okay.

14 A. Yes.

15 Q. I lost my train of thought a little bit. How long
16 have you been back in the Fort Smith area -- what year did
17 you come to Fort Smith?

18 A. 2001.

19 Q. And I said come back. That was a misstatement.
20 But you came to Fort Smith around 2001 and you have lived
21 in this area continuously since that time?

22 A. Yes.

23 Q. Do you have any children?

24 A. Yes.

25 Q. And do any of them live locally in the Fort Smith

1 area?

2 A. I have a son that goes to college in Fayetteville
3 and lives with us in the interim.

4 Q. Where is he in his education? What year?

5 A. He's a senior.

6 Q. What is his name?

7 A. Chris Brigance.

8 Q. How old is he?

9 A. 23.

10 Q. Is he a registered voter in Crawford County?

11 A. Yes.

12 Q. How about -- do you all live in Sebastian County
13 or Crawford County?

14 A. Oh, excuse me. That was wrong. It's Sebastian
15 County.

16 Q. And he is a registered voter in this county?

17 A. Yes.

18 Q. Do you have any other children that live in this
19 area?

20 A. No.

21 Q. Is he married or single?

22 A. He's single.

23 Q. Do you all have -- and I say you all -- your
24 family, you and Steve Brigance, do you have any other
25 family that lives in Sebastian County, Arkansas?

1 A. My mother-in-law.

2 Q. Okay. Dorothy Brigance?

3 A. Yes.

4 Q. Anyone else?

5 A. No.

6 Q. Have you ever been married previously other than
7 to Steve Brigance?

8 A. No.

9 Q. Whenever -- I know that from reviewing some
10 records that at some point in time Steve's parents, Dorothy
11 Brigance and Jack Brigance, moved from a facility in
12 Alabama to a facility in Fort Smith, correct?

13 A. Yes.

14 Q. And were you part of the decision to make that
15 move?

16 A. Yes.

17 Q. To your recollection, when did you began to
18 consider that?

19 A. Well, Steve and I had discussions about it months
20 before they came here. Of course, he was the major
21 decision maker because --

22 Q. He being?

23 A. -- it was -- it was his parents.

24 Q. Okay.

25 A. And he knew he would have the responsibility of

1 everything involved in that, but he did ask for my input
2 because I would be involved to some degree also.

3 Q. Certainly. When you said he was the major
4 decision maker, you meant Steve?

5 A. Yes.

6 Q. And what were the considerations and reasons why
7 thought was being given to this move?

8 A. There was no longer anyone in Mobile who could be
9 close by, primary care visitor to take them to doctor's
10 appointments or to check up on them. They needed more
11 attention.

12 Q. Prior to the move, who served that role down in
13 Alabama?

14 A. Mostly Steve's sister.

15 Q. What's her name?

16 A. Lena Brigance.

17 Q. You indicated there was no longer anyone available
18 to do that. What happened to Steve's sister?

19 A. She moved away from Mobile.

20 Q. Why did she move away?

21 A. I don't know exactly what all her thinking was at
22 that time, but she had been their caregiver for awhile and
23 I think she just felt like she had to get away.

24 Q. Where did she move to?

25 A. San Antonio, Texas.

1 Q. Does she still live there today?

2 A. Yes.

3 Q. And after -- did she have a family with her there
4 in the Mobile area?

5 A. She had a daughter that lived there.

6 Q. And this would be Jack and Dorothy's
7 granddaughter?

8 A. Yes.

9 Q. And what is her name?

10 A. Alana Brigance.

11 Q. Is she an adult?

12 A. Oh, wait. Her name is not Brigance either. She
13 is Alana Burch.

14 Q. She's married apparently?

15 A. No.

16 Q. Okay. So she's single, but her mother is married
17 and she's taken her father's name? She has her father's
18 name?

19 A. Well, her mother is not married, but she did have
20 her father's name.

21 Q. I see. So her mother moved to San Antonio, is
22 that what you told me?

23 A. Yes.

24 Q. Did she stay behind in Mobile, the granddaughter?

25 A. Alana did, yes.

1 Q. Alana. How old is she?

2 A. She is in her 40s. I don't know exactly.

3 Q. Was there any consideration given to asking her to
4 be the caregiver down in Alabama?

5 A. Consideration from whom?

6 Q. Between you and Steve as you were -- as you were
7 considering whether to move Jack and Dorothy to Fort Smith?

8 A. Well, Alana was helpful to us, but we knew that
9 she couldn't be a full-time person, because she works
10 full-time and she had her own life to deal with.

11 Q. Where were Jack and Dorothy Brigance staying in
12 Mobile before they came to Fort Smith?

13 A. In Gordon Oaks Assisted Living.

14 Q. How long had they lived there?

15 A. I don't recall exactly, but it was a number of
16 years, possibly four.

17 Q. Was it in an assisted living facility also?

18 A. Yes.

19 Q. Were there any other considerations going into
20 this thought process about moving them other than the fact
21 that Steve's sister had moved to Texas?

22 A. I don't specifically recall all the ins and outs
23 of it.

24 Q. Okay.

25 A. It was just something we felt needed to be done.

1 Q. All right. Was anyone else involved in these
2 discussions, to your knowledge, other than you and Steve?

3 A. I don't think so.

4 Q. You don't recall having -- yourself having any
5 conversation with any of the other family members about
6 this move?

7 A. We may have mentioned it to our son Chris, who
8 lived here, that his grandparents would be moving here, but
9 no one else who would be part of making the decision.

10 Q. Help me understand the Brigance family, the family
11 structure a little bit. You have Jack Brigance and Dorothy
12 Brigance?

13 A. Yes.

14 Q. What children did they have?

15 A. They had Lena Brigance. They had Maurice
16 Brigance, Jr. and Steve Brigance.

17 Q. So they had one daughter and two sons?

18 A. Yes.

19 Q. And we have talked a little bit about Alana
20 Brigance. Has she ever been married?

21 A. Yes.

22 Q. Did she ever live in Sebastian County, Arkansas?

23 A. No.

24 Q. What does she do for a living?

25 A. She's retired now.

1 Q. You indicated she had one daughter that lives in
2 the Mobile area. Does she have any other children?

3 A. She has a daughter in San Antonio.

4 Q. So she has two daughters?

5 A. Yes.

6 Q. What's the daughter in San Antonio's name?

7 A. Monica Burch.

8 Q. Which -- of the three children, which is the
9 oldest, of Dorothy and --

10 A. Lena.

11 Q. And who is second oldest?

12 A. Maurice, Jr.

13 Q. And then Steve was the youngest?

14 A. Yes.

15 Q. With regards to Maurice Brigance, Jr., how old is
16 he?

17 A. Well, he's deceased now.

18 Q. When did he pass away?

19 A. I am sorry. When?

20 Q. Yes, ma'am.

21 A. I don't remember the exact year. It was when we
22 lived in Texas.

23 Q. And did he have any children?

24 A. No.

25 Q. Was he married at the time that he passed away?

1 A. No.

2 Q. Was he ever married?

3 A. No.

4 Q. How old was he at the time of his death?

5 A. I don't recall. I believe he was in his 50s.

6 Q. Do you know if Steve's father had any brothers or
7 sisters?

8 A. Yes. He has a brother.

9 Q. And you said it in the present tense. He is still
10 living, is that correct?

11 A. Yes.

12 Q. Where is he?

13 A. He is in Mobile.

14 Q. What is his name?

15 A. Jimmy Brigance.

16 Q. Do you have any knowledge as to how old he is?

17 A. He's in his early 80s.

18 Q. Is he living in a facility of some sort?

19 A. No. He lives in his home.

20 Q. Does he live there alone or does someone live with
21 him?

22 A. He lives alone. He has someone that stays with
23 him during the day some.

24 Q. A caregiver of sorts?

25 A. Yes.

1 Q. Did Mr. Brigance have any other siblings?

2 A. No.

3 Q. I was referring, of course, to Jack Brigance.

4 A. Yes.

5 Q. And he has no other siblings either living or
6 deceased, am I correct?

7 A. Correct.

8 Q. Prior to their move to Fort Smith, you indicated
9 that Mr. & Mrs. Brigance were -- Steve's parents were
10 living in an assisted facility -- assisted living facility
11 down in Alabama. Had you ever visited them in that
12 facility?

13 A. Yes.

14 Q. What was that facility like?

15 A. It was assisted living, two floors, you know, main
16 dining area, living area. They had a -- like a one room
17 apartment in that facility.

18 Q. Was it -- was -- their accommodations there at
19 that facility, was it a studio type apartment where it was
20 all open?

21 A. Yes.

22 Q. I assume it had -- they had their own restroom in
23 that facility?

24 A. Yes.

25 Q. It's not -- it's not -- I take it from your

1 description, it was not a setup where there was a living
2 area and a separate bedroom or anything like that?

3 A. No. It was all in one big room.

4 Q. Did you tell me the name of that was Golden Oaks?

5 A. Gordon Oaks.

6 Q. Gordon Oaks. If you can, tell me approximately
7 how long did they live at Gordon Oaks?

8 A. I don't recall. Again, I think I said about four
9 years. Could have been a little longer.

10 Q. Whenever the decision was being contemplated to
11 bring Steve's parents to Fort Smith, did you discuss that
12 with Jack and Dorothy Brigance?

13 A. Yes.

14 Q. And were you involved in the conversations with
15 them about this particular move?

16 A. Yes.

17 Q. What were their thoughts about moving?

18 A. They were excited. They wanted to come. Steve's
19 mother had visited us before and they thought Arkansas
20 would be great.

21 Q. Had they had a chance to visit the facility at
22 Fianna Oaks prior to moving up here?

23 A. They did not.

24 Q. Who reviewed it for them?

25 A. Steve did.

1 Q. Did Steve do all of the visits or did you go with
2 him on any occasion prior to the move?

3 A. I don't recall if I ever went there before they
4 moved in. I think mostly Steve did it all.

5 Q. Is it fair for me to assume that it was Steve's --
6 all of the decision about whether this was the right
7 facility or not, that was all on Steve's shoulders?

8 A. Yes.

9 Q. None of the other family members were
10 participating in that decision I take it?

11 A. No.

12 Q. Did Steve discuss with you the reasons why Fianna
13 Oaks was his choice?

14 A. Yes.

15 Q. And what were -- what were the factors that went
16 into it?

17 A. He was very excited about the new facility being
18 close by to our home and that the layout of the room that
19 he selected was -- was so nice and spacious that they would
20 have much more room than what they had before. He thought
21 that it would be easy for them to get around in. We
22 wouldn't have to worry about them falling over their
23 furniture or anything, because it would just be a great
24 setup for them with two separate bedroom areas and plenty
25 of room to put their recliner chairs in. And so he was

1 very excited about that.

2 Q. How close is it to your house?

3 A. It's probably less than two miles.

4 Q. I assume that when his parents moved to Fort
5 Smith, your family, being Steve and you and any of your
6 children, I guess, that were here at that time, would be --
7 have primary responsibility to help take care of them, of
8 Jack and Dorothy?

9 A. I'm sorry. Say that one more time.

10 Q. Is it fair to assume that your family, meaning you
11 and your husband and any of your children that would be
12 living with you, would have primary responsibility to take
13 care of Dorothy and Jack with regards to the family members
14 who were going to help?

15 A. Yes.

16 Q. During the time in which Jack and Dorothy Brigance
17 lived together at Fianna Oaks, did any of the other family
18 members come to visit them that you are aware of?

19 A. Well, Chris visited them quite often, our son.
20 And over Christmas when my mother and my sister were in
21 town, they went over there to visit them.

22 Q. Okay. Any other visitors that you recall from the
23 family?

24 A. I don't think so. No, wait. I think -- well, my
25 other son that lives out of town visited them last summer I

1 believe.

2 Q. Okay. Any other family visitors that you can
3 recall?

4 A. I don't think so.

5 Q. Let's go back and talk about the inspections that
6 Steve had made of the facility before deciding to put his
7 parents in this facility. Are you aware of the fact that
8 he made -- that he did actually go on site and look at the
9 facility with his own eyes?

10 A. Yes. He looked at the room and helped select
11 which room would be best for them.

12 Q. Do you know how many times Steve went to look?

13 A. I don't know.

14 Q. When he -- well, let me rephrase. Following his
15 inspection of the facility, did the two of you speak about
16 what he had learned while he was there?

17 A. Again, like I said, he told me about what the room
18 was like, the layout and floor plan of the room, the dining
19 area, the areas that they would be involved in, the
20 exercise room, and there was a hairdresser there, that kind
21 of thing.

22 Q. Are there any other things that the two of you
23 discussed about the condition of the facility as Steve was
24 in the decision making process?

25 A. I don't recall.

1 Q. There's an allegation in the complaint filed in
2 this case that Steve had noticed a particular problem with
3 the door and had made mention of it. Did he make mention
4 of that to you?

5 A. I knew that there -- I don't know if it was the
6 first time that I heard of it, but I heard it many times
7 over the six months or so period before my father-in-law's
8 accident that there was a problem.

9 Q. Let's start with Steve going to the facility to
10 inspect it prior to making the decision to move his
11 parents. Did Steve make any mention to you of a problem
12 with the door at that time?

13 A. Before they moved in? Say that again.

14 Q. Yes, ma'am. When he is there making the decision
15 that he's going to select this facility, did he say
16 anything to you about the condition of the door?

17 A. I don't recall the first time it was mentioned.

18 Q. Okay. Are you telling me that you don't recall
19 whether Steve told you there was a problem with the door at
20 this point or that you just don't recall whether he did or
21 not?

22 A. I don't recall.

23 Q. Okay. Are you saying you don't recall it or he
24 didn't say it? That's what I am trying to ask you.

25 A. He told me at some point there was a problem with

1 the door. And I don't recall when that first was.

2 Q. He being Steve?

3 A. Yes.

4 Q. And what did he say to you?

5 A. That that door on the closet when you come in --
6 and I'm paraphrasing. I don't recall his exact words.

7 Q. Okay.

8 A. -- had a problem when you opened it. It was
9 difficult to open, it would catch, and there was a problem
10 with it.

11 Q. Did he -- other than it being difficult to open
12 and that it would catch, did he describe any other problem
13 with it when he first mentioned it?

14 A. I don't recall specifically what he said to me,
15 because his dealing was with the facility, not with me. It
16 was not really my responsibility.

17 Q. What occasion did Steve have to visit with you
18 about it? And what I mean by that is, did he come home and
19 describe it to you, or how was it that you and Steve came
20 to have a conversation that there was a problem with this
21 door?

22 A. And, again, I don't remember the first time. And
23 I don't remember exactly when this conversation came up
24 from Steve. I'm sorry. I just -- I don't know --

25 Q. Okay.

1 A. -- the best way to answer that. I don't recall
2 the time or when it came up exactly the first time.

3 Q. Okay. Tell me what you recall. And if you don't
4 remember, it's okay to tell me you don't remember or you
5 can't remember. Okay. The first time that you and Steve
6 discussed it, were his parents living there?

7 A. Again, like I said, I don't remember if it was
8 before they moved in or not, but I -- I would sort of think
9 it was after they had moved in that there were several
10 times that -- and even, you know, I talked to dad about it,
11 that someone was coming to fix the door, the door is a
12 problem.

13 Q. Did you ever experience a problem with the door
14 yourself?

15 A. No. I never had any reason to open that door.

16 Q. Did you ever notice anyone else experiencing any
17 problem with it?

18 A. Well, I'm hesitating, because I -- I somewhat
19 remember being there one evening with dad when he was
20 trying to open the door and having trouble with it. And
21 then I may have been there one instance when that happened.

22 Q. Do you recall when that was in reference to the
23 accident?

24 A. It would have been months before.

25 Q. Before Christmas you think?

1 A. Yes.

2 Q. And what type of problem do you remember your
3 father-in-law having?

4 A. Not being able to get it open, sort of having to
5 work with it a little bit to get it to move right.

6 Q. Did he eventually get it to move?

7 A. I believe on that occasion, he did.

8 Q. Did you have to go help him?

9 A. I don't think that I did.

10 Q. Any other instances where you recall observing
11 someone else having a problem with the door?

12 A. No.

13 Q. Let's back up a little bit. You had mentioned
14 that you heard about a problem with the door on several
15 occasions. The one that we have talked -- the only one we
16 have talked about is the initial time when Steve had
17 mentioned to you there's a problem with the door. What --
18 how many other occasions do you remember someone mentioning
19 to you there was a problem with the door?

20 A. Well -- and, again, this probably is a
21 guesstimate. I would say about four or five times just
22 in -- in that when Steve would visit his parents and come
23 home and we would talk about how are they doing today,
24 what's going on, and, you know, he would mention, well, dad
25 is still complaining that the door is not working or that

1 he looked at the door and the door is not working and they
2 are still waiting to get that fixed and the maintenance man
3 was going to come fix it. Or dad might say something to
4 me, you know, when I asked him how were things going, and
5 he'd tell me everything about what he ate that day, you
6 know, by the way, maybe the boat fell down today or my --
7 I've been watching my bird feeder, or that, you know, the
8 door is still a problem, but it's going to be okay, they
9 are coming to fix it.

10 Q. Total how many times do you think either Steve or
11 your father-in-law mentioned there was a problem with the
12 door?

13 A. To me, my best guess would be about four times.

14 Q. Over the entire time they were there?

15 A. Yes.

16 Q. We have already established that you don't recall
17 exactly when the first time was. How about the last time
18 that somebody mentioned to you that there was a problem
19 with the door prior to the incident?

20 A. I don't recall that either.

21 Q. Did anyone ever mention to you prior to this
22 incident that there was a -- any other problem with the
23 door other than it would catch and be difficult to open?

24 A. I'm sorry. Say that one more time.

25 Q. Prior to this incident, did anyone ever mention to

1 you that there was a problem with the door other than that
2 the door would catch and be difficult to open?

3 A. Well, the word catch is my word. I believe that
4 when I was discussing it with Steve or he was telling me
5 what was going on, that's not exactly how he described it.

6 Q. How do you remember him describing it differently?

7 A. I remember him saying that -- that front -- that
8 door in the front, that closet door is a problem. It -- it
9 just doesn't open right. Seems like the hinge is not
10 right. The door is a problem. We've got to get it fixed.

11 Q. Let's be specific about which door we are talking
12 about. You mentioned the closet door right when you walk
13 in. You used that phrase somehow?

14 A. Yes. It's like a coat closet in the front of the
15 apartment.

16 Q. When you opened the door, where is it? When you
17 opened the door to the room, where is the closet door?

18 A. When you open the door to walk into their
19 apartment and you close the door behind you, the coat
20 closet door that fell is right in front of you.

21 Q. And describe the door to me the best that you can
22 recall, the closet door.

23 A. It was a bifold sliding door. I'm not a
24 construction person. I don't know how to best describe it.
25 It's one of those with a handle in the middle that you pull

1 kind of out and it collapses and slides over --

2 Q. Okay.

3 A. -- on a track.

4 Q. Okay. Do you remember whether it slid to -- as
5 you're facing the door, did it slide to your right or to
6 your left?

7 A. To the left.

8 Q. And when it folded, did the fold -- did it
9 collapse and come out towards you or did it collapse and go
10 in towards the closet?

11 A. It came out.

12 Q. What color do you remember the door being?

13 A. I recall white.

14 Q. Did you ever have occasion to open or close that
15 door?

16 A. I don't recall that I did.

17 Q. If you did, you can't recall it as you sit here
18 today, is that a fair statement?

19 A. Right.

20 Q. You have described to me in general terms what
21 Steve would say to you when he would come home or what --
22 and tell you that there was a problem with the door. Do
23 you remember anything else that Steve ever said about that
24 door prior to the incident that's the basis of this
25 lawsuit?

1 A. No, I don't.

2 Q. You have described to me in general terms what you
3 recall Jack Brigance saying about his problem with the
4 door. Do you recall anything else that Jack Brigance said
5 to you about the problems with the door prior to the
6 incident?

7 A. No.

8 Q. Other than those two gentlemen, has anyone else
9 ever told you that there was a problem with the door?

10 A. No.

11 Q. I assume it's fair to say then that you have never
12 personally witnessed the door coming off its track, is that
13 a fair statement?

14 A. Right.

15 Q. And I assume also it's a fair statement that no
16 one ever told you prior to this incident that the door was
17 coming off of its track, is that a fair statement?

18 A. I don't recall those words. But, then again, I
19 don't recall all the conversations exactly about the door
20 and what the problem was. I just remember a problem. And
21 so I don't know if that was ever mentioned, it actually
22 came off the track or not.

23 Q. To the best of your recollection, as you sit here
24 today, you don't recall anyone telling you that, is that a
25 fair statement?

1 A. I don't recall that.

2 Q. So it is a fair statement?

3 A. Yes.

4 Q. Okay. Were you one of the contact persons for the
5 facility to contact if they needed anything with regards to
6 Mr. or Mrs. Brigance?

7 A. I was the second contact.

8 Q. Who was the first contact?

9 A. Steve.

10 Q. Did you ever get contacted by the facility on any
11 occasion?

12 A. Yes.

13 Q. And how often?

14 A. Oh, I don't recall. Maybe once a month.

15 Q. What contact information do you recall the
16 facility having for you?

17 A. I'm sorry. Would you clarify that?

18 Q. How did the facility get ahold of you?

19 A. Usually my cell phone.

20 Q. Now, you would be the number two person you said?

21 A. Yes.

22 Q. And Steve was the first person?

23 A. Yes.

24 Q. What would cause Steve to be unavailable?

25 A. If he were tied up with business and couldn't

1 answer his phone. That would generally be it.

2 Q. Okay. How did you first learn that there had been
3 an incident with regards to this particular fall, the one
4 involving the door?

5 A. I was called by -- on my cell phone by the
6 caregiver that was in the room with my mother-in-law.

7 Q. And who was that?

8 A. Mandy.

9 Q. And what did Mandy say to you?

10 A. She said that she had tried to reach Steve and
11 left him a message on his cell phone a few minutes earlier,
12 but she wanted to talk to somebody because the door had
13 fallen on dad and they were trying to decide whether or not
14 to send him to the hospital and did we want him to go to
15 the hospital in an ambulance.

16 Q. Let me back up for just a moment. You used the
17 phrase the caregiver in the room with him called --

18 A. Uh-huh.

19 Q. -- you on your cell phone. Was it your
20 understanding that this person was present in the room when
21 the incident happened?

22 A. She was present in the room with my mother-in-law
23 when she called me.

24 Q. Okay. And do you have a belief or an
25 understanding as to whether or not she was present in the

1 room when the incident occurred?

2 A. I don't recall.

3 Q. Other than what you just described to me about her
4 conversation, do you remember anything else she said to you
5 during that conversation?

6 A. She said -- no, I don't think -- she did not talk
7 to Steve. She had left him a message and said -- I told
8 her I was on my way over there anyway. I was on my way
9 home from work so just wait, don't do anything, and I would
10 be there.

11 Q. Anything else that you recall her saying to you
12 during that conversation?

13 A. No.

14 Q. Prior to arriving at the facility, did you -- let
15 me rephrase the question.

16 Did you go to the facility at that point? You
17 indicated you were on your way over.

18 A. Yes.

19 Q. You actually did go and arrive there?

20 A. Yes.

21 Q. Prior to arriving at the facility, did you speak
22 with anyone else from the facility?

23 A. No.

24 Q. Did you make any attempt to get ahold of Steve?

25 A. Yes.

1 Q. Were you able to reach him before you got to the
2 facility?

3 A. I believe I did. I believe I reached him and said
4 I've received a call that your dad was in the accident, the
5 door fell on him, and they are trying to decide what to do
6 with him, so I'm heading over there. And I believe Steve
7 told me at that point that he had gotten the message and
8 said if dad wants to go, let him go, if he doesn't want to
9 go, don't make him go.

10 Q. Okay. Do you know why the facility was initially
11 unable to reach your husband?

12 A. Then, again, I don't know. They left him a
13 message on the cell phone. I don't know what he was doing
14 at that moment.

15 Q. He indicated to you in your conversation with him
16 that he had gotten the message from the facility?

17 A. That's what I recall.

18 Q. Do you know whether that was the, for lack of a
19 better word, the voice mail message that was left, or
20 whether he had actually talked to them at that point?

21 A. I don't recall. I think it may have been the
22 voice mail message. And he said, you know, I just got
23 home, I just walked in the door. And so I said, well, I'll
24 -- I'm on my way. I will go over there.

25 Q. Do you know how long it took you to get to the

1 facility from the point in time where you talked to
2 Mandy -- how long between that time and when you got to the
3 facility if you can recall?

4 A. Probably ten or 15 minutes.

5 Q. How long was it -- was your place of business from
6 the facility? How long of a drive?

7 A. 15 or 20 minutes.

8 Q. Give me the address for your place of employment,
9 if you would, that you would have been leaving from when
10 you got off work.

11 A. 1500 Dodson.

12 Q. Tell me when you got to the facility, was Jack
13 Brigance still there.

14 A. No.

15 Q. Who did you first come in contact with at the
16 facility?

17 A. My mother-in-law and Mandy.

18 Q. And where were they?

19 A. They were in the bathroom in my mother-in-law's
20 room.

21 Q. When you arrived at the facility, did you go
22 straight to your mother-in-law's room?

23 A. Yes.

24 Q. Were there any other people other than your
25 mother-in-law and Mandy in the room?

1 A. No.

2 Q. And did you speak with your mother-in-law at that
3 time?

4 A. Yes.

5 Q. And what did you say to her?

6 A. I think I just asked her was she okay.

7 Q. What did she say?

8 A. And I don't -- she was in the midst of sitting
9 there on the toilet. I don't think she had too much to say
10 to me at the time. Mandy was trying to help her in there
11 in the bathroom. And just mostly was asking Mandy what was
12 going on and where's dad.

13 Q. Did you have any other conversation with your
14 mother-in-law when you got to her room?

15 A. I don't recall that I did.

16 Q. Do you recall at this time asking her what had
17 happened? Her being your mother-in-law.

18 A. I don't recall that I asked her.

19 Q. Did you have any conversation with Mandy when you
20 arrived at the room?

21 A. Yes. I asked Mandy what happened.

22 Q. And what did Mandy tell you?

23 A. She said that Mr. Brigance went to open the door,
24 the door fell on him. And then she said I know you didn't
25 want him to go to the hospital until you got here, but he

1 couldn't walk and he wanted to go, so we called the
2 ambulance.

3 Q. Did you have any problem or issue with the
4 decision to call the ambulance?

5 A. No.

6 Q. Do you agree that that was probably an appropriate
7 response given his condition?

8 A. Yes. When I talked to Mandy on the phone, I
9 thought that I had made it clear to her that I wanted her
10 to wait because I didn't realize the severity of what went
11 on. I thought if I could look at him and examine him and
12 he's really not that bad, there would have been no need for
13 it. But she made the right call, because I didn't realize
14 the severity by just talking to her on the phone that he
15 couldn't walk.

16 Q. That's one of those instances where the people who
17 are actually on the scene are better able to make those
18 type of decisions than people who aren't there, right?

19 A. She made a good decision.

20 Q. And I am not being critical of your decision at
21 all. I am just saying the people who were there had --
22 they had information which you simply didn't have?

23 A. Right.

24 Q. Okay. Did you have any other discussions with
25 Mandy other than what you just described to me while you

1 were still at the facility?

2 A. I don't think so, other than I would find out what
3 was going on.

4 Q. Okay. Have you told me everything that you can
5 remember about your discussions with Mandy and your
6 mother-in-law while you were there in the room?

7 A. Yes.

8 Q. Whenever you got -- first got to the room, did you
9 notice the door, the closet door?

10 A. It wasn't there.

11 Q. It wasn't where?

12 A. Wasn't in the room.

13 Q. Did you notice where it was?

14 A. No. I didn't see it anywhere.

15 Q. Did you see any sign or indication when you were
16 in the room that an incident had happened, something had
17 happened? Was there any damage to anything, anything look
18 different?

19 A. I don't recall that it did other than the door is
20 gone. There's no door there.

21 Q. You didn't see any scuff marks on the walls or
22 furniture disheveled or anything like that?

23 A. No.

24 Q. After you spoke with your mother-in-law and Mandy,
25 what did you do at that point?

1 A. I left and I went home to talk to Steve about what
2 had happened and called the hospital.

3 Q. Did you talk to anybody else at the facility
4 before you left other than Mandy and your mother-in-law?

5 A. I don't think so.

6 Q. You left the facility and went where?

7 A. Home.

8 Q. Okay. You indicated, I think, that you made at
9 least one phone call before you got home, is that correct?

10 A. No.

11 Q. Okay. So you mentioned that -- you just mentioned
12 that you called someone. I think you said you called
13 Steve, is that right?

14 A. No, not after I was at the facility. I just went
15 right home.

16 Q. Okay. When did you call Steve? Let me rephrase
17 the question. You have gotten to the facility. You have
18 talked to Mandy and your mother-in-law. When did you next
19 talk to Steve?

20 A. When I got home.

21 Q. So you went from the facility to the house?

22 A. Yes.

23 Q. Was Steve there?

24 A. Yes.

25 Q. And what did you say to him?

1 A. I said I went by the facility, check on dad. He
2 had already gone to the hospital. Mandy said that he
3 wanted to go because he couldn't walk, so.

4 Q. What was Steve's response?

5 A. I don't recall his exact words, but it was
6 probably -- I mean, it was, like, oh, you know, oh, great,
7 now, you know, this -- upset that this had happened. We've
8 got to find out what's going on and what we need to do.

9 Q. Whenever you relate to Steve that the ambulance
10 had taken his father to the hospital, was that new
11 information to him or did he already know?

12 A. That the ambulance had taken him?

13 Q. Yes, ma'am.

14 A. I think that was new. I don't think that anyone
15 had called him to tell him that.

16 Q. How long were you at home before you left for the
17 hospital?

18 A. I don't recall. It was a little while, because I
19 called the hospital and talked to probably the admitting
20 nurse or someone there -- I don't recall exactly who it
21 was -- to find out what was going on. And I was thinking
22 that possibly, you know, I would go down there soon, get
23 dad and bring him home. So I don't recall exactly. It may
24 have been an hour or so.

25 Q. You just -- did Steve go to the hospital with you,

1 after you, or before you?

2 A. He went with me.

3 Q. You mentioned -- we talked briefly about the
4 initial discussion that you had with Steve when you got
5 home. Do you recall any other discussions you had with him
6 before leaving for the hospital?

7 A. I know he -- he wasn't -- I don't recall the
8 specific words, so I know I am paraphrasing. I know he
9 wasn't happy about what had happened, just kind of, you
10 know, I knew there was a problem. We should have had --
11 that problem should have been fixed before now kind of
12 thing.

13 Q. Okay. Any other discussions you remember
14 having -- any other statements you remember Steve having
15 about this incident before you all left for the hospital?

16 A. No.

17 Q. Did you make contact with the facility in any way,
18 whether you contacted them or they contacted you, prior to
19 you leaving for the hospital?

20 A. Again, I don't recall specifically. Steve may
21 have, because I know we needed to let his mom know
22 something that was going on. He may have talked with
23 someone down there. I don't recall what that follow up
24 with the facility was that evening.

25 Q. You don't have any specific recollection of

1 speaking with anyone at the facility between the time that
2 you got home and before you left for the hospital?

3 A. I don't recall myself. Steve may have, again, to
4 be sure that his mother was okay, because we were concerned
5 about her being there by herself, because they were always
6 together and she had not spent a night there by herself
7 before, so. And I know that was a concern. He may have
8 talked with the caregivers at that point. And more than
9 likely he spoke to them trying to find out before we got
10 there to see dad what they said had happened, but I don't
11 recall that. That would be Steve.

12 Q. Okay. So you think that Steve may have talked to
13 them, but you are not sure?

14 A. I don't know, yes.

15 Q. Was my summation of that -- was that accurate?

16 A. Yes.

17 MR. DOSSETT: Okay. We need to take a break to
18 switch out tapes, so we can go off the record.

19 THE WITNESS: Okay.

20 THE VIDEOGRAPHER: The time is now 10:21 a.m. and
21 we are off the record.

22 (Off the record).

23 THE VIDEOGRAPHER: The time is now 10:31 a.m. We
24 are on the record.

25 Q. (BY MR. DOSSETT) Ms. Brigance, we're back on the

1 record after a short break, so everything we say now is
2 being recorded. Okay.

3 A. Okay.

4 Q. Let me back up a little bit and ask you a few
5 questions that we kind of skipped over.

6 Have you ever had any discussions with anyone at
7 the facility -- prior to the incident, had you ever had any
8 discussions with anyone at the facility about repairing the
9 door, the closet door?

10 A. No.

11 Q. Is it fair to say that you personally never
12 brought it to the attention of the facility?

13 A. No, I didn't. I left that to Steve.

14 Q. From -- I know that you had indicated that your
15 observation of the problem with the door was limited to one
16 possible episode where you saw your father-in-law --

17 A. Yes.

18 Q. -- trying to open it, is that correct? From what
19 you observed that day and the things that people had told
20 you about the door, were you ever concerned for your
21 father-in-law's or your mother-in-law's safety from that
22 door?

23 A. No. I had no idea that this kind of thing could
24 happen under that situation.

25 Q. So whatever you observed and whatever you were

1 told, it never led, in your mind, to a concern about
2 safety, is that a fair statement?

3 A. Not for me.

4 Q. Okay. Did you help Mr. & Mrs. Brigance move into
5 the facility?

6 A. I did not actually help them move their belongings
7 in there.

8 Q. Who did that?

9 A. Steve and some guys. I don't know who it was.

10 Q. Okay. Not your son or anything? It was folks
11 that were hired to help?

12 A. I believe so.

13 Q. Did you help with unpacking at all?

14 A. I don't think so.

15 Q. When you were -- whenever you would visit your
16 mother-in-law and father-in-law, did you ever assist them
17 with cleaning or straightening up?

18 A. No.

19 Q. To the best of your recollection, did you ever
20 have occasion to operate the folding closet door prior to
21 the incident?

22 A. No.

23 Q. When we took -- excuse me. When we took the
24 break, we were talking about -- we were at the point in
25 time whenever you had left the facility and gone to your

1 house and met up with Steve. Let me ask you just a few
2 questions about that. You indicated that you would
3 estimate the time to be an hour or so before you all left
4 to go to the hospital. What did you do during that hour?

5 A. I don't recall.

6 Q. Do you recall seeing what Steve was doing during
7 that hour?

8 A. No, I don't.

9 Q. Was anyone else at your house other than the two
10 of you?

11 A. No.

12 Q. Where did you go after you left the house?

13 A. Went to the emergency room at Sparks.

14 Q. During the trip from the emergency room to Sparks,
15 did either you or Steve attempt to contact anyone at the
16 facility?

17 A. I did not.

18 Q. Did you all take the same -- you and Steve take
19 the same vehicle or different vehicles?

20 A. We went together.

21 Q. Did -- do you have any recollection of Steve
22 attempting to contact the facility during your trip from
23 home to the hospital?

24 A. I don't recall if he did.

25 Q. Okay. When you arrived at the emergency room,

1 tell me what happened at that point. When did you first
2 come into contact with Mr. Brigance?

3 A. We found what room he was in, went to the room,
4 saw him there in the stretcher bed and spoke with him.

5 Q. Who was in the room when you got there?

6 A. He was alone.

7 Q. You indicated that you spoke with him. Was he
8 able to converse with you?

9 A. Yes. He was alert.

10 Q. And did he appear to be in any particular distress
11 to you?

12 A. No, not at that time.

13 Q. Did you ask him how he was doing?

14 A. Yes.

15 Q. Did he voice any complaints to you?

16 A. His -- his knee. He was complaining of pain in
17 his knee and just in general that at that moment he was
18 pretty sore and uncomfortable, talked a little bit about
19 what had happened.

20 Q. With regards to his physical condition, though, he
21 mentioned his knee hurt. Do you remember which knee it
22 was?

23 A. It was his right knee.

24 Q. And other -- you mentioned soreness in his knee
25 and otherwise being -- I mean, the pain in his knee and

1 otherwise being sore and uncomfortable. Do you remember
2 anything he described to you about the problems he was
3 having at that time?

4 A. No, not that time, because he was just lying
5 still.

6 Q. You mentioned that -- that you discussed with him
7 some about what happened. Tell me what he said to you.

8 A. He said I went to put up mom's slippers and that
9 when I went to open the door, it fell on me and crushed me
10 against the dresser. And he said I didn't know it was so
11 big and heavy. It hurt so much.

12 Q. Was anyone else in the room at the time that he
13 made that statement?

14 A. No, just Steve and myself.

15 Q. No nurses or anyone else?

16 A. No.

17 Q. Do you remember anything else he said to you about
18 how the incident occurred?

19 A. No.

20 Q. You described to me part of this conversation was
21 that he was opening the door?

22 A. Yes.

23 Q. Do you remember that specifically, that it was
24 being opened as opposed to being closed?

25 A. Opening.

1 Q. Do you remember whether he told you that he had
2 put the slippers away yet or was he still in the process of
3 doing that?

4 A. He just said I went to open the door to put the
5 slippers away.

6 Q. When you went to the facility that evening -- when
7 you went there first before you went home, did you notice
8 the slippers anywhere?

9 A. No.

10 Q. Do you have any knowledge as to whether anyone
11 else put them away?

12 A. I don't know.

13 Q. Anything else at all you remember your
14 father-in-law saying that -- that night about how the
15 accident happened?

16 A. No. That was all he told me.

17 Q. Did you ever discuss the incident with him or
18 overhear him talking about it with other people after that
19 time?

20 A. During the hospital stay, yes.

21 Q. And what else do you remember him saying about it?

22 A. I remember -- well, that was generally it. I can
23 remember those words specifically.

24 Q. Do you need to take a break?

25 A. Unh-unh. But he spoke to Steve and myself quite a

1 bit.

2 Q. Do you remember him talking about how the incident
3 occurred with anyone other than you and Steve?

4 A. I wasn't present, but I know he told the doctor
5 what had happened, but that's -- that's it.

6 Q. Do you know which doctor that was?

7 A. Dr. Henry.

8 Q. How do you know that he -- that Mr. Brigance told
9 Dr. Henry what happened?

10 A. Well, because after we were visiting with dad in
11 the hospital room and trying to decide what Steve and I
12 needed to do that night, we went outside of the room to
13 talk and Dr. Henry was there and he was writing in dad's
14 chart. And I said, well, what do you think and -- because
15 I said can we take him home. He said, no, you can't take
16 him home. He can't walk. I said, well, okay. I said so
17 you think he needs to stay here a few days. And we talked
18 a little bit about that. And then he said -- I said,
19 well -- no, he said, he told me -- he told me some doors
20 fell on him, what is that about. He said Mr. Brigance told
21 me the doors fell on him. I said, yeah, that's what he
22 told me, too.

23 Q. Do you recall anything else that the doctor said
24 to you that evening about what had happened?

25 A. Not about the incident.

1 Q. Were you familiar with this particular doctor --

2 A. Yes.

3 Q. -- from your professional experience?

4 A. Yes.

5 Q. Had you ever worked with him before?

6 A. Yes.

7 Q. Did you work with him regularly?

8 A. Yes, I worked with him.

9 Q. Every day?

10 A. Well, he's in the practice I'm in.

11 Q. Okay. Had he ever treated your father before?

12 A. Yes, he did. That's why he was there that night,
13 because dad was a patient of his.

14 Q. Okay. Do you know who the emergency room
15 physician was?

16 A. No, I don't.

17 Q. Did you ever visit with the emergency room
18 physician --

19 A. No.

20 Q. -- about your father's -- father-in-law's care?

21 A. No.

22 Q. Did you ever witness your father-in-law discussing
23 the incident with any other people other than yourself and
24 Steve?

25 A. I don't recall that I did.

1 Q. You indicated that -- that on several occasions
2 that you and Steve discussed it with your father-in-law.
3 Was it always the same general type of conversation you
4 have already described?

5 A. Yes.

6 Q. As Mr. Brigance would tell his story again, did he
7 ever remember any additional details and add them in that
8 you hadn't heard before?

9 A. No.

10 Q. It was always basically the same and that's what
11 you have already told us?

12 A. Yes.

13 Q. Did you stay at the hospital that night?

14 A. No.

15 Q. How long were you at the hospital before you left?

16 A. I don't recall.

17 Q. Did anyone else show up to see Mr. Brigance while
18 you were there?

19 A. No.

20 Q. When you left that evening, did Steve leave with
21 you?

22 A. Yes.

23 Q. Where did you go after you left?

24 A. We went home.

25 Q. Other than visiting with Mr. Brigance's physician,

1 did you talk to any of the other health care providers
2 there that evening?

3 A. They had a nurse come in to help him for a few
4 minutes for something and we may have had a casual
5 conversation, but that was it.

6 Q. But you had no other conversations with any other
7 health care providers about his condition, correct?

8 A. Correct.

9 Q. Did you ever have a conversation with any other
10 health care providers about how the incident occurred?

11 A. That night?

12 Q. Ever.

13 A. Possibly. I don't remember exactly, but I -- or
14 who it would have been. I think -- I do recall at some
15 point -- I was there with him a lot with some of the
16 nurses, because they would come in and say how did you
17 break your hip, what happened. And then we would just say
18 a door fell on him.

19 Q. No specific person that you remember?

20 A. No.

21 Q. Let's go back to the night that the incident
22 happened. Where was Mr. Brigance, Jack Brigance, when you
23 left the hospital?

24 A. In the room in the emergency room.

25 Q. He was still in the emergency department?

1 A. Yes.

2 Q. Did you ever -- that night did you review any of
3 your father-in-law's medical records or X-rays or anything
4 like that?

5 A. I think at the moment we went outside, Steve and
6 myself, from his room to talk and we saw Dr. Henry there, I
7 believe he actually had the X-ray up on the box at that
8 moment and showed me where the fracture was.

9 Q. Do you recall seeing any other records or
10 X-rays --

11 A. No.

12 Q. -- that night?

13 A. No.

14 Q. Have you ever reviewed any of the medical records
15 in this case?

16 A. I have seen dad's chart at our office since then.

17 Q. Have you looked at -- I mean, have you gone
18 through it and studied it?

19 A. I have looked at it.

20 Q. Did you look at the entire chart or just some
21 particular part of it?

22 A. Probably a part. I mean, I think I may have
23 looked at the admission history and physical when he came
24 into the hospital. I don't recall exactly.

25 Q. Do you know when that was?

1 A. No.

2 Q. Okay. Was -- do you recall whether it was before
3 Mr. Brigance passed away or not?

4 A. Yes.

5 Q. It was before --

6 A. I remember one night looking -- or one day in the
7 office checking on a result of a urine sample to find out
8 what was going on with him. But other than that, I don't
9 remember any other specifics.

10 Q. You mentioned that you may have reviewed some
11 other -- some other of his medical records. Do you
12 remember when you did that?

13 A. When he was in the hospital.

14 Q. Okay. Any other times that you have reviewed
15 medical records in this case?

16 A. I don't recall that.

17 Q. Do you recall reviewing any of his other medical
18 records other than what you have already listed?

19 A. No, I haven't.

20 Q. When did you next go back to the facility?

21 A. I believe I went the next morning to check on mom
22 and see how she had done the night before and to tell her
23 that I had seen dad.

24 Q. How was Ms. Brigance doing at that point?

25 A. Well, she was upset. She wanted to know when he

1 was coming home.

2 Q. What did you tell her?

3 A. I said, well, I don't know yet. We just have to
4 wait and see how things go. He has a broken hip.

5 Q. Anything else that you remember the two of you
6 discussing at that time?

7 A. No.

8 Q. We have already talked about the discussion you
9 had with Dorothy Brigance when you went to the facility
10 when the incident happened?

11 A. Uh-huh.

12 Q. Have you ever discussed with her after that point
13 how the accident happened or what she saw?

14 A. Yes, I have.

15 Q. Okay. On how many occasions?

16 A. I think just once.

17 Q. When was that?

18 A. I think it was after he passed away, after he
19 died.

20 Q. Okay. And where were the two of you?

21 A. I believe we were in her room.

22 Q. What do you remember her saying?

23 A. She had been sitting in her chair I believe or --
24 I don't remember exactly where she said she was, but I
25 remember her saying that she felt so guilty because she had

1 him go put up the slippers, if she hadn't have asked him to
2 put up the slippers, this wouldn't have happened.

3 Q. Okay. Anything else you remember her saying
4 during that conversation?

5 A. No.

6 Q. And the two of you have not discussed how the
7 accident happened since that time, am I correct?

8 A. Right.

9 Q. During this conversation you had with her, did she
10 give any further details about how it happened --

11 A. No.

12 Q. -- other than what you have already told me?

13 A. No, she didn't.

14 Q. Okay. When did you next discuss the incident with
15 someone from the facility?

16 A. I don't recall.

17 Q. You have mentioned a caregiver by the name of
18 Mandy. Do you know Mandy?

19 A. Yes.

20 Q. When was the last time you talked to her?

21 A. It's been awhile, because she doesn't work there
22 anymore. I don't -- I haven't talked to her since whenever
23 she was there working. I -- I don't know.

24 Q. The last time you talked to Mandy, she worked at
25 the facility, is that correct?

1 A. I believe so.

2 Q. Other than the day of the incident, have you
3 talked to Mandy about what happened?

4 A. I need to talk to Rex just a moment.

5 MR. DOSSETT: Okay. Let's take a break.

6 THE VIDEOGRAPHER: The time is 10:51 and we are
7 off the record.

8 (Off the record).

9 THE VIDEOGRAPHER: The time is now 10:53 a.m. and
10 we are back on the record.

11 Q. (BY MR. DOSSETT) Okay. Ms. Brigance, we have --
12 we're back on the record after a short break and what the
13 court reporter says is being taking down (sic).

14 A. Yes.

15 Q. At the time that the break was called, I had asked
16 you a particular question. And that is, whether you had
17 talked to Mandy about this incident since you -- since she
18 stopped working at the facility?

19 A. I have not talked to Mandy about that.

20 Q. Okay. Have you talked to Mandy about anything
21 since she left the facility?

22 A. No. I have been -- and I consulted with Rex,
23 because I have been in a room with Mandy where she has
24 spoken with Rex and I was there, but I didn't talk to Mandy
25 at that time.

1 Q. Who was present in the room when that conversation
2 took place?

3 A. Rex and Steve.

4 Q. And yourself?

5 A. And myself.

6 Q. And Mandy?

7 A. Mandy.

8 Q. Anyone else?

9 A. And Mandy's mother.

10 Q. Do you know Mandy's mother's name?

11 A. No.

12 Q. Where did -- anyone else in the room?

13 A. No.

14 Q. Where did that meeting take place?

15 A. In this office.

16 Q. And we're at Mr. Chronister's office currently, is
17 that right?

18 A. Yes.

19 Q. When did it take place?

20 A. Since the accident, since dad's death. I don't
21 recall exactly when.

22 Q. Do you know if it was prior to the lawsuit being
23 filed or after the lawsuit was filed?

24 A. I don't know.

25 Q. What happened at that meeting? What took place?

1 Just describe it in general terms. What was going on?

2 A. Mandy spoke about what she knew about dad's
3 accident.

4 Q. Was anyone asking her questions?

5 A. I suppose some questions were asked to her.

6 Q. Who do you recall asking questions?

7 A. Rex.

8 Q. How about Steve?

9 A. I don't recall that he did.

10 Q. How about you, did you ask any questions?

11 A. No, I didn't talk with her.

12 MR. CHRONISTER: You were provided a copy of the
13 handwritten statement she gave me in discovery.

14 MR. DOSSETT: Okay.

15 MS. HARRISON: I am sorry. Real quick. Is that
16 this (indicating)?

17 MR. CHRONISTER: I believe so.

18 MS. HARRISON: I was assuming that was something
19 she prepared for the hospital, but that's the written
20 statement she made here.

21 MR. DOSSETT: Let's -- let's make a copy of that
22 and attach it as Exhibit 1. Do you have one handy? We
23 will make it Exhibit 1 to the deposition.

24 MR. CHRONISTER: (Handed). I asked some things.
25 She had prepared that before she came in here.

1 MR. DOSSETT: Okay.

2 Q. (BY MR. DOSSETT) Let's get back on our line of
3 questions here. What do you recall being asked of Mandy
4 during that conversation?

5 A. You were there with mom, what happened.

6 Q. What did she say?

7 A. I don't recall, you know. And she talked about
8 her statement that she had written and she just said that,
9 you know, the same thing that we have already said, that
10 the, you know, that the door fell on dad I believe is what
11 she said. I don't know the specifics.

12 Q. You don't recall the specifics of what Mandy said
13 during that meeting?

14 A. I don't.

15 Q. Why were you there?

16 A. I went as support to Steve.

17 Q. Okay. And you don't recall anything that Mandy
18 said about the accident in particular during that meeting?

19 A. She talked about being with mom and, you know,
20 recalling that she had called me and that dad wanted to go
21 to the hospital because he couldn't walk. And I don't
22 recall what else she said specifically.

23 Q. We have here marked as Exhibit 1 what is Mandy's
24 handwritten statement about the incident. It's dated at
25 the top right-hand corner of the first page February 28th

1 of 2009. Does that help to refresh your memory as to when
2 this meeting took place?

3 A. Again, no, because I just know it was after dad's
4 death. She wrote that in February. It must have been
5 after she wrote that, but I don't know what date.

6 Q. Okay. Do you remember whether she presented this
7 written statement at the meeting?

8 A. She did.

9 Q. Did you have an understanding as to whether or not
10 she was still employed at Brookfield at the time of this
11 meeting?

12 A. I don't believe she was employed then.

13 Q. Did you have an understanding at the time of the
14 meeting as to whether she was employed or not?

15 A. I don't recall.

16 Q. From -- before we move on, did you have -- have
17 you had any other conversations with Mandy or were you ever
18 present when -- at any other times when Mandy talked about
19 this incident?

20 A. No.

21 Q. Have you -- do you have any recollection of Mandy
22 ever saying, where you heard, that she was present when the
23 door fell?

24 A. I don't recall.

25 Q. Has Steve ever told you that he's had any other

1 conversations with Mandy about this incident?

2 A. I don't think so.

3 Q. To the best of your recollection, he's never told
4 you that he talked -- I talked to Mandy today or the other
5 day and she said X, Y and Z? Have you ever had a
6 conversation like that with Steve?

7 A. Not regarding this.

8 Q. Have you had any -- has he made such a statement
9 about having a conversation with Mandy about anything else?

10 A. He did tell me one day that -- and I believe it
11 was after Mandy was not employed there -- that -- we were
12 trying to get rid of some of dad's clothing and Mandy said
13 that she would take them, take his clothes. He told me
14 that.

15 Q. Any -- any other conversations that he reported to
16 you?

17 A. No.

18 Q. When you were having -- present for this
19 conversation with Mandy, do you ever remember her saying
20 anything about making a written statement about the
21 incident for the facility?

22 A. Only written statement that I'm aware of is what
23 she brought here.

24 Q. Okay. Anything else?

25 A. No.

1 Q. Okay. During the meeting that you were present,
2 to the best of your recollection, did an incident report
3 that Mandy filled out come up in the conversation?

4 A. I don't recall what -- the specifics of that other
5 than her talking about what she wrote down there.

6 Q. Okay. There's actually -- there's a third page to
7 this, the statement, which we have marked as Exhibit 1.
8 And I'm going to ask you to look at it. See if that
9 refreshes your recollection any.

10 A. What is your question?

11 Q. Does that refresh your recollection at all as to
12 whether or not an incident report was discussed at this
13 meeting with Mandy, with you, and the lawyer?

14 A. No, that does not refresh my recollection.

15 Q. Okay. So I take it then, ma'am, the best you can
16 recall, you have never discussed with Mandy anything about
17 her preparing one or more incident reports in this case, is
18 that correct?

19 A. No. That's correct.

20 Q. Okay. And, to the best that you can recall, you
21 have never overheard a conversation about Mandy preparing
22 one or more incident reports in this case?

23 A. Correct.

24 Q. Has Steve ever discussed that with you, the issue
25 of Mandy preparing one or more incident reports in this

1 case?

2 A. He discussed that there were incident reports
3 involved in this. I don't recall any specifics on the
4 names of people that did that or -- or whatever.

5 Q. Okay.

6 A. He could best answer that.

7 Q. Okay. Let's get back to the hospital. You
8 indicated that Dr. Henry was present there while your
9 father-in-law was still in the emergency department?

10 A. Yes.

11 Q. Do you recall what time of night that was?

12 A. I do not.

13 Q. You have worked with Dr. Henry for some number of
14 years?

15 A. Yes.

16 Q. Is it common for him to go to the emergency
17 department to see patients after hours?

18 A. Yes.

19 Q. It is? That's his normal practice?

20 A. If he is on call, yes.

21 Q. Was he on call that night?

22 A. Yes.

23 Q. This was not a special trip he made to see --
24 because it was Mr. Brigance?

25 A. Right.

1 Q. He was -- this was his normal routine?

2 A. Yes.

3 Q. Have you had any other discussions with anyone
4 from the facility about Mr. Brigance's fall on that day?

5 A. I had a very short conversation with Mitzi Bailey
6 one day while dad was still in the hospital.

7 Q. Where did that conversation take place?

8 A. At the front desk.

9 Q. Of the facility?

10 A. Of the facility.

11 Q. Okay. And your father-in-law was still at the
12 hospital at this time?

13 A. Yes.

14 Q. And tell me what was said in that conversation.

15 A. I believe I went up to the desk to pick up an
16 envelope or something that Mitzi had for us and she asked,
17 well, how is Mr. Brigance doing. And I said, well, he's
18 not doing very well. I said actually I'm concerned. I
19 don't think he's going to make it through this. And she
20 just she looked at me and said, oh, wow.

21 Q. Anything else that you recall being said during
22 that conversation?

23 A. That was it.

24 Q. Have you had any other conversations with Mitzi
25 Bailey regarding this incident involving Mr. Brigance?

1 A. No.

2 Q. Have you had any other conversations with anyone
3 from the facility regarding this incident with Mr. Brigance
4 other than what you have already described?

5 A. No.

6 Q. Did -- are you aware of your father-in-law's fall
7 the day before?

8 A. Yes.

9 Q. Tell me what you recall about that.

10 A. I went to visit him that evening and he said you
11 need to get these bells out of here. I went to unplug them
12 and I tripped. And I remember asking are you okay. And he
13 was up walking around that evening. He said, yes, I'm
14 fine. I didn't hurt myself.

15 Q. What bells was he referring to?

16 A. So it was a Christmas decoration that was behind
17 the chairs -- that was plugged in behind the chairs.

18 Q. Did you examine him in anyway?

19 A. I just watched him walk around. And he was fine.
20 He wasn't limping or anything, so I didn't do any other
21 exam.

22 Q. Did you speak with your mother-in-law about what
23 had happened?

24 A. No. She was sitting there as we were talking, but
25 I didn't say anything directly to her.

1 Q. Did she say anything about the fall?

2 A. No.

3 Q. Did you ask him if he was hurting anywhere?

4 A. I don't recall.

5 Q. This was -- this was actually the day before the
6 incident with the doors, is that correct?

7 A. It could have been. I don't recall exactly what,
8 but it probably was.

9 Q. And did he -- he told you that he tripped on the
10 decoration? Is that what you described?

11 A. He didn't really say exactly what. He just said I
12 tripped when I went to unplug the bells.

13 Q. Do you have an understanding as to whether he fell
14 forwards or backwards or side to side?

15 A. I don't know.

16 Q. Did he describe to you whether he struck anything
17 when he fell?

18 A. No, he did not.

19 Q. How did you first learn about the fall involving
20 the Christmas lights?

21 A. When I got there that evening and he told me.

22 Q. He told you?

23 A. (Witness nods head affirmatively). Yes.

24 Q. Thank you. Did you know of your father-in-law
25 having any particular history of falls prior to the

1 Christmas light incident?

2 A. No, I don't think he ever had a history of falls.

3 Q. Did you consider him being at high risk for a fall
4 prior to the Christmas light incident?

5 A. No.

6 Q. Prior to the incident with the closet door, did
7 you have any complaints about the care that was being
8 provided by the facility to your father-in-law?

9 A. Did I have complaints from --

10 Q. Did you have a complaint about how the facility
11 was caring for your father-in-law?

12 A. No, I didn't.

13 Q. Prior to that incident, did you -- I know you have
14 already told me you didn't voice any complaints about the
15 door. But did you voice any complaints at all to the
16 facility about the condition of the facilities?

17 A. I don't think so. I don't think so. I didn't
18 usually do that kind of thing anyway. That was Steve's
19 role.

20 Q. Okay. But you personally don't recall making any
21 complaint about any condition of the facilities?

22 A. No.

23 Q. Do you recall having a concern about the condition
24 of the facilities in your own mind? I know you didn't
25 report it, but --

1 A. No, we did not.

2 Q. Other than the discussions that you've already
3 testified about involving the closet door, did you ever
4 hear Steve complain about the condition of the facilities
5 at all?

6 A. No.

7 Q. Did you ever hear Mr. or Mrs. Brigance, meaning
8 Jack or Dorothy Brigance, complain about the condition of
9 the facilities other than the issue they were having with
10 the closet door?

11 A. No, I did not.

12 Q. Let's go back to the hospital. After you left the
13 emergency department that day, when did you next come back?

14 A. The next morning.

15 Q. Where was Jack Brigance at that time?

16 A. Still in the emergency room.

17 Q. Did you inquire as to why that was the case?

18 A. Yes.

19 Q. What did you find out?

20 A. Well, there's a bed shortage.

21 Q. Who told you that?

22 A. I don't recall. Probably one of the nursing
23 staff.

24 Q. Do you recall anyone from the facility coming to
25 visit Jack Brigance while he was in the hospital?

1 A. Well, the next morning when I got there, I
2 believe, if I recall correctly, dad told me that Mitzi had
3 come by that morning and he did have visits from other
4 members of the -- I mean, caregivers from the facility
5 while he was in the hospital. Chuck, the cook, visited
6 him.

7 Q. Is that all that you can recall?

8 A. Yes.

9 Q. Ma'am, if you would, describe for me what you
10 recall about Jack Brigance's hospital course during the
11 time he was in the hospital.

12 A. Say that one more time.

13 Q. Describe for me his course in the hospital while
14 he was there. I want to hear what you recall about it.

15 A. Well, he was on a rehab floor for about the first
16 three or four days. No. Wait. Strike that. He was just
17 on a regular orthopedic floor the first three or four days.
18 He stayed in bed. He was doing okay. The first couple of
19 days he wasn't requiring a lot of pain medicine. He would
20 hurt when they'd have to move him to sit on the side of the
21 bed or use the bed pan or something like that. But other
22 than that, he didn't complain much about anything.

23 Then they decided that he needed to try to start
24 some therapy. He had been up in the wheelchair one time or
25 two times before that and had tolerated sitting up okay.

1 Didn't complain of a lot of pain at that time. And he was
2 alert. He had a good appetite when he first went in. He
3 was expecting he was going to get well pretty quickly. We
4 told him you're going to go to the rehab floor. We're
5 going to do some physical therapy.

6 He went to rehab. And I think he was there almost
7 a week on the rehab floor. But after the first couple of
8 days, it was obvious he was very fatigued and beginning to
9 weaken quite a bit while he was there. He wasn't able to
10 do all that they wanted him to do in the therapy. He just
11 began to get more and more debilitated. He got to where he
12 could not eat solid food anymore. He could drink a little
13 bit. And then he started having problems urinating, so
14 they needed to put a catheter in him. And that was a
15 problem. They couldn't get him cathed, so they had to call
16 urology in for a consult and try to do a cystoscope in the
17 room and were unable to do that, so had to take him to
18 surgery that night to do that, to see what the problem was.
19 And they were able to, easily in surgery, get the catheter
20 in. Apparently, that was just a problem with technique on
21 the floor, I think, with the nursing staff. They got the
22 catheter in him, so then he -- I believe he developed a
23 urinary infection. Was treated for that at that time.

24 And all the while becoming more debilitated,
25 getting to where he really couldn't even swallow much, so

1 they started doing swallow therapy with him on the rehab
2 floor. They tried that for a couple of days. It didn't
3 work very well. He obviously was not eating enough to stay
4 alive. He couldn't eat or drink, so the question was put
5 to us, Steve and myself, well, what do you want to do, do
6 you want to put a feeding tube in, what are we going to do.
7 And we did not want a long-term feeding tube. We knew that
8 was not really dad's wishes.

9 Q. Can I stop you for a moment?

10 A. Okay.

11 Q. Who had that discussion with you about the feeding
12 tube?

13 A. Steve and I had a discussion about it when it was
14 suggested by the rehab physician.

15 Q. Do you know if your father-in-law had a medical
16 directive at that point as to what his wishes were, a
17 written directive?

18 A. I believe he did. I believe he did. But we also
19 had discussed it many times before with relatives in
20 situations.

21 Q. Who is we had discussed it?

22 A. Steve and myself and dad.

23 Q. And were you and Steve aware of what your dad's
24 wishes were in this regard?

25 A. Yes.

1 Q. And what had he indicated to you were his wishes?

2 A. That -- in the past he indicated that he did not
3 want drastic measures to keep him alive long term.

4 Q. What did that mean to you, drastic measures?

5 A. No feeding tubes, no respirators.

6 Q. Was there any particular occasion that had caused
7 you to have this conversation with your father-in-law in
8 the past?

9 A. Yes, when he watched his brother-in-law
10 deteriorate and go through a feeding tube in a distressful
11 situation.

12 Q. Had Jack Brigance had any medical problems in the
13 past that had caused this topic to come up?

14 A. No.

15 Q. I wanted to ask you one other question while I
16 have you stopped and I'm going to let you go back to your
17 description that I asked you for.

18 Do you -- do you have any understanding about what
19 the problem was with the catheter, why they were having a
20 difficult time placing it?

21 A. Again, according to the urologist, it was the
22 technique. He thought that the staff was just not doing an
23 adequate job of getting it in.

24 Q. Was it the urologist who was eventually successful
25 in placing the catheter?

1 A. Yes.

2 Q. Do you know who that urologist was?

3 A. I think it was Dr. Lange.

4 Q. I am sorry?

5 A. I think it was Dr. Lange.

6 Q. L-A-N-G?

7 A. G-E.

8 Q. E, L-A-N-G-E. Let's -- did you know Dr. Lange
9 from your professional experience?

10 A. I know of him. I don't know him personally and I
11 wouldn't know him to see him.

12 Q. Okay. And I thank you for letting me stop you.
13 Let's go ahead and go back. And you were describing the
14 discussion that had come up about the feeding tube and you
15 and Steve knew that's not what your father-in-law wanted,
16 so --

17 A. Right.

18 Q. -- take me from there.

19 A. We didn't want to do it long term, but the rehab
20 physician suggested that if we put in, not a G tube, but a
21 certain kind of feeding tube, that they have had success in
22 the past with that giving enough calories and to strength
23 him to help him get out of the debilitating state so that
24 he could continue to recover.

25 Q. What was father-in-law's mental status at that

1 point?

2 A. He was very alert. He knew exactly what was going
3 on.

4 Q. Did this discussion take place in front of him?

5 A. No.

6 Q. Did either you or Steve go to discuss this topic
7 with him?

8 A. Yes.

9 Q. And who did?

10 A. We both did and talked about, you know, this is
11 what we think. This won't be permanent. We know this
12 won't be permanent. We think it's a good solution to help
13 you over a hump and let's -- is this okay with you if we
14 give this a try for a few days.

15 Q. What was his response?

16 A. Yes.

17 Q. Okay. Take me from there. So the decision is
18 made we are going to try this as a short-term issue?

19 A. Yes. So -- so he went down to radiology, had the
20 tube inserted in special procedures, had the feeding hooked
21 up to it, and he had that for two or three days.

22 Q. Okay. Was that removed at some point?

23 A. Yes.

24 Q. What -- how did he do after that?

25 A. While that was going on, they were trying to do

1 little bits of rehab with him, the -- continued the
2 swallow. At this point, he was too weak to get out of bed.
3 They tried some to get him out of bed. The staff would
4 have to physically lift him, because he was too weak to do
5 it himself. They would lift him to the wheelchair. He was
6 too weak to stand at this point. And so after several
7 days, the rehab physician decided that this was not going
8 to help him enough to continue with the physical therapy
9 and that he should be discharged back to a regular hospital
10 ward, so that's what we did. Then we moved him again to
11 another hospital floor.

12 Q. How was his mental status at the time he went back
13 to the floor?

14 A. He was alert. He knew what was going on. He knew
15 that the rehab wasn't working. He knew he was going to
16 another unit to get care there.

17 Q. When he went to the floor, how did his care change
18 that you noticed?

19 A. Well, for a couple of days he was -- he was just
20 given supportive care. He still had the feeding tube in
21 and they did not try to get him up out of bed or move him.
22 He was just being supported at that time.

23 Q. When did you next notice a change in his
24 condition?

25 A. Well, it wasn't that there was another change in

1 his condition. It was just that we had reached the point
2 where we had said we're not going to keep going on with the
3 feeding tube. This is not what dad wanted. We have given
4 it more than the amount of time that we thought we would
5 give it to start with, so it's time to remove the feeding
6 tube. And -- and so we made that decision to do that.
7 With that decision, the physician asked us, you know, what
8 are your thoughts on what's going to happen, you know,
9 without this feeding tube. He's still not swallowing. Are
10 we ready to go to palliative care, Hospice care.

11 Q. Let me back up for just a moment. Who was making
12 the ultimate decisions about the feeding tube?

13 A. I would say Steve would be the ultimate decision
14 maker on that. You know, we discussed it together and I
15 gave input and then he made the ultimate decision.

16 Q. Was your father-in-law participating in this
17 process, the decision making?

18 A. Yes. He knew what was going on and he knew what
19 we were talking about.

20 Q. When the ultimate decision had to be made to tell
21 the doctor what the family's decision was, did that come
22 from Jack Brigance or from Steve Brigance?

23 A. It came from both of them.

24 Q. I am getting from you that it was a -- that you
25 would discuss it with Jack Brigance and come to a decision

1 and then ultimately the person, quote, unquote, responsible
2 to make the decision was Steve, is that an accurate
3 description?

4 A. I'd say yes. After they discussed it together,
5 then he was ultimately responsible.

6 Q. Do you know if any other family members were
7 providing input?

8 A. No, I don't know.

9 Q. So the decision was ultimately made to discontinue
10 the feeding tube, correct?

11 A. Yes.

12 Q. And you were describing to me that you had a
13 discussion with the doctor about what's going to be the
14 next step. That's where we were?

15 A. Yes.

16 Q. And tell me about that process, making that
17 decision.

18 A. Well, we just debated was there anything else we
19 could do. You know, we just -- I retraced the steps
20 several times, well, is there -- is there something that we
21 could have done differently or is there another decision we
22 should make now that would have a different outcome. And
23 we just couldn't come up with anything. And so -- and the
24 doctor agreed. He said, well, he said, let's go ahead and
25 do Hospice, because he'll get better care than he -- more

1 attention than he will on this regular unit of the
2 hospital. And he said, you know, I've seen people come
3 back from being on Hospice before. It really has happened,
4 you know. I can't guarantee that in this situation. And
5 we said, well, we understand. We're realistic. We see
6 what's going on here and so Hospice is the right thing for
7 us to do probably. So we consulted with the Hospice people
8 before we made a definite decision.

9 Q. You made the statement that you and Steve realized
10 what was going on. What do you mean by that?

11 A. Well, he was dying.

12 Q. And you all understood that that was the process
13 that was taking place?

14 A. Yes.

15 Q. And at some point he was moved to Hospice, am I
16 right?

17 A. Yes.

18 Q. Tell me, if you would, who was able to come visit
19 him while he was in Hospice?

20 A. Well, anybody that wanted to could come visit him.

21 Q. Who did come visit him?

22 A. We were there a lot, our son Chris, some of our
23 friends and pastor. And I think he had one lady that
24 was -- some person that came to the facility that visited
25 folks with her puppy. Cathy had come.

1 Q. How alert was your father-in-law at that time he
2 went into Hospice?

3 A. He was very alert. He knew that he was being
4 transferred again to another place.

5 Q. Did he know where he was going?

6 A. Yes. He knew he was going to Hospice. I never
7 asked him if he knew what that word Hospice meant. He knew
8 he was going -- he knew what was going on.

9 Q. Was there any point in time while he was at
10 Hospice that his mental status changed that you noticed?

11 A. Well, towards the end of his life, the last few
12 couple of days, when he deteriorated right before his
13 death. But the first -- he was there a week. And the
14 first few days, he was very alert and he knew what was
15 going on.

16 Q. Were you present when Mr. Brigance passed away?

17 A. Yes.

18 Q. Who else was present?

19 A. Steve.

20 Q. Anybody else?

21 A. No.

22 Q. Tell me what you remember about that day.

23 A. Well, we had sitters staying with him, because
24 Steve and I couldn't be there 24/7. We didn't want him to
25 be alone, so. He had -- he had a very nice sitter that had

1 been with him for probably over a week. And she had gotten
2 to know him fairly well, so she was there with him that
3 night. And Steve had told all of the sitters all along if
4 you note any change, if there's any reason for us to be
5 here, call me, we'll be right here. So she knew that we
6 had visited the night before until late, went home, went to
7 bed. And she called us about -- maybe about 1:00 in the
8 morning. And so Steve and I went over there then and just
9 stayed with him until -- he had been -- I think he had
10 been -- we had spoken with him the night before. But then
11 when we got there at 1:00, he was out of it at that time,
12 kind of comatose, and he could nod a little bit. He knew
13 we were there, but that was that. And I think about 4:30
14 in the morning he passed away.

15 Q. Where did the funeral take place?

16 A. Well, actually we had two funerals. We had one
17 here in Fort Smith through Edwards and then we had another
18 service in Mobile.

19 Q. And where is Mr. Brigance buried?

20 A. In Mobile, Alabama.

21 Q. Where was the -- where did the funeral take place
22 in Mobile?

23 A. At Cottage Hill Baptist Church where he had been a
24 member for some 60 something years.

25 Q. Did any of the family members -- were any of them

1 able to make it to the service in Fort Smith?

2 A. My son Chris.

3 Q. Anyone else?

4 A. Oh, well, my mother-in-law went.

5 Q. Anyone else?

6 A. Not family, no.

7 Q. Was any of the family able to make it to the
8 facility -- to the -- I am sorry -- to the funeral at -- in
9 Alabama?

10 A. Yes.

11 Q. Who was able to make that one?

12 A. My son and his family, my married son and his
13 family, and my daughter, and then Steve's sister Lena, and
14 then both of her children, dad's grandchildren were there.

15 Q. Okay. What about Mr. Brigance's brother, was he
16 able to make it?

17 A. Oh, I'm sorry. Yes, he was there, too.

18 Q. I assume that Dorothy Brigance did not make the
19 trip down there?

20 A. No. She was not able to travel. That's the main
21 reason we had the ceremony here.

22 Q. We are at a point we need to take a break, so I
23 think this is a good time to do that. Okay.

24 THE VIDEOGRAPHER: The time is now 11:29 a.m. and
25 we're off the record.

1 (Off the record).

2 THE VIDEOGRAPHER: The time is now 11:42 a.m. and
3 we're back on the record.

4 Q. (BY MR. DOSSETT) Ms. Brigance, we are back on the
5 record and what we say is being recorded.

6 A. Okay.

7 Q. Let me ask you a few questions and we'll try to
8 finish up. Okay.

9 A. Okay.

10 Q. With regards to Mr. Jack Brigance's condition
11 while he was -- when he returned from rehab and he went
12 back to the floor --

13 A. Yes.

14 Q. -- what was his pain level like at that time from
15 what you could tell?

16 A. If -- if he was being still and he was in the bed,
17 he didn't have a lot of pain. It was only intermittent
18 when he needed to be put into the wheelchair. Or when they
19 turned him, that was quite painful. And they did turn him
20 every one or two hours to reposition him. And so with the
21 fracture of the hip, when they turned him, that was quite
22 painful. And a few times he would kind of -- to yell out
23 in pain, but in between times he was okay.

24 Q. All right. And while he was in Hospice care, how
25 was his pain?

1 A. I would say it's the same. Again, when they had
2 to turn him, that was quite painful for him and they did
3 turn him every one to two hours, but he -- he didn't ask
4 for pain medicine even until the very end. We kept saying
5 do you want something to help you relax, but he would just
6 endure that short period of pain that he had when they
7 turned him.

8 Q. Did you feel like the hospital staff and the
9 Hospice staff were appropriately addressing his pain
10 concerns?

11 A. Yes.

12 Q. You had mentioned that there towards the end he
13 had 24/7 caregivers?

14 A. Actually, after he got into the rehab floor, he
15 had that.

16 Q. Okay. So it began in rehab at some point?

17 A. Yes.

18 Q. Who were the caregivers?

19 A. They were people that we hired through Eldirect.
20 And there were two or three that got to know him that we
21 used all the time.

22 Q. Eldirect?

23 A. Yes.

24 Q. Is that a temporary staffing agency of some sort?

25 A. Yes.

1 Q. And did they stay -- were these the same
2 caregivers that cared for him while he was in Hospice?

3 A. Yes.

4 Q. What do you know about Jack Brigance's medical
5 history for the -- say the last 20 years of his life or so?

6 A. He's been very healthy. He's prided himself on
7 saying I don't take any medicines. Didn't even want to
8 take a vitamin. I think towards the end he did take a
9 vitamin and one baby aspirin, but he was very healthy. He
10 didn't have any health concerns.

11 Q. Do you know if he had any problems with heart
12 disease at all?

13 A. He did not.

14 Q. Do you know if he had any problems with cancer?

15 A. He did not.

16 Q. How has Mr. Brigance's passing affected Steve from
17 what you can tell? What have you observed?

18 A. Well, it's caused a severe depression that needs
19 to be treated.

20 Q. Who does he treat with?

21 A. He's been to his family doctor, Dr. Balis. He's
22 been to a counselor, Dr. Phillip Barling. And he's been to
23 a psychiatrist, Max Baker.

24 Q. I am sorry. Go ahead. I didn't mean to interrupt
25 you.

1 A. I would say it's caused, in the midst of the
2 depression, severe bouts of anger, feelings of guilt, and
3 just made life very difficult for him and for myself and
4 our family that we did not have before.

5 Q. With regards to the depression, do you know if
6 Steve has ever been treated for depression before?

7 A. He never has.

8 Q. Did you ever see any signs of depression in him
9 before his father's passing?

10 A. No.

11 Q. You mentioned that Steve has had to deal with
12 bouts of anger. How has that manifested itself?

13 A. Well, generally at home when it would be the two
14 of us, when he would begin thinking about things in general
15 and this case specifically and just start talking,
16 aggressive ranting and raving, and then talked about
17 suicidal thoughts amidst the anger, talking about hurting
18 himself or other people. That's generally it.

19 Q. Okay. You mentioned that he has struggled with
20 guilt?

21 A. Yes.

22 Q. Have you discussed that with him and tried to be
23 there for him?

24 A. Yes. I have tried to reassure him there's nothing
25 he could have done differently. He feels like he brought

1 his parents here to live and place -- chose this place as a
2 safe place for them and then this happened, and so he feels
3 that maybe a different facility this incident would not
4 have happened.

5 Q. Has he any expressed any feelings of guilt for any
6 other reasons other than what you have described?

7 A. No.

8 Q. How have -- how have you and Steve dealt with the
9 effect of Mr. Brigance's passing? What have you all done
10 together to try to ease that pain?

11 A. Well, I encouraged him to seek counseling and the
12 advice of his friends, who also encouraged that, to which
13 he finally did. I've done as best I can on cutting back my
14 hours at work, because I didn't feel it was safe to leave
15 him at home in the evenings. Before he got on medication,
16 he would get into such a depressive state in the evening, I
17 didn't feel like it was safe for him to be alone. And so
18 if I had to work late, I would call a friend to come and
19 stay with him. So that's -- that's part of it.

20 He has had to cut back on the hours that he has
21 put in at work. And I know that affects him, because in
22 the past, I mean, he's just been a very driven person and
23 he gets pride out of his work and he does not anymore.

24 Q. Have the two of you been able to go on vacations
25 since this incident occurred?

1 A. We have gotten away some. We'll take a Saturday
2 sometimes and go to Eureka Springs. We took -- we took
3 a -- probably a week of spring break after he first started
4 seeing Dr. Barling, who suggested that he get away and try
5 some journaling and talking, with other family members in
6 Atlanta. So we have a place over there that we visited and
7 we did that.

8 Q. Was that after his father's passing?

9 A. Yes.

10 Q. So you mean spring break of this year obviously?

11 A. Yes.

12 Q. Do -- have the two of you -- did the two of you go
13 on any vacations either together or separately between the
14 time that the incident when the door fell and Jack
15 Brigance's passing?

16 A. Oh, no.

17 Q. Has Mr. Brigance gone on any -- Steve Brigance
18 gone on any vacations on his own since his father's
19 passing?

20 A. No. Well, wait. I take that back. When we went
21 on that trip on -- the spring break over to where my family
22 was, I went with him. And then he had two or three days
23 there by himself before my other family members came up to
24 be with him. And, again, that was the recommendation of
25 his psychologist to have a couple of days alone to do his

1 thinking and writing and --

2 Q. Have you noticed any improvement in Steve in being
3 able to cope with his father's passing?

4 A. He's been somewhat better the past two or three
5 weeks since he started medication.

6 Q. How do you notice him being better? What do you
7 notice better about him?

8 A. Well, I notice that he has not had as many anger
9 outbursts. I think he's -- he's just -- it's somewhat just
10 changed his personality. He's just kind of flat and calm
11 about things, which is very unlike him, but it's uplifted
12 his mood enough to be not as severely depressed, but it's
13 not him.

14 Q. Did Steve have any anger issues prior to his
15 father's passing?

16 A. No.

17 Q. How about issues with guilt?

18 A. No.

19 Q. Have you had the opportunity to interact with any
20 of the other family members to see how they are coping with
21 Jack Brigance's passing?

22 A. I have talked to my own kids and with Chris, who
23 lives here in town and in Fayetteville, and he still
24 struggles and has a difficult time with it.

25 Q. How about Dorothy Brigance, how is she doing from

1 what you can tell?

2 A. I'd say she has good days and bad days. Most days
3 she just goes about her routine -- and I don't talk to her
4 a lot about it -- and she's okay. I know she -- she misses
5 him. If I do bring up something about dad in conversation,
6 she'll get a little teary and talk and, you know, act like
7 she misses him, say that she misses him. She's -- you
8 know, I know that she misses -- she doesn't want to watch
9 the TV shows that they used to watch together, because she
10 says that makes her sad. She, you know, misses him being
11 there with her at the meals. She misses him.

12 Q. How about Jack Brigance's brother, have you had
13 any opportunity to speak with him or observe him to see how
14 Jack's passing has affected him?

15 A. I have not spoken with him since the funeral.

16 Q. Have you seen him?

17 A. No.

18 Q. Anything about how he did at the funeral that gave
19 you any impression as to how he's coping with Jack's
20 passing?

21 A. Not really.

22 Q. How about Steve's sister, have you spoken with her
23 since the funeral?

24 A. The only time I spoke to her was a couple of times
25 this week, because she actually came up here to visit mom,

1 and we didn't really talk about the accident.

2 Q. Okay. Did you notice anything about how she was
3 coping with the loss of her father?

4 A. No, I really didn't. I wasn't around her much.

5 Q. Okay. Are you aware of any photographs that were
6 taken of Mr. Jack Brigance while he was in the hospital or
7 in Hospice care?

8 A. No.

9 Q. Okay. Did you ever have a discussion with Steve
10 about whether Steve wanted to take any photographs?

11 A. He mentioned it, but he said I would never do that
12 to my dad while he's living.

13 Q. Do you know if there were any postmortem
14 photographs taken?

15 A. I think there were.

16 Q. Do you know who took them?

17 A. No.

18 Q. Have you ever discussed with Steve whether there
19 were any postmortem photographs?

20 A. We may have had a discussion on it, because I
21 recall thinking that I didn't want to see them.

22 Q. Okay. Was there ever a time prior to Jack
23 Brigance's passing where Steve indicated that he wanted to
24 take photographs and there was an argument about that?

25 A. No, no.

1 Q. Was there ever anyone else who wanted to take
2 photographs and there was an argument about it?

3 A. No.

4 Q. Do you know -- if you don't know, tell me you
5 don't know. Do you know who had the power of attorney for
6 Jack Brigance prior to Steve, if anyone had a power of
7 attorney?

8 A. I don't know.

9 Q. What kind of doctor is Dr. Henry?

10 A. Nephrologist, internal medicine.

11 Q. Does he also see patients as a -- just a general
12 internal medicine family practitioner?

13 A. Yes.

14 Q. Okay. Have you ever, you personally, ever made
15 any claim against any other person for money damages?

16 A. No.

17 Q. Has a claim ever been made against you for money
18 damages?

19 A. No.

20 Q. This dog bite case some years ago, did anybody
21 make a claim for money damages against you then?

22 A. Oh, well, I believe so, yes. I'm sorry.

23 Q. That's okay. I'm just trying to refresh your
24 memory.

25 A. Yes.

1 Q. Any other ones come to mind?

2 A. No.

3 Q. To your knowledge, has Steve ever been a party
4 to -- a party as opposed to an attorney in a lawsuit -- has
5 Steve ever been a party to another lawsuit prior to this
6 one?

7 A. Not that I know of.

8 Q. Do you ever remember him making -- I mean, filing
9 a lawsuit that might have something to do with fair credit
10 reporting?

11 A. He could have. I don't know.

12 Q. You are not aware of it?

13 A. No. I wasn't involved in that that I know of.

14 Q. Okay. I'm just trying to see if any of this rings
15 bells. Sometimes you don't remember and somebody mentions
16 something and it rings a bell, so I'm trying to see if that
17 happens.

18 Dorothy Brigance still resides at Fianna?

19 A. Yes.

20 Q. Did -- did you discuss with her her decision to
21 stay?

22 A. I did somewhat.

23 Q. Who else participated in that decision?

24 A. She talked with Steve.

25 Q. Do you know anyone else who participated in that

1 decision with her?

2 A. No.

3 Q. Who participated more? You or Steve?

4 A. Steve. That would be Steve.

5 Q. As far as your discussions with her go, did --
6 what did you ask her and what did she tell you about her
7 wishes?

8 A. I don't recall that I even asked her, but she
9 talked about wanting to stay there because that was her
10 home now. She liked the people that took care of her. She
11 liked the food there.

12 Q. Did she ever suggest to you that she wanted to
13 leave?

14 A. No. The only thing she suggested was that she --
15 maybe she should move to another room, because now it cost
16 too much money for her to live in that room without dad.

17 Q. Because she's currently in a two bedroom?

18 A. I guess that's what you call it.

19 Q. Has she ever expressed to you that she didn't --
20 doesn't feel safe there?

21 A. No.

22 Q. Have you had any discussions with Steve about his
23 mother's decision to stay?

24 A. Yes.

25 Q. And what -- tell me about that discussion. What

1 did Steve say to you?

2 A. Just the same thing, that, you know -- his mom is
3 somewhat of a stubborn lady. And when she makes up her
4 mind she wants to stay there -- she likes the people taking
5 care of her. She doesn't want to leave them -- then that's
6 what we should do.

7 Q. Has anyone ever suggested to you that Dorothy
8 Brigance does not feel safe at Brookfield?

9 A. Not that I recall.

10 Q. Ms. Brigance, I appreciate you for answering my
11 questions. I need to look over my notes a little bit. But
12 rather than sit here and wait, I'm going to pass you to the
13 next attorney to see if they have any questions.

14 A. Okay.

15 MR. DOSSETT: Pass the witness.

16 CROSS EXAMINATION

17 BY MS. HARRISON:

18 Q. Ms. Brigance, my name is Michael Harrison. We met
19 before your deposition began. I represent Crawford
20 Construction Company in this suit. I am sorry. Give me
21 just a second while I move this microphone around. I have
22 just a few questions for you. And I apologize. I am going
23 to skip around a little bit according to my notes based on
24 what was previously asked of you.

25 I have in my notes that you stated at the

1 beginning of your deposition that Steve's parents needed
2 more attention and that was the reason you all were moving
3 them up here to Arkansas. Why did they need more
4 attention?

5 A. Well, it's not they needed more attention. They
6 needed some attention. They no longer had anyone in Mobile
7 that could be a primary caregiver.

8 Q. They were in an assisted living facility there in
9 Mobile?

10 A. Yes.

11 Q. Was no caregiver type person there available at
12 the facility for them?

13 A. No. I am talking about outside of the facility
14 that could be there to, you know, take them on errands,
15 take them to doctor's appointments, those kind of things.

16 Q. Sure. And, in that regard, you mentioned that
17 Steve's sister had moved away. In my notes I wrote you
18 felt like she just needed to get away. Had something
19 happened? Was there a problem?

20 A. I think she became overwhelmed at just her
21 responsibility of taking care of mom and dad for years and
22 she just left.

23 Q. How long had she been taking care of them?

24 A. I don't recall exactly how many years, but she had
25 actually lived in their home with them for awhile before

1 they went into assisted living and then she was the outside
2 primary caregiver once they moved into assisted living.

3 Q. How long were they in assisted living in Alabama?

4 A. Again, I said I don't recall. Maybe four years.
5 I don't remember the exact length of time.

6 Q. How long did -- Lena, is it?

7 A. Lena.

8 Q. Lena. How long did Lena live with them in their
9 home before they went to assisted living?

10 A. I don't know. It could have been a year or more.

11 Q. What were the circumstances surrounding Lena going
12 to live with them in their home?

13 A. I think at that time she was moving out of her
14 apartment. She always struggled financially. They always
15 tried to help her out. And they had a big home, a big two
16 story home that they were still living in and -- plus with
17 a mother-in-law apartment -- so they said come live with
18 us.

19 Q. So it wasn't that they needed help, needed care
20 that she moved in to help them, rather they were helping
21 her financially --

22 A. Right.

23 Q. -- by allowing her to move in?

24 A. Yes.

25 Q. At some point while she lived with them, did that

1 change?

2 A. Yes. They began to require more care.

3 Q. And tell me why that was. Was it physically they
4 were declining or they weren't allowed --

5 A. Well --

6 Q. -- to drive anymore?

7 A. -- Steve's mother had a stroke and then required
8 more care.

9 Q. When was that?

10 A. I don't know.

11 Q. Before they went into assisted living --

12 A. Yes.

13 Q. -- in Alabama?

14 A. Yes, yes.

15 Q. What were the after -- side effects of the stroke?

16 A. She -- I was not there at the time, so I don't
17 recall. She came and actually stayed with us for a few
18 months after that. And she could do fairly well for
19 herself, but I just worried about her falling. She was a
20 little more unstable and weak, needed help with, you know,
21 bath, things like that.

22 Q. Why was she staying with you all for a few months?

23 A. We wanted her to have a break from being down
24 there. And I -- I was working full-time -- or I was in
25 school full-time, Steve was in school full-time, so neither

1 one of us could go down there and stay for a length of
2 time, and I wanted to assess the situation myself and see
3 really what she needed, was it time for us to think about
4 assisting living, that kind of thing.

5 Q. Did Jack come, too, when she came?

6 A. No. He stayed.

7 Q. What type of schooling were you in at that time?

8 Your master's?

9 A. Maybe my bachelor's of nursing.

10 Q. And what type of school was Steve in at the time?

11 A. No. He was working.

12 Q. I am sorry. I thought you said he was in school
13 full-time?

14 A. No. I was in school full-time. I may have said
15 that, but I was in school full-time. He was working.

16 Q. Got you. And then at what point did you all make
17 the decision to send her back home to Alabama.

18 A. Well, it was only intended for her to come for a
19 short visit. I think she came for two or three months so
20 we could kind of see what was going on.

21 Q. Was there --

22 A. So after that point, we took her back.

23 Q. Was there a caregiver or home health care nurse or
24 something like that while she was here staying with you
25 during that period?

1 A. I had an aide come sometimes when I was not home.

2 Q. Who was that?

3 A. I don't remember her name. It was a friend's
4 mother.

5 Q. Is there a way you could get that name? Would it
6 be in your records or by asking the friend?

7 A. I have no contact with her anymore.

8 Q. Past checkbooks or some of your records somewhere?

9 A. Not that I know of, but I don't know.

10 Q. Where do you work now?

11 A. I work at Renal Care Associates.

12 Q. Is that in the hospital?

13 A. It's a outpatient clinic of the hospital.

14 Q. It's physically located at the hospital though?

15 A. No. It's not in the hospital.

16 Q. Where -- it's located where?

17 A. 1500 Dodson.

18 Q. How long have you been there?

19 A. A little over two years.

20 Q. Once your husband's sister moved to San Antonio,
21 did she sort of relinquish caregiving and decision making
22 responsibilities for the parents to --

23 A. Yes.

24 Q. -- Steve and you?

25 A. Yes.

1 Q. Was she involved at any time after that in any of
2 the decisions concerning their care or where they would
3 live --

4 A. No.

5 Q. -- or whatever happened with them? Maurice, Jr.,
6 that was Steve's brother?

7 A. Yes. Actually, I believe he was Maurice, III.

8 Q. Maurice, III. Did he pass away before Jack did?

9 A. Yes.

10 Q. Did he pass away before Jack and Dorothy moved
11 here to Arkansas?

12 A. Yes.

13 Q. It may be a misprint. I'm not sure. In the
14 written discovery responses that we received, it indicated
15 he was age 93 when he passed away?

16 A. That was Maurice Brigance, Jr., Jack.

17 Q. That's Jack himself?

18 A. That's not the son.

19 Q. So his son is the III?

20 A. Yes.

21 Q. Got you. Why was the decision made to move Jack
22 and Dorothy into the facility in Alabama? Was it a result
23 of Dorothy's stroke or something else happened?

24 A. No. It was mainly the stroke, that she needed
25 more help with her care. We didn't want Lena to have to

1 have that responsibility all of the time.

2 Q. How was Jack at that time physically?

3 A. He was in good health.

4 Q. It wasn't due to any problems he was having?

5 A. No.

6 Q. What is your son's name you have mentioned a
7 couple of times that lives out of town?

8 A. Well, I have two sons. The one that's in college
9 in Fayetteville is Chris and the other one out of town in
10 Atlanta is Brian.

11 Q. What does Brian do?

12 A. He's a paralegal.

13 Q. And then do you have a daughter as well did I hear
14 you say?

15 A. Yes.

16 Q. Where is she?

17 A. She's in Atlanta also.

18 Q. What is her name?

19 A. Jennifer.

20 Q. What does Jennifer do?

21 A. She is a medical assistant in a doctor's office.

22 Q. The closet that we have been talking about the
23 door came off of, what was kept in that closet?

24 A. Coats, shoes.

25 Q. Were there any other closets in Jack and Dorothy's

1 rooms?

2 A. Yes.

3 Q. Where were the other closets?

4 A. There's a closet in each of the bedrooms.

5 Q. Were coats and shoes kept in each of those closets
6 as well?

7 A. Their basic clothing in their bedroom. And then
8 in the other room, just files and extra storage things.

9 Q. Sure. Obviously, I was never in the room while
10 they lived there together and so I don't know. Are
11 slippers something that would typically have been kept in
12 the closet in the room that they lived in, that they spent
13 the night in, or in the closet where you first walked in?

14 A. No. I think it was always in the coat closet.

15 Q. Okay. You mentioned a couple of times that in
16 either you and Steve talking or you and Jack talking, you
17 all would talk about someone is coming to fix the door.
18 Why was it you thought someone was coming to fix the door?

19 A. That's what dad said.

20 Q. Did Steve ever tell you that?

21 A. He may have.

22 Q. Do you recall if he told you he had a conversation
23 with someone and they said they were going to fix it or
24 have someone fix it?

25 A. I don't recall specifically a conversation.

1 Q. Did you ever hear or know who was coming to fix
2 it?

3 A. I don't know.

4 Q. Did you and Dorothy ever discuss the problem with
5 the door?

6 A. No.

7 Q. Do you know if she had ever tried to open the door
8 and had a problem with it?

9 A. I don't know.

10 Q. I understand that you never spoke to anyone with
11 Brookfield about the problem with the door?

12 A. Right.

13 Q. Did you ever speak to anybody at the architect,
14 WDM?

15 A. No.

16 Q. What about with Crawford Construction Company?

17 A. No.

18 Q. Have you ever talked to anybody at Crawford
19 Construction Company ever about anything?

20 A. No.

21 Q. Do you know if Steve ever talked to anybody at the
22 architect, WDM, concerning the problems with the door?

23 A. Before the accident?

24 Q. Yes, ma'am.

25 A. I don't believe he did.

1 Q. Do you know if Steve ever spoke to anyone at
2 Crawford Construction Company before the accident about the
3 problems with the door?

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

5 Q. Do you know if Steve has ever spoken with anybody
6 at Crawford Construction Company about anything?

7 A. I don't know.

8 Q. Do you know if Jack or Dorothy ever spoke to
9 anybody at WDM concerning the problems with the door before
10 the accident?

11 A. No, they did not.

12 Q. Do you know if Jack or Dorothy ever spoke to
13 anyone at Crawford Construction Company about the problems
14 with the door before the accident?

15 A. No.

16 Q. No you don't know?

17 A. No, they did not.

18 Q. Thank you. Do you know if either one of them,
19 Jack or Dorothy, ever spoke to anybody at Crawford
20 Construction Company for any reason about anything?

21 A. They did not.

22 Q. Was the facility complete, if you know, when Steve
23 first toured it?

24 A. I don't think it was.

25 Q. Do you know how far along in construction it was?

1 A. No, I don't know.

2 Q. Do you know how many times he toured it?

3 A. I don't know.

4 Q. Or how long he was there on any tour?

5 A. I don't know.

6 Q. Or how long he was in the room that Dorothy and
7 Jack eventually moved into at any time before they moved
8 into it?

9 A. No, I don't know.

10 Q. Do you know if there was ever a written complaint
11 or work order or a request by you or Steve or Jack or
12 Dorothy or anyone in the family concerning the door?

13 A. I don't know.

14 Q. Were there any photographs ever taken of the door
15 or the frames around it or the hinges before the accident?

16 A. I don't know.

17 Q. What about after?

18 A. I don't know.

19 Q. You testified previously that if the facility
20 could not -- Brookfield is what I mean -- if they could not
21 reach Steve, they would occasionally call you and they
22 maybe called you once a month. What were these calls
23 about?

24 A. Possibly mom needed more supplies of some type.
25 Possibly mom is having urinary frequency, should we get a

1 urine sample, those kind of things.

2 Q. Typically about Dorothy?

3 A. Yes.

4 Q. Any calls ever about Jack before the accident?

5 A. Not that I'm aware of.

6 Q. What type of supplies?

7 A. More pads, more powder, more toothpaste.

8 Q. Personal items. You said Steve was first on the
9 to-call list for Brookfield and you were second?

10 A. Yes.

11 Q. Was anybody after you?

12 A. No.

13 Q. At any time were you first and Steve second?

14 A. I don't think so.

15 Q. At the time this accident occurred, how was
16 Dorothy physically?

17 A. She was in her usual state of health, usual state
18 of mind. I'm not sure how to answer that.

19 Q. Sure. Did she have some physical problems with
20 her health at that time?

21 A. She had her usual problems, her --

22 Q. And I don't know what those are. What are those?

23 A. Her status post stroke. She's a little uneven
24 when she walks. She -- medically she has high blood
25 pressure that's treated. Nothing else significant that I

1 can think of.

2 Q. What about mentally, how was she at that time?

3 A. She is about the same that she usually is. She's
4 alert. She knows what goes on. She has a fairly good
5 memory.

6 Q. Has any of that changed since the accident?

7 A. She's declined in that we don't like her walking
8 by herself because she still has an uneven gait as she did
9 before when dad would help her and walk with her. You can
10 tell that she's a little more melancholy. She has some
11 good days and bad days where she may have a little more
12 slurring of her speech and doesn't hear as well. And those
13 days seem to happen a little more frequently now.

14 Q. Do you attribute any of that to her husband's
15 passing, or is that just advancing age?

16 A. Well, I do somewhat, because she -- she didn't
17 show that decline in the six months before. And without
18 having him there in the room with her, the stimulation that
19 they provided for each other, and, you know, they were
20 married for 68 years that -- she's missing that, that
21 companionship, and so I think that contributes.

22 Q. She has a full-time caregiver with her now, does
23 she not?

24 A. Part-time.

25 Q. Part-time. At some point, did she have a

1 full-time?

2 A. No.

3 Q. Who is the part-time caregiver now?

4 A. Her name is Shirley.

5 Q. Shirley what?

6 A. I don't know Shirley's last name that I recall.

7 Q. Who is she through?

8 A. And she comes through Eldirect also.

9 Q. Has she been the part-time caregiver since Jack's
10 passing?

11 A. Yes.

12 Q. Have there been any other part-time or full-time
13 caregivers for Dorothy at any time?

14 A. I don't think so.

15 Q. Why -- why -- is this someone you all are hiring?

16 A. Yes.

17 Q. How much are you paying her?

18 A. Steve handles that. I really don't even know.

19 Q. Why are you all paying for a caregiver while she
20 is in the assisted living facility?

21 A. Well, part of it is the companionship. She's lost
22 the person that she had 24/7 availability to be with and
23 talk with and do things with. She lost a person that walks
24 her down the hall. And, you know, Brookfield has -- they
25 have the caregivers, they are available, but they can't

1 always be there in a timely manner, and so this helps her
2 out and also gives her companionship at mealtime, helps her
3 to -- to think and know what she's doing during the day.
4 You know, used to be dad would be part of her response to
5 things, and she doesn't have that anymore.

6 Q. And I have not been to Brookfield. I don't know.
7 I imagine a communal dining room, is that accurate?

8 A. Yes.

9 Q. Does she have friends there that she could eat
10 with -- meals with?

11 A. No. She has no friends there.

12 Q. She's not made any friends in the time she's lived
13 there?

14 A. No. Because when dad was there, the two of
15 them -- and they were the first residents. They sat
16 together by themselves and they continued to do that until
17 his death.

18 Q. Did he have any friends there?

19 A. Well, he was very friendly and outgoing and so he
20 spoke to everybody. I don't know what you would say as a
21 friend, but he had no one that he specifically visited or
22 would sit and talk with, but he spoke to everybody and was
23 friendly to everybody.

24 Q. Sure. They didn't have anybody that they ate with
25 or they visited other people's rooms --

1 A. No.

2 Q. -- or other people came and visited their rooms?

3 A. No.

4 Q. How many hours a week is Shirley there?

5 A. It varies. And I don't know. I leave that up to
6 Steve as to how often -- how many hours Steve thinks he can
7 get down there every week. And he makes those decisions.
8 I don't really know.

9 Q. As I understand it, Shirley is not giving her
10 medical care, she's just there for companionship and to
11 help her --

12 A. Right.

13 Q. -- go to the bathroom or down the hall as needed?

14 A. Right.

15 Q. Okay. I am assuming she's there during the waking
16 hours and probably not the nighttime sleeping hours?

17 A. Right. She helps around in the bathroom, too,
18 with the -- just during the day with toileting, that kind
19 of thing.

20 Q. Does Dorothy suffer from senility or Alzheimer's?

21 A. Yes. She does have a degree of dementia post her
22 stroke.

23 Q. That was something that came to light before them
24 moving to Arkansas?

25 A. Yes.

1 Q. Is she being treated for that at Brookfield?

2 A. I'm not sure I know what you mean by treated.

3 Q. Is there a physician that comes to see her there
4 for that problem?

5 A. No.

6 Q. Is she on any medications for that?

7 A. She's on Aricept.

8 Q. Does she have a family doctor here in Arkansas?

9 A. Yes.

10 Q. Who is that?

11 A. Also Dr. Henry.

12 Q. He saw both of them?

13 A. Yes.

14 Q. Does she see any other physicians other than Dr.
15 Henry at this time?

16 A. She saw a dermatologist in town.

17 Q. For?

18 A. For some skin spots that she had removed.

19 Q. Sure. Has she seen anyone else here in Arkansas?

20 A. She saw an eye doctor after she got here.

21 Q. Who was that?

22 A. And I don't recall. I believe someone over at The
23 Eye Group on Rogers.

24 Q. Has she seen anyone else here?

25 A. And she's seen a dentist.

1 Q. Who is that?

2 A. I don't recall his name.

3 Q. Did Jack see anyone other than Dr. Henry here in
4 Arkansas?

5 A. No.

6 Q. What was he seeing Dr. Henry for?

7 A. Just his family doctor.

8 Q. No specific ailment?

9 A. No.

10 Q. Just checkups or if there is a cold or cough?

11 A. I think -- not even for that. He never got sick.
12 He went one time to be established.

13 Q. Did Jack have a primary care physician in Alabama?

14 A. I'm sure he did.

15 Q. Do you know who it was?

16 A. I don't know who that was.

17 Q. Did Dorothy?

18 A. I'm sure she did. And I don't know who that was
19 either.

20 Q. Okay. You testified previously that when you --
21 when you got the call from Mandy, you were on your way home
22 from work. Were you going -- was it a plan of yours to
23 stop at the facility before you went home?

24 A. I don't recall.

25 Q. Did you typically stop at the facility before you

1 went home when you got off work?

2 A. I do some days, but not every day.

3 Q. Before this accident, how frequently would you
4 stop at the facility on your way home from work?

5 A. Probably once or twice a week.

6 Q. How long would you stay when you stopped there?

7 A. Anywhere from ten minutes to 30 minutes.

8 Q. Would you visit at any other time during the week?

9 A. Yes.

10 Q. When would that be?

11 A. Sometimes at breakfast.

12 Q. On your way to work?

13 A. Yes.

14 Q. How often was that a week?

15 A. The same. I mean, I would stop by usually two or
16 three times a week evening or morning.

17 Q. Sure. Would you go on weekends?

18 A. Yes.

19 Q. How often?

20 A. Generally every weekend, either on Saturday or
21 Sunday.

22 Q. And how long would you stay?

23 A. Depending on what's going on, maybe 30 minutes.

24 Q. Of you and Steve, were you the one that was
25 primarily checking on them?

1 A. No. Steve did that.

2 Q. How often would he go?

3 A. Way too much for my thinking, but I think -- well,
4 he would go two or three times a day.

5 Q. Did he work out of y'all's house?

6 A. He has an office in town and some from home, too.

7 Q. Sure. His hours were more flexible than yours I
8 take it?

9 A. Yes.

10 Q. Would he go on the weekends as well?

11 A. Yes.

12 Q. Would you all ever be there together at the same
13 time?

14 A. Yes.

15 Q. You mentioned that when you got to the facility
16 that night -- and I am assuming it was night. What time
17 did you get the call that the accident had occurred?

18 A. I don't recall. I believe I got to the facility,
19 though, about somewhere between 6:00 and 6:15 p.m.

20 Q. Sure. And you mentioned you spoke to Mandy and
21 asked Mandy what had happened. Why didn't you ask Dorothy
22 what had happened?

23 A. If Mandy was the one that called us, I considered
24 her the reliable source at that time.

25 Q. Dorothy was in the room when the accident

1 happened, wasn't she?

2 A. Yes.

3 Q. To your knowledge, was anyone else in the room
4 other than Jack and Dorothy?

5 A. I don't think so.

6 Q. So why would you not ask Dorothy, who was in the
7 room when the accident happened, what happened?

8 A. Well, I did not do that at that time.

9 Q. Yes, ma'am.

10 A. I waited until later for that.

11 Q. Why was that?

12 A. I don't recall.

13 Q. You mentioned that Dorothy was suffering from some
14 dementia. Was there confusion on her part at times before
15 this accident?

16 A. When you say confusion, not for episodic events
17 like this, no.

18 Q. And I don't mean to compare apples to oranges, but
19 I recall when my grandmother was getting older, she would
20 sometimes think I was my sister and she would confuse my
21 father with his father, her husband. Would Dorothy do
22 things like that?

23 A. No. She never did that. And I recall when I went
24 in and dad was not there, he had already gone, Mandy was
25 busy helping mother on the toilet. So usually when that

1 happens, I just leave them alone. I don't hang around. I
2 knew there was nothing else to be done at that moment.

3 Q. Okay. And you mentioned previously you've spoken
4 to Dorothy one time since the accident -- and that was
5 after the accident -- about what happened. Did she tell
6 you whether or not she saw it happen? I know she was in
7 the room. But did she see it occur?

8 A. I don't recall.

9 Q. Do you know if she's told anybody whether or not
10 she saw it occur?

11 A. I don't know.

12 Q. Is she capable at this point of talking about the
13 accident you think?

14 A. Yes.

15 Q. Why did you not go directly to the hospital from
16 the facility?

17 A. There was no need to do that at that point. He
18 was en route. I didn't know what was going to happen.
19 They would take care of him there and then I would evaluate
20 what we needed to do.

21 MS. HARRISON: Do we have Exhibit A somewhere?

22 MR. MORRIS: It's being copied.

23 Q. (BY MS. HARRISON) The door at issue, do you know
24 when it was last used for any reason?

25 A. When dad went to open it you mean?

1 Q. Before the accident. I'm sorry.

2 A. Oh, I have no idea.

3 Q. Did Mandy or Dorothy or anyone else tell you
4 whether he had difficulties opening it that night before
5 the accident occurred?

6 A. No.

7 Q. Do you know if he did?

8 A. I don't know.

9 Q. Did Steve's sister or uncle or niece visit Jack
10 during the period he was in the hospital after the
11 accident?

12 A. No.

13 Q. What about while he was in Hospice?

14 A. No.

15 Q. Did Dorothy visit him while he was in the
16 hospital?

17 A. Yes.

18 Q. What about while he was in Hospice?

19 A. Yes.

20 Q. Did Jack or Dorothy have a car here in Arkansas?

21 A. No.

22 Q. Did they have a car while they were in assisted
23 living in Alabama?

24 A. Yes, they did.

25 Q. Were either of those still driving during the

1 period they were in assisted living in Alabama?

2 A. No.

3 Q. How long had it been since Dorothy had driven?

4 A. Probably since her stroke.

5 Q. Sure. Was there a decision made amongst the
6 family or physicians that she should not drive post stroke?

7 A. Yes.

8 Q. What about Jack, when would have been the last
9 time he had driven?

10 A. I don't recall. He did drive, though, for quite
11 awhile.

12 Q. Was there eventually some decision amongst the
13 family or his physicians that he should not drive anymore?

14 A. I don't really know. Steve probably spoke to him
15 about that.

16 Q. You mentioned previously that you were
17 concerned -- or you and Steve were concerned about Dorothy
18 staying at the facility alone the night of the accident
19 since she had never done that before. Was it -- and I can
20 understand if it was. Was it simply mom has not been alone
21 in this facility, or was there some concern regarding her
22 safety? What was the issue?

23 A. No. I just -- she had not been alone for a long
24 time. I didn't know how she would respond.

25 Q. Did she stay there alone that night?

1 A. She did. And we had asked specifically -- or
2 Steve talked, I believe, with caregivers to note that she
3 was alone, please check on her frequently during the night.

4 Q. Do you believe they did so?

5 A. I believe they did.

6 Q. How old is Mandy? Do you have any idea?

7 A. I don't know.

8 Q. 20s? 30s? 40s? Any idea?

9 A. I don't know.

10 Q. You mentioned her mother was here at a meeting
11 that you and your husband and Mr. Chronister had with her?

12 A. Yes.

13 Q. What is her mother's name? If you know.

14 A. I have no idea.

15 Q. Why was her mother here?

16 A. I don't know.

17 Q. Did her mother work at Brookfield?

18 A. I don't know.

19 Q. Do you know the circumstances surrounding Mandy
20 leaving employment with Brookfield?

21 A. No.

22 Q. Do you know if she was terminated or if she quit?

23 A. I don't know. I just know she was there one day
24 and then she wasn't there. I don't know.

25 Q. Do you know if it had anything to do with this

1 accident?

2 A. I don't know.

3 Q. You mentioned -- or you were discussing earlier an
4 incident report that somebody filled out. Do you know who
5 prepared that incident report at Brookfield?

6 A. No.

7 Q. I take it you have never seen it?

8 A. No, I have not.

9 Q. Other than the fall over some Christmas lights the
10 day before this accident, are you aware of any other falls
11 Jack had while at Brookfield?

12 A. No, I'm not.

13 Q. What about the assisted facility in Alabama?

14 A. No, I don't think he ever fell.

15 Q. Or before he moved into it?

16 A. Now, wait, I take that back. At Gordon Oaks --

17 Q. Yes, ma'am.

18 A. -- he did have a fall one evening over -- he got
19 up during the night to go to the bathroom and tripped over
20 a chair or something right next to the bed --

21 Q. Was he injured?

22 A. -- and fractured a rib.

23 Q. Fractured a rib?

24 A. Yes.

25 Q. Any other injuries from that fall?

1 A. No.

2 Q. Any other falls at Gordon Oaks?

3 A. No.

4 Q. Any falls Jack had before he moved into Gordon
5 Oaks?

6 A. No.

7 Q. Did Dorothy have any accidents or suffer any
8 injuries while living at Brookfield at any time?

9 A. I don't think so.

10 Q. What about while at Gordon Oaks?

11 A. I don't think so.

12 Q. Or before having the stroke?

13 A. I don't think so.

14 Q. What it have been you, as a nurse perhaps, or
15 Steve, or both of you that were handling the situation
16 while Jack was in the hospital speaking to the doctors,
17 speaking to the nurses?

18 A. Both of us did.

19 Q. Anyone other than you two? Any other family
20 members do anything?

21 A. No.

22 Q. You testified previously that Jack knew what was
23 going on concerning the decisions being made to put the
24 feeding tube in, remove the feeding tube, go to Hospice.

25 If I understand it, when one has a feeding tube in, one can

1 not speak, is that accurate?

2 A. No. That's not accurate.

3 Q. It's not accurate?

4 A. He could talk.

5 Q. He could talk?

6 A. Yes.

7 Q. Okay. And was he talking?

8 A. It was a small tube through his nose. Yes, he
9 was.

10 Q. He was able to speak and articulate his wishes?

11 A. Yes.

12 Q. Was it his wish that the feeding tube be put in?

13 A. Yes.

14 Q. Was it his wish that the feeding tube be removed?

15 A. Yes.

16 Q. Was it his wish to go to Hospice?

17 A. Yes.

18 Q. At any time after going to Hospice, did he express
19 a desire to leave it and go back to the hospital or back to
20 Brookfield or anywhere else?

21 A. No.

22 Q. Do you have any criticisms concerning the care
23 Jack received at the hospital?

24 A. No.

25 Q. Other than, I guess, they couldn't get the

1 catheter in at the beginning?

2 A. Right.

3 Q. And what about at Hospice?

4 A. No.

5 Q. Do you know when he went to Hospice, how long
6 after the accident occurred?

7 A. I believe it was close to two weeks.

8 Q. Where was the Hospice facility?

9 A. It was Peachtree Hospice, which is within the
10 Sparks Hospital.

11 Q. So he didn't actually move physical locations?

12 A. He moved from one room on the 4th floor up to
13 another room in Hospice, which was, I think, on the 5th or
14 6th floor of Sparks.

15 Q. Yes, ma'am. I mean, he didn't have to leave the
16 hospital to another building?

17 A. No.

18 Q. Why were y'all -- and I'm assuming it was you and
19 Steve that hired the caregivers for Jack when he was in the
20 hospital and then Hospice?

21 A. (Witness nods head affirmatively).

22 Q. You are nodding yes?

23 A. Oh, it was us that hired them.

24 Q. Do you have any idea how much they were being
25 paid?

1 A. I don't recall.

2 Q. Do you know the names of any of them?

3 A. One of them was Jasmine.

4 Q. Do you know her last name?

5 A. I think it's Dawson. Shirley was one of them.

6 Q. What was her last name?

7 A. Shirley that stays with mom now. And I don't know
8 her last name.

9 Q. Oh, okay.

10 A. There was one other young lady that stayed a few
11 days, but those were the two main ones.

12 Q. Why was it that you all were paying for a
13 caregiver while Jack was in the hospital?

14 A. Well, we couldn't be there with him all the time.
15 And whenever we'd visit, we'd ask him is there anything
16 else that you need, what do you want. And he said I'm just
17 so lonely here.

18 Q. And so it was for companionship as opposed to
19 actual --

20 A. Right.

21 Q. -- physical or medical care?

22 A. They did not do any medical care.

23 Q. Ma'am?

24 A. They did not do any medical care.

25 Q. Were they assisting him in turning or getting up,

1 or was that left to the hospital?

2 A. They would when the caregivers -- I mean, when the
3 nursing staff would come in to turn him, they would help.
4 They would do things like clean his mouth.

5 Q. Were they nurses --

6 A. No.

7 Q. -- or nurse's assistants?

8 A. No.

9 Q. What type of background or education did they
10 have?

11 A. I don't know. I left that up to Eldirect. They
12 were qualified in what Eldirect is saying that they need to
13 be as far as what they did.

14 Q. And what is that? Qualified how?

15 A. They are -- the background checks are done, that
16 kind of thing, so they are not -- they are not any type of
17 medical professionals. They are -- background checks are
18 done so that they can come and be a companion.

19 Q. Shirley included? No type of medical background?

20 A. Right.

21 Q. How old is Dorothy right now?

22 A. 89.

23 Q. And Jack was 93 at the time of his death?

24 A. Yes.

25 Q. How old is Jack's brother currently?

1 A. I said I didn't know for sure. He's in his early
2 80s.

3 Q. Does he have any health problems that you're aware
4 of?

5 A. Yes. He's not in great health. I don't know
6 specifically what they are.

7 Q. I understand we need to change the tapes, so let's
8 go off the record for just a moment.

9 THE VIDEOGRAPHER: The time is now 12:37 p.m. and
10 we're off the record.

11 (Off the record).

12 THE VIDEOGRAPHER: The time is now 12:55 p.m. and
13 we're back on the record.

14 Q. (BY MS. HARRISON) Ms. Brigance, we were speaking
15 before we had to change the tapes -- we'll change subjects
16 a little bit now. You mentioned previously that your
17 husband has had some counseling since his father's death?

18 A. Yes.

19 Q. Had he ever had counseling before his father's
20 death?

21 A. No.

22 Q. Had he ever seen a psychiatrist before his
23 father's death?

24 A. No.

25 Q. Or taken medication for depression or anxiety?

1 A. No.

2 Q. Have you had any type of counseling since
3 Mr. Brigance's death?

4 A. I've gone with him to some of the counseling
5 sessions.

6 Q. Sure. And was that for moral support for him or
7 were you there being counseled as well?

8 A. Both.

9 Q. Would the counselor consider you his patient?

10 A. Not directly.

11 Q. He does not have a separate file on you?

12 A. No.

13 Q. Have you seen a psychiatrist as well?

14 A. No.

15 Q. Have you --

16 A. Well, except for when I went with Steve. I did go
17 with him to the psychiatrist.

18 Q. Was that for moral support or was the psychiatrist
19 seeing you as a patient?

20 A. It was both.

21 Q. Did he diagnose you?

22 A. No. He made a chart on Steve, not on me.

23 Q. He had no chart on you?

24 A. Right.

25 Q. He didn't prescribe you any medication then?

1 A. No.

2 Q. Has Dorothy seen a counselor or psychiatrist since
3 her husband's death?

4 A. No.

5 Q. What about Mr. Brigance's brother?

6 A. I don't know.

7 Q. Or Steve's sister?

8 A. I don't know.

9 Q. Does depression run in Steve's family?

10 A. I don't know.

11 Q. Don't know of anyone in the family who has or has
12 suffered from depression?

13 A. No.

14 Q. You mentioned he -- for some period of time before
15 he was on the medication -- was depressed in the evenings.
16 Was there something about the evenings that caused the
17 depression to worsen?

18 A. Likely not circumstances. But, according to the
19 counselor, that's when things can become worse in the
20 evenings.

21 Q. That's typical?

22 A. The counselor attributed Steve's decline in the
23 evenings to his depression.

24 Q. Yes, ma'am. And what I was asking was -- and I
25 did a poor job of it -- was something particular about the

1 evenings that caused it to worsen, why that time of day?

2 A. I don't know. No particular event.

3 Q. And was that on an ongoing basis that his
4 depression worsened in the evenings?

5 A. For a time, yes.

6 Q. When was that?

7 A. Off and on intermittently for -- I'd say for
8 several months.

9 Q. You said he would decline in the evenings. What
10 do you mean by that?

11 A. He would become despondent. He would not respond
12 when I would talk to him. Couple of nights I think he was
13 maybe even hallucinating.

14 Q. It sounds like he's had a fairly severe reaction
15 to his father's death. Have there been other members in
16 his family that have passed away during your relationship
17 with Steve?

18 A. Yes.

19 Q. Who else?

20 A. Well, he's lost aunts and uncles. He's lost
21 grandfathers.

22 Q. Any similar episodes with any of those deaths?

23 A. Not that I'm aware of, no.

24 Q. What about his brother?

25 A. Yes, his brother also.

1 Q. Did he have any stage of depression --

2 A. Nothing like this.

3 Q. Did he go through any stage of depression after
4 his brother's death?

5 A. He may have gone through sadness. He was never
6 diagnosed with depression.

7 Q. How long did the sadness last?

8 A. I don't know.

9 Q. How often has he had the hallucinations?

10 A. And I don't know that he even had that. I've said
11 that that -- when I went with him to the counselor, we
12 described what -- how he was behaving one night. And the
13 counselor suggested that's probably what was going on
14 related to the depression.

15 Q. Does Steve have any memory of that?

16 A. No.

17 Q. Tell me what you mean by what was going on that
18 night. What was going on?

19 A. He would not respond to my questions to him. He
20 just acted like he was almost in a catatonic state. He was
21 looking like -- we were sitting at the dining room table
22 acting -- looking like he saw things. He was looking at
23 things on the table.

24 Q. Had that ever happened before?

25 A. No.

1 Q. Has it ever happened since?

2 A. He's done that twice.

3 Q. When was the first time?

4 A. I don't recall. Month or two ago. It was before
5 he went to the psychiatrist.

6 Q. A month or two ago?

7 A. Uh-huh.

8 Q. And when was the second time?

9 A. Shortly after that.

10 Q. Were they both before he saw the psychiatrist?

11 A. Yes.

12 Q. Both before he got on medication?

13 A. I believe so.

14 Q. He's not had any similar episodes since he got on
15 medication?

16 A. I don't think so.

17 Q. Has the psychiatrist suggested what the source of
18 those hallucinations was?

19 A. Depression.

20 Q. Was he concerned about the fact that Steve might
21 have been having hallucinations?

22 A. He just attributed it to the depression. He's
23 concerned about the fact of -- the state that he was in.

24 Q. To your knowledge, has anyone in Steve's family
25 ever suffered from hallucinations before?

1 A. No.

2 Q. You mentioned Steve's sister came to stay recently
3 to visit Dorothy. Where did she stay when she was here?

4 A. She stayed at the Baymont Inn.

5 Q. Not with you all?

6 A. No.

7 Q. Are Steve and his sister close?

8 A. I wouldn't say they're close. They speak. We
9 don't live in the same city with them, so there's --

10 Q. She doesn't come to visit you and your husband?

11 A. No.

12 Q. And doesn't stay with you when she does come here?

13 A. This is the first time she's ever been to Fort
14 Smith.

15 Q. Was Dorothy ever moved to another room at the
16 Brookfield, or is she still in the same room?

17 A. No, she's in the same room.

18 Q. What medication is it that Steve was prescribed?

19 A. Lexapro and Lunesta.

20 Q. Was anything tried before those two?

21 A. No.

22 Q. Were they started at the same time?

23 A. No. The Lexapro started first.

24 Q. How long did he take just it?

25 A. I am not sure. Several weeks.

1 Q. Did you see any change with him on just the
2 Lexapro?

3 A. Well, as I mentioned before, he was a little bit
4 better. He had a flat mood.

5 Q. I didn't know if that was before he started
6 Lunesta or not.

7 A. With just the Lexapro --

8 Q. Yes, ma'am.

9 A. -- his depression lightened somewhat. He just
10 began to get a flat affect.

11 Q. What about since the Lunesta was started?

12 A. That's to help with sleep. And he -- some nights
13 he does sleep better.

14 Q. Was he having problems sleeping?

15 A. Yes.

16 Q. Is that since the death?

17 A. Yes.

18 Q. Did he have any problems sleeping before the
19 death?

20 A. No.

21 Q. Do you know if Dorothy has suffered any problems
22 sleeping since Jack's death?

23 A. I don't know.

24 Q. Have you?

25 A. I'm sorry. What?

1 Q. Have you suffered any problems sleeping since
2 Jack's death?

3 A. Sometimes.

4 Q. What about Steve's sister? If you know.

5 A. I don't know.

6 Q. Or Jack's brother? Do you know?

7 A. I don't know.

8 Q. We talked previously about the handwritten
9 statement that Mandy prepared. And, as I understand it,
10 she brought this with her to the meeting that you and Steve
11 and Mr. Chronister had with her?

12 A. I believe so.

13 Q. She prepared it before she got here?

14 A. Yes.

15 Q. And in it she addresses herself as Amanda
16 Broughton. Is that her full name? Do you know?

17 A. Probably.

18 Q. She indicated she and a Cheryl Williams were
19 walking down the hall the day of the accident. Do you know
20 who Cheryl Williams is?

21 A. There's a caregiver there named Cheryl.

22 Q. Have you ever spoken to her?

23 A. Yes. I know who Cheryl is.

24 Q. Have you and Cheryl ever spoken concerning how the
25 accident occurred or anything about the accident?

1 A. No.

2 Q. Have you ever talked to Cheryl about the door in
3 question?

4 A. No.

5 Q. Or Jack's health following the accident?

6 A. No.

7 Q. Do you know if Cheryl is still with Brookfield?

8 A. Yes.

9 Q. Do you know if Steve has ever talked to Cheryl
10 about the door or the accident or Jack's --

11 A. I don't know.

12 Q. -- death post accident? Okay. It references a
13 Dot several times. Is Dot Dorothy?

14 A. Yes.

15 Q. Is that what she goes by?

16 A. Yes.

17 Q. It says her door was open, which was not normal
18 for her. Did you know her to typically keep the door to
19 their rooms closed?

20 A. Yes.

21 Q. It says that once Mandy walked into the room, she
22 saw Jack's legs on the floor and then Dot moved in front of
23 the refrigerator by Jack. Have you had any conversation
24 with Mandy concerning where Dot was when she first walked
25 in the room?

1 A. No.

2 Q. Or how far from Jack she was?

3 A. No.

4 Q. Where is the refrigerator in relation to the door
5 in question, the closet door?

6 A. It's probably about two or three feet away from
7 the closet.

8 Q. So close proximity?

9 A. Uh-huh.

10 Q. Do you know why the door to their room was open
11 when Mandy and Cheryl walked by?

12 A. I don't know.

13 Q. Do you know if Dorothy was trying to go get help?

14 A. I don't know.

15 Q. Or if the door was open before Jack's accident?

16 A. I don't know.

17 Q. Do you know anybody that would know those things
18 other than maybe Dorothy?

19 A. I don't know.

20 Q. The report goes on to reference a Chuck. And I
21 think you said previously Chuck was the chef or cook there?

22 A. Yes.

23 Q. Do you know his last name?

24 A. No.

25 Q. Do you know if he is still with Brookfield?

1 A. I don't know.

2 Q. Have you or Steve talked to Chuck at any time
3 concerning this door in question?

4 A. No.

5 Q. Or Jack's accident?

6 A. No.

7 Q. Or his health post accident?

8 A. No, except for when Chuck visited once in the
9 hospital.

10 Q. I was going to ask that. Were Chuck and Jack
11 friends?

12 A. Yes. They liked each other.

13 Q. Sure. I take it they liked each other a lot if
14 Chuck came and visited him in the hospital?

15 A. I don't know what you mean by friends. I've
16 already addressed that, that he didn't have any friends
17 there particularly, but he spoke to people frequently. And
18 Chuck would come to the table in the dining room and talk
19 to Jack sometimes.

20 Q. Sure. I don't mean to be difficult. But you know
21 what I mean by friends?

22 A. I'm sorry. I don't mean to be rude there. But,
23 no, they didn't have anyone there in the facility that they
24 visited with occasionally. And I don't know of any other
25 time that Chuck visited them in their room, but he was very

1 friendly and talked with Jack in the dining room.

2 Q. Do you know why he came to the hospital to see
3 Jack?

4 A. I don't know. I suppose he was concerned.

5 Q. Okay. Mandy's report goes on to state I asked
6 Jack if he hit his head on anything. He stated that I
7 imagine I did. Do you know if Jack hit his head on
8 anything when he fell?

9 A. I don't know. He was -- when -- he described
10 himself as being trapped up against a dresser that was in
11 the room with the door on top of them.

12 Q. Do you know if he struck his head on anything, the
13 door or otherwise?

14 A. I can't say, because I wasn't there.

15 Q. Sure. Did he ever indicate that he struck his
16 head on anything?

17 A. He didn't talk about his head to me.

18 Q. Do you know if he had any type of head injuries as
19 a result of this accident?

20 A. I somewhat recall he may have had a bump on the
21 back of his head.

22 Q. Was there any internal bleeding as a result of
23 that to your knowledge?

24 A. Not in his head. I think there was in his
25 abdomen.

1 Q. I meant his head.

2 A. No.

3 Q. This report goes on to indicate, I went to the
4 nurse's station and called Peggy's cell phone, then
5 Steve's. There was no answer. Do you know why she was
6 calling you before Steve?

7 A. No.

8 Q. Did she leave you a voice mail message at any time
9 on your cell phone?

10 A. No.

11 Q. Does your cell phone have voice mail?

12 A. Yes.

13 Q. It says there was no answer, so then I contacted
14 the administrator of Brookfield Assisted Living, Mitzi Dee
15 Bailey. I explained what had happened and if she thought
16 his family would get upset if I sent him to the hospital.
17 Do you know why she thought y'all might get upset if she
18 sent Jack to the hospital?

19 A. I don't know.

20 Q. Did you or Steve ever indicate to Brookfield that
21 you would be upset if they sent Jack to the hospital for
22 any reason?

23 A. I never had.

24 Q. Do you know if Steve had?

25 A. I don't know.

1 Q. Was there standing orders from you or Steve
2 concerning when or if or under what circumstances Dorothy
3 or Jack were to be sent to the hospital?

4 A. I don't know.

5 Q. Was Brookfield to call you or Steve first before
6 sending Dorothy or Jack to the hospital for any reason?

7 A. I don't know. Steve was, like, the first contact,
8 so.

9 Q. Okay. The way this report reads -- and I may be
10 misreading it. The way it reads Mandy never spoke to you.
11 She says I went to the nurse's station and called Peggy's
12 cell phone and then Steve's. There was no answer. And
13 later on she indicates she's talking to Jack and tells him
14 I tried to call them, but they didn't answer. As I
15 understood your testimony previously, you spoke to Mandy?

16 A. Yes.

17 Q. Did you speak to her before Jack went in an
18 ambulance?

19 A. I believe I did.

20 Q. Have you reviewed her February 28, 2009 written
21 statement?

22 A. No, no.

23 Q. Have you ever seen it before?

24 A. No.

25 Q. Never read it?

1 A. I saw that she had it that day. She had something
2 written down.

3 Q. Did not read it?

4 A. No, I didn't.

5 Q. What about this second shorter February 28, 2009
6 handwritten statement, you have not read it either?

7 A. No.

8 Q. Did she bring it with her as well or did she write
9 it when she was here at the meeting.

10 A. I don't know.

11 Q. Have you ever seen it before?

12 A. Not before Mr. Dossett just showed it to me.

13 Q. Do you know anything concerning a coverup with
14 regard to this accident?

15 A. No.

16 Q. Do you believe there was any type of coverup by
17 Brookfield or anyone else concerning this accident?

18 A. I don't know what that means.

19 Q. Well, it's my understanding that there's been an
20 allegation that they mishandled the reporting of it or
21 tried to cover it up, changed the reporting of it in some
22 manner. You don't know anything about that?

23 A. I never saw the incident reports, so I don't know
24 what was reported.

25 Q. Did you ever request a copy of the incident

1 report?

2 A. No.

3 Q. Do you know if Steve did?

4 A. I don't know.

5 Q. Do you know if Steve has ever seen a copy of the
6 incident report?

7 A. I don't know.

8 Q. Do you know what happened to the door in question?

9 A. I don't know.

10 Q. Or the hardware that attached it to the door
11 frame?

12 A. No, I don't know.

13 Q. Have you seen either the door or the hardware
14 since the fall occurred?

15 A. No.

16 Q. I know you had been in the room before the
17 accident occurred and you mentioned once, you thought,
18 seeing Jack trying to open the door. Did you do any type
19 of inspection of the door to try to --

20 A. No.

21 Q. -- determine what the problem was?

22 A. No.

23 Q. Or of the hardware attaching the door to the
24 frame?

25 A. No.

1 Q. Do you know if Steve had tried to determine what
2 the source of the problem with the door was?

3 A. I don't know.

4 Q. Or if he had inspected the door or the hardware
5 before?

6 A. I don't know.

7 Q. Did either you or Steve at any time hire someone
8 to go look at the door and see if they could determine the
9 source of the problem and/or try to fix it?

10 A. I did not.

11 Q. Do you know if Steve did?

12 A. I don't know.

13 Q. Not hiring somebody, but just asking somebody,
14 whether they were with Brookfield --

15 A. Not to my knowledge.

16 Q. Just a sec. Whether they were with Brookfield or
17 otherwise, did you or Steve ever ask anybody to go take a
18 look at the door and see if they could determine what was
19 wrong with it or try to fix it?

20 A. I did not. Not to my knowledge did Steve.

21 Q. Is Marcelena Lena?

22 A. Yes.

23 Q. Do you know anything concerning any possible
24 problems with any other doors in Jack and Dorothy's room?

25 A. No.

1 Q. What about any problems with any doors elsewhere
2 in the facility, Brookfield?

3 A. I have heard that there might be some other
4 problems, but I am not aware specifically.

5 Q. Who told you there might be some other problems?

6 A. I believe it was Steve.

7 Q. Where did he hear that?

8 A. I don't know.

9 Q. Is that something he witnessed or something
10 someone told him?

11 A. I don't know.

12 Q. Do you know where those other doors are?

13 A. No.

14 Q. Or how many there are?

15 A. I don't know.

16 Q. Or what the problems with them are?

17 A. No.

18 Q. Or whether those problems arose before or after
19 this accident?

20 A. I don't know.

21 Q. Or whether anyone with Crawford Construction
22 Company was advised of any of those problems with those
23 doors?

24 A. I don't know.

25 Q. This was in -- pass that to her, please -- the

1 written discovery responses I was provided. Do you know
2 what that is?

3 A. No, I do not.

4 Q. Okay. There are numerous handwritten pages that
5 I'm assuming are probably pages -- hand that to her,
6 please -- from Steve's journal that you discussed earlier.
7 Can you verify that or tell me, no, they're not or what
8 they are?

9 A. This is his handwriting.

10 Q. It is Steve's handwriting?

11 A. Uh-huh.

12 Q. You mentioned the therapist or counselor recommend
13 that he keep a journal. Did he, in fact, do so?

14 A. Yes, he did.

15 Q. Is that something he still does today?

16 A. I don't know.

17 Q. Did he journal in it daily for some period of
18 time?

19 A. I don't know how often he did it.

20 Q. That's not something you and he shared or talked
21 about?

22 A. No.

23 Q. Did you ever read some or all of the journal?

24 A. No.

25 Q. Do you know if that's some or all of the journal?

1 A. That could be. That's his handwriting. You know,
2 without reading it, I don't know.

3 Q. Okay. Pass that back to me, please. Was Jack
4 ever -- did Jack ever lose consciousness during the period
5 of time he was in the hospital?

6 A. Not until the very last hours of his life.

7 Q. That was in Hospice?

8 A. Yes.

9 Q. Did he ever lose consciousness while he was in the
10 hospital?

11 A. No.

12 Q. And in Hospice he did not lose consciousness until
13 the last few hours?

14 A. Right.

15 MS. HARRISON: Thank you, ma'am. I don't have any
16 other questions for you. I appreciate your time.

17 CROSS EXAMINATION

18 BY MR. MORRIS:

19 Q. Ms. Brigance, my name is Paul Morris. I represent
20 WDM Architects in this lawsuit. We met several hours ago
21 now, but I just wanted to remind you who I was. I don't
22 have very many questions at all I'm sure you'll be glad to
23 know, but if you need a break, we can take one.

24 A. I'm okay.

25 Q. Okay. You've mentioned a firm or a medical care

1 provider called Eldirect?

2 A. Yes.

3 Q. Is that L, the letter L?

4 A. E-L.

5 Q. E-L Direct?

6 A. Direct.

7 Q. Okay. The dresser that you've described that
8 Mr. Brigance, Mr. Jack Brigance, fell against or was part
9 of the accident that we are talking about, can you describe
10 that a little bit for me? Are we talking about a full
11 dresser that might be in a bedroom, or is it more of a --
12 something that was in the hallway?

13 A. It's a chest of drawers about three drawers waist
14 high.

15 Q. Okay. And it sat in the hallway as you came into
16 their apartment?

17 A. It's in a little alcove in the entryway.

18 Q. Okay. Did Mr. Brigance, Mr. Jack Brigance, ever
19 do his own -- did they do their own laundry while they were
20 there or while he was still alive?

21 A. The facility did it.

22 Q. Okay. So he didn't actually wash any clothes
23 himself?

24 A. No.

25 Q. Did they ever go to the common room for activities

1 or anything like that? Do you know what I mean by the
2 common room?

3 A. Yes, uh-huh.

4 Q. Did they ever go down there for bingo or whatever
5 activity was being offered?

6 A. They would go to exercise class.

7 Q. Okay. And was that in the common room?

8 A. Yes.

9 Q. Were you ever there for any of those activities,
10 or did they just describe them to you or tell you about
11 them?

12 A. Yeah, he just told me about them.

13 Q. Did they ever leave -- I think you told us that
14 Mr. Brigance was not driving by the time he came to
15 Arkansas, is that correct?

16 A. Correct.

17 Q. Did they ever leave the facility on a bus or with
18 some third party or some group to go to some activity
19 outside of the facility?

20 A. The facility, I think, took them to a dentist
21 appointment one time, but I believe that was the only time
22 they went with the facility.

23 Q. So you don't recall them ever leaving to go to a
24 church service outside of the facility or some music event
25 or something like that?

1 A. They went with us. We would take them places, but
2 not with the facility.

3 Q. When they would -- when you would take them
4 places, did they -- did you go down to their room and get
5 them, or would they be waiting out front for you? How did
6 that usually work?

7 A. Both.

8 Q. Okay. So there were times when they would be
9 already out -- ready and out of the room and down at the
10 front door waiting on you?

11 A. Yes.

12 Q. You were asked a series of questions about people
13 you had conversations with. And I think everything was
14 covered, but just to be safe I want to be sure.

15 Have you ever had any conversations with anyone
16 associated with WDM Architects about this incident or about
17 the facility, anything like that?

18 A. No.

19 Q. Are you aware of your husband ever having any such
20 conversations?

21 A. No.

22 Q. Either before or after this incident?

23 A. No.

24 Q. Okay. Are you aware of any family member, whether
25 it be Ms. Brigance or your sister-in-law or one of your

1 children or whoever, any family member having any
2 conversations with anyone associated with WDM Architects?

3 A. No.

4 Q. Was Ms. Brigance involved -- I mean, Ms. Dorothy
5 Brigance -- involved in the decisions about Mr. Brigance's
6 care after the incident?

7 A. No.

8 Q. Why was -- why was she not involved in those
9 decisions?

10 A. She was an 88 year old with some form of dementia
11 and not capable of making the decisions at that level of --
12 that were needed.

13 Q. Okay. And I stepped out to get the extra copy of
14 the statement and I think you were talking about this. Did
15 she come -- was she able to come and visit him at the
16 hospital or in Hospice once he was there?

17 A. Yes. She came several times.

18 MR. MORRIS: Just one second. I don't have any
19 other questions. Thank you, ma'am.

20 THE WITNESS: Okay.

21 REDIRECT EXAMINATION

22 BY MR. DOSSETT:

23 Q. Ms. Brigance, I just have a few follow up.

24 A. Okay.

25 Q. Are you aware of whether Steve or anyone at his

1 direction has conducted any type of investigation or
2 testing in the room?

3 A. No, not aware.

4 Q. Are you aware of whether Steve or anyone at his
5 direction has taken photographs of the closet or other
6 aspects of the room?

7 A. I don't know.

8 Q. With regards to Dorothy Brigance, does she use a
9 walker?

10 A. No.

11 Q. Has any doctor ever recommended a walker to her?

12 A. No.

13 Q. Do you believe she needs a walker?

14 A. She needs some support. She's preferred that to
15 be a person.

16 Q. To your knowledge, has anyone recommended a walker
17 to her?

18 A. No. And she walks around the room fine by
19 herself.

20 Q. Sure. But with regards to getting up and down the
21 hall to go to dinner or other activities --

22 A. And she can do it. I'm sorry. I interrupted you.

23 Q. Go ahead. Go ahead.

24 A. She can walk down the hall by herself, which she
25 has done sometime since dad's death. We don't want her to

1 do that, because we feel like she is a risk for a fall.

2 Q. Have you discussed with her that maybe a walker
3 would help her?

4 A. Yes.

5 Q. What is her response?

6 A. No.

7 Q. She doesn't want it?

8 A. Not going to do it. She's fine by herself.

9 Q. She knows what she wants, right?

10 A. Yes.

11 Q. Do you know if the facility has recommended that
12 she have a walker?

13 A. I don't know.

14 Q. With regards to Ms. Dorothy Brigance eating dinner
15 alone, do you know whether the facility has tried to find
16 her a dining companion?

17 A. Yes, they have.

18 Q. And how is that going?

19 A. Well, not real well as far as I can tell.

20 Q. Does Ms. Dorothy Brigance prefer to eat alone now?

21 A. Well, no, she doesn't prefer to eat alone, but
22 there has not been a suitable companion.

23 Q. Suitable for whom?

24 A. For Ms. Brigance. She was at a table with some
25 other ladies for while, three other women at a table, and

1 there just was no conversation. And then she was tried at
2 another table with a woman with very severe dementia who
3 talked and rambled and mom couldn't take that either during
4 the mealtime, so there's just not been a suitable table.

5 Q. Do you know whether Steve Brigance has given the
6 facility instructions that his mother should eat alone?

7 A. I don't know about that.

8 Q. When was the last time Steve has taken an
9 out-of-town business trip?

10 A. It's been months. He has not gone anywhere since
11 talking with Dr. -- the psychologist regarding the
12 depression, who recommended that he not travel.

13 Q. Has he gone on any out-of-town business trips
14 since his father passed away?

15 A. Yes.

16 Q. How many?

17 A. I don't know.

18 Q. Do you know where he went?

19 A. He went to visit a client in Oregon.

20 Q. How long was he gone?

21 A. I don't know. A few days probably.

22 Q. Do you have any -- any time frame references as to
23 when that was?

24 A. I think the -- possibly the end of May. He was
25 out there for a seminar that he had been working on for

1 months in advance and he couldn't really cancel that.

2 Q. Was this trip for a seminar, was that different
3 than his trip to Oregon?

4 A. No. That was to Oregon and that was business.

5 Q. Has Steve made any other out-of-town trips since
6 his father's passing?

7 A. Other than the funeral. And then earlier I
8 mentioned to you that we went over to South Carolina in the
9 spring. And that's all I recall.

10 Q. How long were you gone to South Carolina?

11 A. That was a week.

12 Q. Prior to his father's passing, how often did Steve
13 meet with out-of-town business trips?

14 A. Much more frequently. I don't know exactly how I
15 would quantify that. Maybe once or twice a month.

16 Q. You had looked at some pages from a journal
17 that -- apparently, it was a journal that Steve kept. Have
18 you kept any type of journal or diary --

19 A. No.

20 Q. -- related to this incident?

21 A. No.

22 Q. Does Steve have any ongoing back problems that
23 you're aware of?

24 A. Yes.

25 Q. How long has he had back problems?

1 A. He's had back problems for awhile. He had his
2 most recent surgery last June.

3 Q. How many surgeries has he had for his back?

4 A. I don't know. He's had probably three at least.

5 Q. What type of surgeries?

6 A. He's had a laminectomy, he's had a lumbar fusion,
7 and then he had another lumbar fusion.

8 Q. This most recent one, was it a fusion as well?

9 A. Yes.

10 Q. Did it take?

11 A. No. Actually, it has not yet.

12 Q. Okay. Has Steve had to take any pain medications
13 as a result of his back problems over the years?

14 A. Over the years off and on he has somewhat, but not
15 very frequently. He's one of those people that doesn't
16 like to take pain medicine.

17 Q. Is he taking any medication for his back problems
18 now?

19 A. Not that I'm aware of.

20 Q. When was the last time that you're aware he took
21 pain medication for his back problems?

22 A. I don't know.

23 Q. Are you aware of him taking any pain medication
24 for his back problems since his most recent surgery?

25 A. Yes. Since the most recent surgery, he did.

1 Q. And when did -- for what period of time did he
2 take medication?

3 A. Well, he took it more often for the first two or
4 three months. And that was June of '08 when the surgery
5 was.

6 Q. Okay.

7 A. And since that time, I don't know.

8 Q. Do you know what he was taking for that first two
9 or three months?

10 A. Hydrocodone or Ultram. I think that's it.

11 Q. Prior to his most recent surgery, are you aware of
12 him taking any type of pain medication for his back?

13 A. On very rare occasion.

14 Q. What would he take?

15 A. Usually a Naproxen.

16 Q. And how often?

17 A. Once every six months.

18 Q. Do you know if Steve has ever been treated for
19 drug or alcohol abuse?

20 A. He has not.

21 Q. Is that -- is it true that he hasn't been treated
22 for drug or alcohol abuse since his father's death either?

23 A. True.

24 Q. Whenever Steve's sister came to visit recently, do
25 you know whether she inquired into the possibility of

1 renting a room at Brookfield while she was here?

2 A. I did not talk to her prior to her visit, but I
3 don't know.

4 Q. Has anybody mentioned to you that she was
5 considering or looking into that possibility?

6 A. I think mom mentioned it one time Lena might stay
7 with her.

8 Q. To your knowledge, did Lena -- how do you
9 pronounce her name?

10 A. Lena.

11 Q. Lena. Did she ever stay with Ms. Brigance?

12 A. As in spending the night, I don't think so.

13 Q. In some of the other questions that were asked of
14 you, you recalled that Jack Brigance mentioned being
15 trapped against a dresser?

16 A. Uh-huh.

17 Q. That was a detail that you were not able to recall
18 when you and I were visiting earlier. Are there any other
19 details of the incident that you now recall Mr. Brigance
20 reporting to you other than what you have already testified
21 about?

22 A. I remember him specifically saying the door came
23 off, the door was so heavy, I was up against a dresser, it
24 hurt so much. I remember those specific words.

25 Q. Anything else?

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A. No.

MR. DOSSETT: Pass the witness.

MS. HARRISON: No other questions.

MR. MORRIS: No questions.

THE VIDEOGRAPHER: Okay. The time is now
1:30 p.m. and we're off the record.

(Witness excused at 1:30 P.M.)

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CERTIFICATE

STATE OF ARKANSAS)
COUNTY OF CRAWFORD)ss

I, Laurence D. Martin, a Certified Court Reporter, a notary public in and for the aforesaid county and state, do hereby certify that the witness was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me stenographically and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

LAURENCE D. MARTIN, CCR
Certified Court Reporter
and Notary Public
State Certificate No. 326

My Commission Expires:
March 23, 2012