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<p>1 CAUSE NO. DC-13-09969</p> <p>2 JO N. HOPPER, § IN THE DISTRICT COURT OF</p> <p>3 Plaintiff, §</p> <p>4 v. § 44TH JUDICIAL DISTRICT</p> <p>5 LAURA S. WASSMER and §</p> <p>6 STEPHEN B. HOPPER, §</p> <p>7 Defendants. § DALLAS COUNTY, TEXAS</p> <p>8</p> <p>9 -----</p> <p>10 ORAL & VIDEOTAPED DEPOSITION OF</p> <p>11 STEPHEN B. HOPPER</p> <p>12 FEBRUARY 5, 2016</p> <p>13 -----</p> <p>14 ORAL & VIDEOTAPED DEPOSITION OF STEPHEN B. HOPPER,</p> <p>15 produced as a witness at the instance of the Plaintiff,</p> <p>16 and duly sworn, was taken in the above-styled and</p> <p>17 numbered cause on February 5, 2016, from 9:36 a.m. to</p> <p>18 11:46 a.m., before James M. Shaw, RMR, Certified</p> <p>19 Shorthand Reporter No. 1694, in and for the State of</p> <p>20 Texas, reported by computerized stenotype machine at the</p> <p>21 Law Offices of Fee, Smith, Sharp & Vitullo, LLP, Three</p> <p>22 Galleria Tower, 13155 Noel Road, Suite 1000, Dallas,</p> <p>23 Texas 75240, pursuant to the Texas Rules of Civil</p> <p>24 Procedure and the provisions stated on the record or</p> <p>25 attached hereto.</p>	<p>1 I N D E X</p> <p>2</p> <p>3 PAGE</p> <p>4 Appearances.....2</p> <p>5</p> <p>6</p> <p>7 Stipulations.....8</p> <p>8</p> <p>9</p> <p>10 WITNESS: STEPHEN B. HOPPER</p> <p>11 Examination by Mr. Loewinsohn.....8</p> <p>12</p> <p>13</p> <p>14 Changes and Corrections Page.....88</p> <p>15</p> <p>16</p> <p>17 Signature Page.....89</p> <p>18</p> <p>19</p> <p>20 Reporter's Certificate.....90</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 ALAN S. LOEWINSOHN, ESQ.</p> <p>5 alanl@LFDlaw.com</p> <p>6 KERRY SCHONWALD, ESQ.</p> <p>7 kerrys@LFDlaw.com</p> <p>8 LOEWINSOHN FLEGLE DEARY, LLP</p> <p>9 12377 Merit Drive, Suite 900</p> <p>10 Dallas, Texas 75251</p> <p>11 Telephone: 214.572.1700</p> <p>12 Fax: 214.572.1717</p> <p>13</p> <p>14 FOR THE DEFENDANTS:</p> <p>15 CHRISTOPHER M. McNEILL, ESQ.</p> <p>16 mcneill@bgvllp.com</p> <p>17 BLOCK, GARDEN & McNEILL, LLP</p> <p>18 Sterling Plaza</p> <p>19 5956 Sherry Lane, Suite 900</p> <p>20 Dallas, Texas 75225</p> <p>21 Telephone: 214.866.0900</p> <p>22 Fax: 214.866.0991</p> <p>23</p> <p>24 AND</p> <p>25 JON AZANO, ESQ.</p> <p>jazano@feesmith.com</p> <p>FEE, SMITH, SHARP & VITULLO LLP</p> <p>Three Galleria Tower</p> <p>13155 Noel Road, Suite 1000</p> <p>Dallas, Texas 75240</p> <p>Telephone: 972.934.9100</p> <p>Fax: 972.934.9200</p> <p>ALSO PRESENT: JO N. HOPPER</p> <p>LAURA S. WASSMER</p> <p>BARBARA HOPPER</p> <p>THE VIDEOGRAPHER: KEITH WEEKS</p>	<p>1 E X H I B I T S</p> <p>2 HOPPER EXHIBIT DESCRIPTION EXHIBIT</p> <p>3 NUMBER MARKED</p> <p>4 Exhibit 1 Letter dated October 20, 2010 to Susan Novak</p> <p>5 from Carol A. Matesic, with attached</p> <p>6 appraisal.....16</p> <p>7 Exhibit 2 Letter dated November 17, 2010 to Susan Novak</p> <p>8 from Carol A. Matesic, with attached addendum</p> <p>9 to appraisal.....17</p> <p>10 Exhibit 3 Letter dated November 17, 2010 to Susan Novak</p> <p>11 from Carol A. Matesic, with enclosures.....18</p> <p>12 Exhibit 4 Letter dated March 6, 2011 to Susan Novak</p> <p>13 from Carol A. Matesic, with enclosures.....18</p> <p>14 Exhibit 5 Letter dated October 14, 2010 to Jo Hopper</p> <p>15 from Brenda Simonson-Mohle, with</p> <p>16 enclosures.....19</p> <p>17 Exhibit 6 Hopper Appraisal Value Summary.....20</p> <p>18 Exhibit 7 Business Assets Appraisal Value Summary....21</p> <p>19 Exhibit 8 Letter dated May 17, 2011 to Susan Novak from</p> <p>20 Margaret Gronberg, with enclosures.....22</p> <p>21 Exhibit 9 Letter dated November 16, 2010 to Susan Novak</p> <p>22 from Rives McBee, with enclosures.....22</p> <p>23 Exhibit 10 Letter dated December 10, 2015 to Lisa Flatt</p> <p>24 from Kirk R. Chandler, with enclosure.....23</p> <p>25</p>

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E X H I B I T S		
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1		
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4	Exhibit 11 Independent Administrator's Assignment of	
5	Art, IA 036020 through 036032.....26	
6	Exhibit 12 Independent Administrator's Assignment of	
7	Household Furnishings, Jewelry, Personal	
8	Effects, IA 036033 through 036036.....38	
9	Exhibit 13 List of Max's and Jo's separate property...40	
10	Exhibit 14 Independent Administrator's Assignment Golf	
11	Clubs and Other Tangible Personal Property	
12	located at Richardson Commerce Centre, 13650	
13	TI Blvd., Suite 305, Dallas, Texas 75243,	
14	IA 039737 through 039738.....49	
15	Exhibit 15 Independent Administrator's Assignment Wine	
16	Stored with Classic Wine Storage, Southlake,	
17	Texas 76092, IA 039741 through 039742.....49	
18	Exhibit 16 E-mail dated June 17, 2011 to Stephen Hopper	
19	and Laura Wassmer from Jo Hopper, with	
20	attachments.....50	
21	Exhibit 17 E-mail dated June 21, 2011 to Susan H. Novak	
22	from Janet Elkins, with other E-mails and	
23	attachments, IA 011454 through 011606.....55	
24		
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E X H I B I T S		
HOPPER EXHIBIT NUMBER	DESCRIPTION	EXHIBIT MARKED
1		
2		
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4	Exhibit 18 E-mail dated January 9, 2015 to Christopher	
5	McNeill from Janet Elkins, with attached	
6	letter.....60	
7	Exhibit 19 E-mail dated January 12, 2015 to Janet Elkins	
8	from Christopher McNeill and E-mail dated	
9	January 9, 2015 to Christopher McNeill from	
10	Janet Elkins.....60	
11	Exhibit 20 E-mail dated August 6, 2013 to Christopher	
12	McNeill and janet@erhardjennings.com, with	
13	other E-mails and attachments, Children's	
14	Partition Production 000211 through 000228.67	
15	Exhibit 21 E-mail dated August 13, 2013 to Janet Elkins	
16	from James Jennings.....67	
17	Exhibit 22 E-mail dated August 20, 2013 to Christopher	
18	McNeill from Janet Elkins, with attached	
19	letter, Children's Partition Production	
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21	Exhibit 23 E-mail dated August 20, 2013 to Janet Elkins	
22	from Christopher McNeill and E-mail dated	
23	August 20, 2013 to Christopher McNeill from	
24	Janet Elkins, Children's Partition Production	
25	000182 through 000183.....71	

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E X H I B I T S		
HOPPER EXHIBIT NUMBER	DESCRIPTION	EXHIBIT MARKED
1		
2		
3		
4	Exhibit 24 E-mail dated August 17, 2012 to Stephen	
5	Hopper from Susan H. Novak, with other	
6	E-mails, Children's Partition Production	
7	000410 through 000411.....78	
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P R O C E E D I N G S

THE VIDEOGRAPHER: We are on the videotape record at 9:36 a.m. This is the beginning of DVD No. 1.

THE REPORTER: Any particular agreements or stipulations for the record?

MR. LOEWINSOHN: It's pursuant to the rules, other than the Court has imposed a two hour-time limit.

MR. McNEILL: Nothing further.

STEPHEN B. HOPPER,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. LOEWINSOHN:

Q. State your full name for the record, please.

A. Stephen Hopper.

Q. What is your address?

A. 501 Northwest 41st Street, Oklahoma City, Oklahoma.

Q. The ZIP code?

A. 73118.

Q. Mr. Hopper, do you understand we are here to take your deposition?

A. Yes, I do.

Q. Have you ever been deposed before?

A. Yes, I have.

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<p>1 Q. How many times? 2 A. I don't recall. 3 Q. Approximately? 4 A. Between five and ten. 5 Q. When was the most recent time? 6 A. Probably about a year ago. 7 Q. And what was generally the nature of the 8 matter? 9 A. I served as an expert witness. 10 Q. In what type of case? 11 A. It was a lawsuit against a physician. 12 Q. Okay. Are all of the times you've been deposed 13 before those in which you were serving as an expert 14 witness? 15 A. Yes. 16 Q. Ever testify in a court of law? 17 A. Yes. 18 Q. How many times? 19 A. Once. 20 Q. When was that? 21 A. Probably ten years ago. 22 Q. Was that also where you were serving as an 23 expert witness? 24 A. Yes. 25 Q. Ever testify before an arbitration panel?</p>	<p>1 understanding my questions or testifying completely and 2 truthfully? 3 A. No. 4 Q. What did you do to prepare for your deposition? 5 A. I reviewed some notes I had made going back 6 over the history of the attempted partition of the 7 assets, and I reviewed the motion for summary judgment 8 that Mr. McNeill prepared. 9 Q. Anything else? 10 A. No. 11 Q. Did the notes help refresh your recollection to 12 some degree in connection with matters you may be asked 13 about today? 14 A. To some degree. 15 Q. Okay. Have those notes been produced in this 16 litigation? 17 A. No. 18 MR. LOEWINSOHN: We call for those notes to 19 be produced so that we may examine the witness about 20 them. 21 MR. McNEILL: The notes were prepared for 22 counsel. 23 MR. LOEWINSOHN: Nonetheless, he's 24 testified as he has, so are you refusing to produce the 25 notes?</p>
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<p>1 A. No. 2 Q. Do you understand generally the purpose of a 3 deposition? 4 A. Yes. 5 Q. Do you understand the purpose includes my 6 asking you questions and you providing me with complete, 7 truthful responses? 8 A. Yes. 9 Q. Do you understand you've taken an oath to tell 10 the truth? 11 A. Yes. 12 Q. Do you understand in the state of Texas, it is 13 a crime to tell anything other than the complete truth at 14 a deposition? 15 A. Yes. 16 Q. Can we have an agreement throughout your 17 deposition, if at any point I ask you a question which is 18 not entirely clear to you or you don't understand for 19 some reason, that you will stop me before you answer the 20 question and seek whatever clarification you feel you 21 need? 22 A. Yes. 23 Q. Do you know of any reason, physical, 24 psychological, pharmacological, medical, any reason 25 whatsoever, that you would have any difficulty today</p>	<p>1 MR. McNEILL: We can talk about this later. 2 MR. LOEWINSOHN: Okay. Well, we can. I 3 just want to make clear, one, I'm calling for their 4 production so that I may examine the witness about it at 5 this deposition. 6 Q. (BY MR. LOEWINSOHN) Ever been arrested or 7 convicted of any crime? 8 A. No. 9 Q. Ever served any time in jail? 10 A. No. 11 Q. Ever -- What professional licenses do you have 12 or certifications? 13 A. Medical doctor. 14 Q. Anything else? 15 A. No. 16 Q. Ever had your license suspended, revoked? 17 A. No. 18 Q. Have you ever been a party to a lawsuit, other 19 than in connection with matters relating to your father's 20 estate, where you were named individually, or an entity 21 that you were an owner in, either as a plaintiff, 22 defendant or otherwise? 23 A. Could you restate the question? 24 Q. Yes, sir. Have you, individually or through 25 any entity you've ever owned, been named as a party in a</p>

1 lawsuit, a plaintiff, defendant or otherwise, or in
 2 arbitration, excluding the lawsuits involving your
 3 father's estate?
 4 A. Yes.
 5 Q. How many times?
 6 A. Once --
 7 Q. When was that --
 8 A. -- I believe.
 9 Q. -- approximately?
 10 A. 20 years ago.
 11 Q. And were you a defendant or plaintiff?
 12 A. Defendant.
 13 Q. And what generally was the nature of the
 14 allegation?
 15 A. I don't really recall, but I was party to -- a
 16 number of physicians had been sued in a lawsuit, but I
 17 don't recall the circumstances.
 18 Q. What was the outcome?
 19 A. I was dropped from the lawsuit.
 20 Q. What is your educational background?
 21 A. I've completed my medical doctorate degree.
 22 Q. From where?
 23 A. I completed a residency from the University of
 24 Oklahoma Health Sciences Center.
 25 Q. And when?

1 I'm referring to the plaintiff Jo Hopper?
 2 A. Yes.
 3 Q. If I refer to the bank, will you understand I'm
 4 referring to JP Morgan Chase Bank, NA?
 5 A. Yes.
 6 Q. If I refer to the Hopper estate or the estate,
 7 unless I say otherwise, will you understand I am
 8 referring to the estate of Max D. Hopper?
 9 A. Yes.
 10 Q. And Mr. Hopper was your father; correct?
 11 A. Yes.
 12 Q. If I refer to the wine at issue just as a
 13 shorthand, will you understand I'm referring to the
 14 various bottles of wine that your father and Mrs. Hopper
 15 owned together as of the time of your father's death?
 16 A. Yes.
 17 Q. If I refer to the golf clubs at issue, will you
 18 understand I'm referring to the golf clubs and related
 19 golf items that your father and Mrs. Hopper owned
 20 together at the time of your father's death?
 21 A. Yes.
 22 Q. Your father died intestate, meaning there was
 23 no signed will; correct?
 24 A. As far as I know.
 25 Q. Do you know of any signed will from your

1 A. 1983.
 2 Q. Okay.
 3 A. I completed my residency at the University of
 4 Oklahoma in 1987.
 5 Q. How are you currently employed?
 6 A. I'm self-employed.
 7 Q. And in what particular field?
 8 A. Psychiatry.
 9 Q. If I use the term "oral communication" or to
 10 communicate orally, will you understand I mean any type
 11 of communication not in writing, whether in person,
 12 telephonic or otherwise, and regardless of how many
 13 people participated?
 14 A. Yes.
 15 Q. If I use the term "written communication" or to
 16 communicate in writing, will you understand I mean any
 17 communication not oral, and I mean to include
 18 typewritten, handwritten, E-mail, text, tweet or
 19 otherwise?
 20 A. Yes.
 21 Q. If I refer to this lawsuit, unless I say
 22 otherwise, will you understand I'm referring to this
 23 lawsuit in which you are giving a deposition here today?
 24 A. Yes.
 25 Q. If I refer to Mrs. Hopper, will you understand

1 father?
 2 A. No.
 3 (Exhibit 1 marked)
 4 Q. Show you what has been marked as Exhibit 1 to
 5 your deposition, and ask you if you've ever seen this
 6 document.
 7 A. Yes.
 8 Q. And do you recognize it as an appraisal on
 9 certain personal property?
 10 A. Yes.
 11 MR. McNEILL: Alan, for the record, has
 12 this document been either produced in this lawsuit or
 13 attached to any of the pleadings?
 14 MR. LOEWINSOHN: At a minimum, I can tell
 15 you this is part of our expert designations which have
 16 been served on you. I believe it was also produced, but
 17 I can't tell you the Bates numbers.
 18 MR. McNEILL: Okay.
 19 Q. (BY MR. LOEWINSOHN) And do you, sir, have any
 20 basis to claim that the appraisal or any portion thereof
 21 is not fair? Strike that.
 22 When I refer to -- Let me rephrase the
 23 question.
 24 With respect to the appraisal marked Exhibit 1,
 25 my question is do you have any basis to claim the

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1 appraisal or any portion thereof is not fair?
 2 A. You'd have to define fair.
 3 Q. Do you have any basis to claim that the
 4 appraiser who did the appraisal number one is not
 5 qualified to give an expert opinion?
 6 A. No.
 7 Q. Do you have any basis to claim that the
 8 appraiser who issued the appraisal number one is biased
 9 against you or your sister?
 10 A. I wouldn't know.
 11 Q. My question is do you have some basis to
 12 affirmatively claim that?
 13 A. No.
 14 Q. Do you claim to have an opinion of a different
 15 fair market value for any of the items in the appraisal
 16 marked Exhibit Number 1 different from the stated value
 17 here as of any date?
 18 A. Could you rephrase the question?
 19 Q. Do you claim to have an opinion of a fair
 20 market value different from that contained in the
 21 appraisal for any of the items in the appraisal marked
 22 Exhibit Number 1 for any day -- as of any date?
 23 A. No.
 24 (Exhibit 2 marked)
 25 Q. Let me show what's been marked as Exhibit 2,

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1 and ask if you've seen that document before.
 2 MR. LOEWINSOHN: And my answer, Chris, is
 3 going to be the same for all of these.
 4 MR. McNEILL: Okay. Thank you, Alan.
 5 A. The question is?
 6 Q. (BY MR. LOEWINSOHN) Have you seen Exhibit 2
 7 before?
 8 A. I don't -- I don't believe I have.
 9 Q. If you would look at -- There's only, I guess,
 10 two items on this appraisal. Do you claim to have an
 11 opinion of a fair market value for either or both of
 12 those items as of any date different from what is
 13 contained on the appraisal marked Exhibit 2?
 14 A. No.
 15 (Exhibit 3 marked)
 16 Q. Let me show you what's been marked as
 17 Exhibit 3, and ask if you have ever seen this document
 18 before.
 19 A. Yes.
 20 Q. Okay. Do you claim to have an opinion of a
 21 fair market value as of any date for any of the items in
 22 Exhibit 3 different from those stated in Exhibit 3?
 23 A. No.
 24 (Exhibit 4 marked)
 25 Q. Show you what's been marked as Exhibit 4, and

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1 ask if you've seen that document before, please.
 2 A. Yes.
 3 Q. Do you claim to have an opinion of a fair
 4 market value for any of the items in Exhibit 4 as of any
 5 date different from that which is stated in Exhibit 4?
 6 A. No.
 7 (Exhibit 5 marked)
 8 Q. Let me show you what's been marked as
 9 Exhibit 5, and ask if you've ever seen this document
 10 before.
 11 A. Yes.
 12 Q. Do you have any basis to claim that the
 13 appraiser who did the appraisal marked Exhibit 5 is not
 14 qualified to give an expert opinion?
 15 A. I wouldn't know.
 16 Q. Do you have some affirmative basis to claim
 17 that the appraiser who gave the appraisal marked
 18 Exhibit 5 is not qualified?
 19 A. No.
 20 Q. Do you have some affirmative reason to claim
 21 that the appraiser who did the appraisal marked Exhibit 5
 22 is in some way biased against you or your sister?
 23 A. I wouldn't know.
 24 Q. Do you have some affirmative basis to claim
 25 that in fact the appraiser is biased?

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1 A. No.
 2 Q. And, by the way, you have one sibling?
 3 A. Yes.
 4 Q. And identify her for the record, please.
 5 A. Laura Wassmer.
 6 Q. And she is here today during your deposition;
 7 is that correct?
 8 A. Yes.
 9 Q. Do you claim to have an opinion as to a fair
 10 market value as of any date of any of the items in
 11 Exhibit 5 different from that which is stated in
 12 Exhibit 5?
 13 A. Could you restate that?
 14 Q. Do you claim to have an opinion of a fair
 15 market value as of any date of any of the items in
 16 Exhibit 5 different from that value stated in Exhibit 5?
 17 A. No.
 18 (Exhibit 6 marked)
 19 Q. Show you what's been marked as Exhibit 6, and
 20 ask if you've seen that document before.
 21 A. Yes.
 22 Q. Do you have an affirmative basis to claim that
 23 the appraiser who did the appraisal marked Exhibit 6 is
 24 not qualified to render an opinion?
 25 A. No.

1 Q. Do you have an affirmative basis to claim that
 2 the appraiser who did the appraisal in Exhibit 6 is
 3 biased against you in some way or your sister?
 4 A. No.
 5 Q. Do you claim to have an opinion as to the fair
 6 market value as of any date of any of the items in the
 7 appraisal marked Exhibit 6 different from that which is
 8 stated in Exhibit 6?
 9 A. No.
 10 (Exhibit 7 marked)
 11 Q. Let me show you what's been marked as
 12 Exhibit 7, and ask if you've ever seen that document
 13 before.
 14 A. Yes.
 15 Q. Do you have any basis to affirmatively claim
 16 that the appraiser who did the appraisal marked Exhibit 7
 17 is not qualified to do so?
 18 A. No.
 19 Q. Do you have any affirmative basis to claim that
 20 the appraiser who did the appraisal marked Exhibit 7 is
 21 biased in some way against you or your sister?
 22 A. No.
 23 Q. Do you claim to have an opinion as to the fair
 24 market value as of any date of any of the items listed in
 25 Exhibit 7 different from the value stated in Exhibit 7?

1 A. No.
 2 (Exhibit 8 marked)
 3 Q. Let me show you what's been marked as
 4 Exhibit 8, and ask you if you've seen this document
 5 before.
 6 A. Yes.
 7 Q. Do you claim to have affirmative reason --
 8 Strike that.
 9 Do you have an affirmative reason to claim that
 10 the appraiser who did the appraisal marked Exhibit 8 was
 11 not qualified to do so?
 12 A. No.
 13 Q. Do you have an affirmative reason to claim that
 14 the appraiser who did the appraisal marked Exhibit 8 was
 15 biased in some way against you or your sister?
 16 A. No.
 17 Q. Do you claim to have an opinion as to the fair
 18 market value as of any date of any of the items listed in
 19 Exhibit 8 different from that which is stated in
 20 Exhibit 8?
 21 A. No.
 22 (Exhibit 9 marked)
 23 Q. Let me show you what's been marked as
 24 Exhibit 9, and ask if you've seen this document before.
 25 A. Yes.

1 Q. Do you claim to have an affirmative -- Strike
 2 that.
 3 Do you have an affirmative reason to claim that
 4 the person who did the appraisal marked Exhibit 9 was not
 5 qualified to do so?
 6 A. I wouldn't know.
 7 Q. Do you have an affirmative reason to claim in
 8 fact they are unqualified?
 9 A. No.
 10 Q. Do you have an affirmative reason to claim that
 11 the person who did the appraisal marked Exhibit 9 was
 12 biased in some way against you or your sister?
 13 A. I wouldn't know.
 14 Q. Do you have some affirmative reason to in fact
 15 claim that the appraisal was biased?
 16 A. No.
 17 Q. Do you have an opinion as to the fair market
 18 value of any of the items listed in Exhibit 9 as of any
 19 date different from that which is stated in Exhibit 9?
 20 A. No.
 21 (Exhibit 10 marked)
 22 Q. Let me show you what's been marked as
 23 Exhibit 10, and ask if you've seen that document before.
 24 A. I don't believe I have.
 25 Q. And by seen it, is your testimony you've seen

1 no portion of it?
 2 A. Not that I recall.
 3 Q. Okay. Do you have any reason to affirmatively
 4 claim that the person who did the appraisal marked
 5 Exhibit 10 was not qualified to do so?
 6 A. I wouldn't know.
 7 Q. Do you have some reason to affirmatively claim
 8 that they in fact were unqualified?
 9 A. No.
 10 Q. Do you have any reason to affirmatively claim
 11 that the person who did the appraisal marked Exhibit 10
 12 was biased against you or your sister?
 13 A. I wouldn't know.
 14 Q. Do you have any reason to affirmatively claim
 15 that the person was biased?
 16 A. No.
 17 Q. Do you have an opinion as to the fair market
 18 value as of any date of any of the items listed in
 19 Exhibit 10 different from that which is stated in
 20 Exhibit 10?
 21 A. Yes.
 22 Q. Okay. And what is that?
 23 A. There have been multiple -- as far as I know,
 24 multiple appraisals of the wine, and there have been many
 25 different values that have been given to those particular

1 items.

2 Q. Understanding that other persons other than you

3 may -- Strike that.

4 You've never done an appraisal of the wine;

5 true?

6 A. True.

7 Q. Understanding that there may have been other

8 people who may have given an appraisal of the wine that

9 is different from that which is contained in Exhibit 10,

10 do you personally claim to know or have an opinion as to

11 the value -- fair market value as of any date of any of

12 the items in Exhibit 10 different from that which is

13 stated in Exhibit 10?

14 A. No.

15 Q. Now, immediately before your father's death, as

16 you understood it, he, along with Mrs. Hopper, jointly

17 owned various art pieces; correct?

18 A. I believe that's correct, yes.

19 Q. Have you learned that since your father did not

20 have a will that you and your sister had each a quarter

21 undivided interest in that art which was jointly owned

22 and then Mrs. Hopper had a 50 percent undivided interest,

23 along with you and your sister?

24 A. Yes.

25 Q. Have you learned as a result of your father's

1 A. Yes.

2 Q. Is it true the bank in February 2015 assigned

3 undivided interest in the art that was your father's

4 separate property one-third each to you and your sister

5 and one-third to Mrs. Hopper?

6 A. Yes.

7 Q. Is it true that in February 2015, the bank

8 assigned to Mrs. Hopper 100 percent interest in the art

9 that was Mrs. Hopper's separate property?

10 A. Yes.

11 Q. Do you have any knowledge or information as to

12 why this assignment did not take place prior to

13 February 15th, 2015?

14 A. Could you restate the question?

15 Q. Do you have any knowledge or information as to

16 why this assignment did not take place prior to

17 February 15, 2015 and obviously after your father's

18 death?

19 A. Could you be more specific?

20 Q. And I misstated the date. Do you have any

21 knowledge or information -- Strike that.

22 Your father passed away when?

23 A. December -- I mean, January of 2010.

24 Q. Okay. Do you have any information as to why it

25 took from January 2010 until February 2nd, 2015 for the

1 death that there were some art items that were your

2 father's separate property and that you and your sister

3 would each receive a one-third undivided interest at his

4 death in that art and Mrs. Hopper would receive a

5 one-third undivided interest?

6 A. Yes.

7 Q. Have you learned there was some art that was

8 Mrs. Hopper's separate property that she owned

9 100 percent of even after your father died?

10 A. Yes.

11 (Exhibit 11 marked)

12 Q. Show you what's been marked as Exhibit 11, and

13 ask you if you've seen that document before, please.

14 A. Yes.

15 Q. And do you recognize it as a assignment of

16 various pieces of art made from the estate of Max D.

17 Hopper by the bank serving as independent administrator?

18 A. Yes.

19 Q. And so is it a true -- And you recognize that

20 it was executed as of February 2nd, 2015?

21 A. Yes.

22 Q. So is it true that in February 2015, the bank

23 assigned undivided interest in the art that your father

24 and Mrs. Hopper jointly owned to you at 25 percent, your

25 sister at 25 percent and Mrs. Hopper at 50 percent?

1 bank to assign this art?

2 A. I'm sorry. I cannot answer that question as

3 asked.

4 Q. And tell me why not.

5 A. It's too broad.

6 Q. Well, why is it too broad?

7 A. Well, because I don't really understand the

8 question.

9 Q. What don't you understand about the question?

10 A. Do I have any information is a very broad

11 question spanning some six years now.

12 Q. Yes, sir, and I intend it to be broad because I

13 want to know any information you have, so my question

14 stands. Do you have any information or knowledge as to

15 why it took from 2010 until February 2nd, 2015 for the

16 art to be assigned?

17 A. I have information, yes.

18 Q. Please tell me what that information is.

19 A. Well, the information is numerous negotiations

20 conducted over years in which that was attempted to be

21 negotiated.

22 Q. What was attempted to be negotiated; whether

23 there would be an assignment or something else?

24 A. No, whether there would be a division.

25 Q. Is there some reason that there could not have

1 been, to your knowledge, an assignment as undivided
2 interest as was done in February 2015 and then the
3 parties who had the undivided interest decide how to
4 divide it?
5 A. There --
6 MR. McNEILL: Objection, form.
7 Q. (BY MR. LOEWINSOHN) Go ahead.
8 A. It is my understanding that that had not been
9 decided until the courts decided that in the appellate
10 court case.
11 Q. That what had not been decided?
12 A. Whether or not these items could be distributed
13 in undivided interests.
14 Q. Okay. Other than your claimed understanding
15 that it had not been decided until an appellate court
16 case whether or not the art items could be distributed in
17 undivided interests, do you have any other knowledge to
18 explain why it took from 2010 until February 2nd, 2015
19 for the bank to assign these undivided interests in the
20 art?
21 A. My knowledge is that the bank was attempting to
22 divide those assets until the course was changed in
23 approximately June of 2011 in which a meeting took place
24 between Jo Hopper's counsel, the bank and the lawyers
25 representing the estate in which the proposal was made --

1 I wasn't there, but which I understand a proposal was
2 made for things to be distributed in undivided interests.
3 Q. In June of 2011?
4 A. Yes.
5 Q. And then since that's in fact what happened
6 four years later, other than this court case, do you have
7 any other explanation for why it then took four years to
8 do?
9 A. Well, it took several years of legal
10 discussions regarding the law in that regard.
11 Q. If a -- if a decision -- Was it your
12 understanding that an agreement was made in 2001 (sic) to
13 this proposal by everybody that there would be undivided
14 interests, as far as the art? I'm only talking about the
15 art now.
16 A. Right. No, I didn't say that.
17 Q. So what was the outcome of the meeting in June
18 of 2011, according to your understanding?
19 A. I'm simply trying to explain to you why. You
20 asked me if I had any information in regard to why these
21 things weren't distributed.
22 Q. Yes, sir.
23 A. And I'm telling you that the subject of
24 distributing anything in undivided interests didn't occur
25 until approximately June 2011. Once that discussion took

1 place between Jo's attorneys and the bank and the lawyers
2 who represented the estate, there were then years in
3 which there were conflicting views upon the law.
4 Q. Is it your claim that Mrs. Hopper's lawyers
5 took the position that the art could not be distributed
6 in undivided interests or could be?
7 A. It was my understanding that Jo Hopper's
8 lawyers felt that everything could be distributed in
9 undivided interests.
10 Q. Okay. And what was your position on that
11 matter when it came to the art? And I'm only focused on
12 the art for the moment.
13 A. I don't believe that there was any specific
14 discussion involving the art specifically being divided
15 or -- or left undivided, other than that being included
16 in all of the household items.
17 Q. Okay. Did you want all of the household items
18 including the art deeded by the bank in undivided
19 interests?
20 A. Deeded by the bank?
21 Q. Assigned by the bank.
22 A. Assigned?
23 Q. Yes, sir.
24 A. No, we did not -- we personally did not want
25 anything assigned outside. We wanted it partitioned.

1 Q. All right. So you wanted personal property
2 including the art partitioned; is that right?
3 A. Yes.
4 Q. Did that view ever change in your mind?
5 A. No.
6 Q. Okay. So did you object to Exhibit 11 when it
7 was done? And I don't mean a formal objection. Was
8 that contrary -- Was the assignment, Exhibit 11,
9 contrary to your wishes?
10 A. Yes.
11 Q. Okay. And why did you not want the art
12 assigned along with other property --
13 A. Well --
14 Q. -- in undivided interests?
15 A. -- we had sought independent administration in
16 order to partition an estate, and thus our hopes were
17 that the estate would be partitioned.
18 Q. Okay. Was your attorney not represented at
19 this June 2011 meeting that you're referring to?
20 A. At the time, there were moves by Jo Hopper's
21 attorneys to disqualify the attorney that I had recently
22 hired for a conflict of interest, so at that time, I had
23 no representation.
24 Q. Okay. Nothing was formally decided at that
25 June 2011 meeting, to your knowledge, was it?

1 A. All I know is there was some mention of an
2 agreement, so I don't know if that's a decision or not.
3 I wasn't, again, party to that discussion.
4 Q. Who is -- When you use the term "estate," what
5 are you referring to?
6 A. I was using your definition.
7 Q. I didn't give you a definition.
8 A. I thought when we started, you said if we talk
9 about the estate, we're talking about --
10 Q. Fair enough. I said when I use the term
11 "estate," I mean the estate of Max D. Hopper.
12 A. Okay.
13 Q. Is that how you define "estate"?
14 A. The -- I will define the estate as that which
15 was under the administration of the independent
16 administer -- administrator.
17 Q. When -- So who told you some agreement was
18 reached at this June '11 meeting?
19 A. No one specifically told me. That was in an
20 E-mail from Jo's attorney to Susan Novak that I saw.
21 Q. In June of 2011?
22 A. Or maybe not to -- Yeah, I believe it was to
23 Susan Novak. I believe the E-mail was probably in July
24 of 2011. I don't recall the specifics of the date.
25 Q. So you didn't -- Did you disagree with respect

1 to Exhibit 11 how the percentages were done or just that
2 it was being done in undivided interests?
3 A. You'll have to -- What do you mean by
4 "percentages"?
5 Q. Well --
6 A. We're back to specifically the art?
7 Q. Exhibit 11, yes.
8 A. No. Again, there was not a disagreement as to
9 percentages. It was in regard to our hopes that the
10 estate would be administered in a way in which there
11 could be a partition.
12 Q. Okay. With respect to the art that you and
13 your sister and Mrs. Hopper received undivided interests
14 in under Exhibit 11 that was either your father's
15 separate property or the property that your father
16 jointly owned with Mrs. Hopper, can we call that
17 collective group the art items at issue; is that okay
18 with you?
19 A. That's fine.
20 Q. All right. Do you want the art items at issue
21 now to be divided among you, your sister and Mrs. Hopper,
22 or do you want them sold by a sheriff?
23 A. I have no desire to own art items.
24 Q. Well, you understand that if they are divided
25 in some way and then you own some separate interest, you

1 could then sell it. You understand that; right?
2 A. Yes.
3 Q. You wouldn't have to keep it, unless you didn't
4 want to sell it?
5 A. Yes.
6 Q. All right. Understanding that, my question is:
7 Do you want the art items at issue to be divided in some
8 way between you, your sister and Mrs. Hopper so each of
9 you can do whatever you want with some portion of the art
10 items at issue, or do you want all the art items at issue
11 sold by a sheriff at some public sale and you get a share
12 of the proceeds?
13 A. Well, I don't agree with your assessment that
14 that is the only other option, that these art items would
15 be sold by a sheriff at a public sale.
16 Q. Okay. What do you believe is the other option?
17 A. I think the Court could divide these assets
18 any -- any way it seemed fit.
19 Q. Okay. Well, I'll ask the question that way.
20 Do you want these art items to be -- to be divided by the
21 Court in some way among you, your sister and Mrs. Hopper,
22 or do you want the Court to order that all the art items
23 are sold by a sheriff at a public sale?
24 A. Again, that -- that is a -- To me, that sounds
25 like a hypothetical question, so...

1 Q. It's not a hypothetical question. It's my
2 question. Can you answer it, sir?
3 A. No, I cannot answer that question.
4 Q. And why is that?
5 A. Again, because I don't think those are the only
6 two options.
7 Q. Okay. Other than a court ordering a sheriff to
8 sell it at a public sale or the Court deciding how to
9 divide the art among you, your sister and Mrs. Hopper,
10 what other option do you believe there is?
11 A. I have no idea.
12 Q. Do you know of some other option?
13 A. No.
14 Q. All right. So as between the only two options
15 you do know of --
16 A. That you have told me of.
17 Q. Yes, sir. As between these two options, and if
18 your answer is I don't care, I don't have an opinion,
19 I'll take that answer.
20 A. I don't have an opinion.
21 Q. All right. Well, let's be clear about the
22 question. Do you have an opinion and/or do you care
23 and/or do you have a preference if the two options were
24 the Court dividing the art items at issue among you, your
25 sister and Mrs. Hopper, or the Court ordering those items

1 sold at a -- by a sheriff at a public sale, do you have a
 2 preference or opinion?
 3 A. My preference would be that all assets jointly
 4 owned with Jo Hopper be divided, and I do not care how
 5 they are divided, provided it is done in some fair and
 6 equitable way.
 7 Q. But by "divided," you mean including the
 8 possibility of the Court ordering that a sheriff sell
 9 them and divide the cash?
 10 A. Yes.
 11 Q. And you have no preference, I just want to make
 12 sure, as if there -- at least if these were the two
 13 options to produce a division, the Court saying you get
 14 this art piece, your sister gets this art piece,
 15 Mrs. Hopper gets this art piece, in other words, dividing
 16 up the physical pieces, or the Court ordering the sheriff
 17 to sell them? As between those two options, do you have
 18 a preference?
 19 A. As -- as determined by the Court?
 20 Q. Yes.
 21 A. So if the Court ordered a division of the
 22 assets in -- in some way or a -- a sheriff's sale, that's
 23 what you're saying?
 24 Q. Yes, sir. Do you have a preference?
 25 A. This would be a court order?

1 A. No.
 2 Q. Now, at one point, you are aware Mrs. Hopper
 3 proposed a division of both the art -- Strike that.
 4 If I refer to the personal property at issue,
 5 referring to the household furnishings, jewelry and
 6 personal effects that's the subject of Exhibit 12, will
 7 you understand that's shorthand --
 8 A. Yes.
 9 Q. -- personal property at issue?
 10 A. Yes.
 11 Q. And my question was not precise because we
 12 didn't have the definition, so this will sound like I'm
 13 repeating myself, but let me just ask this question
 14 again.
 15 If the two choices were the Court deciding how
 16 to divide the personal property items at issue and
 17 therefore distribute the physical items among you, your
 18 sister, Mrs. Hopper, or the Court decided to have a
 19 sheriff sell all of those items and distribute the cash
 20 according to the proper percentages, do you have a
 21 preference between those?
 22 A. No.
 23 Q. At some point, Mrs. Hopper, you are aware,
 24 proposed a division of both the art at issue and the
 25 personal property at issue as one group of items to be

1 Q. Yes, sir. Both supervised by the Court, do you
 2 have a preference between those two?
 3 A. No.
 4 Q. Okay. Now, in addition to art, there were
 5 other household furnishings and jewelry and personal
 6 effects that your father and Mrs. Hopper jointly owned at
 7 the time of his death; correct?
 8 A. Yes.
 9 (Exhibit 12 marked)
 10 Q. Let me show you what's been marked as
 11 Exhibit 12. Ask you if you've seen that document before.
 12 A. Yes.
 13 Q. And is it true that on or about February 2nd,
 14 2015 that the bank assigned undivided interests in
 15 certain household furnishings, jewelry and personal
 16 effects, with Mrs. Hopper receiving a 50 percent
 17 undivided interest and you and your sister each receiving
 18 a 25 percent undivided interest?
 19 A. Yes.
 20 Q. Now, if the two choices were the Court deciding
 21 how to divide and therefore distribute the actual
 22 physical items among you, your sister and Mrs. Hopper, or
 23 the Court decided to have a sheriff sell all of the items
 24 and distribute the cash according to the proper
 25 percentages, do you have a preference between those?

1 divided among you, your sister and Mrs. Hopper; correct?
 2 A. At some point.
 3 Q. Yes.
 4 (Exhibit 13 marked)
 5 Q. Let me show you what's been marked as
 6 Exhibit 13, and do you recognize that as a copy of that
 7 proposal from Mrs. Hopper through her attorneys?
 8 A. Yes.
 9 Q. And did you understand that what this document
 10 was purporting to do was to divide the art that was not
 11 separate property of your father and the personal
 12 property items at issue into two groups, column A, column
 13 B?
 14 A. Yes.
 15 Q. And did you understand that with respect to
 16 certain other items that were considered sep-- your
 17 father's separate property, this proposal purports to
 18 divide those according to one-third interests between
 19 Mrs. Hopper and you and your sister?
 20 A. Yes.
 21 Q. Now, do you claim that the division that is
 22 shown in Exhibit 13 such that you and your sister would
 23 get either column A or column B is not fair and
 24 equitable?
 25 A. That's not how it was presented to us.

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1 Q. Well, first of all, what do you mean by that?
2 A. Well, we were told that we would get, I
3 believe, column A and that Jo Hopper would get column B.
4 Q. All right. So let's take it both ways. Do you
5 claim that, with respect to those items according to
6 Exhibit 13 that are to be divided into column A and
7 column B, that if you and your sister were to get column
8 A and Mrs. Hopper were to get column B, that that would
9 not be a fair and equitable division of those items?
10 A. I -- No, it would not.
11 Q. Okay. And tell me all the reasons why not.
12 A. Well, there's only one reason.
13 Q. Okay.
14 A. If Jo wants to personally divide the items
15 herself and choose which items go in which column, then
16 just like the wine and the golf club, same division that
17 she had offered, we should be able to pick column A or
18 column B.
19 Q. Okay. Other than you believe that you and your
20 sister should have the choice as between column A and
21 column B, is there any other way in which you claim that
22 if you and your sister were to get A and Mrs. Hopper were
23 to get column B that that would not be a fair and
24 equitable division of any or all of the items that are
25 listed in Exhibit 13 under A or B?

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1 A. I don't believe someone assigning by some basis
2 certain assets to column A and certain assets to column B
3 without any kind of current appraisal to those items
4 could possibly be fair, unless one took out the potential
5 bias by offering either column A or column B.
6 Q. I think that's saying the same thing as you
7 said before, but I want to make sure so I'm understanding
8 you. Your position is since Mrs. Hopper was the one who
9 divided the items, that that means you and your sister
10 should get to choose A or B; right?
11 A. Right.
12 Q. Other than that, is there something about the
13 actual division of the items between column A and B that
14 if you and your sister got A and Mrs. Hopper got B, that
15 you say that would not be fair and equitable, other than
16 what you've told me?
17 A. Well, yes, I believe that those valuations were
18 based on an appraisal in 2010. We are now in 2016. And
19 I suspect that certain items have depreciated and other
20 items have increased in value, so if we're going to be
21 dividing all of the assets, including the art and the
22 home, then I believe that we should get a current
23 appraisal. Just as Jo has done with the wine, it's
24 important to get a current appraisal of the value of
25 those assets before they're divided.

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1 Q. Any other reason you say it would not be fair
2 and equitable?
3 A. No.
4 Q. Can you tell me any of the items, using the
5 item number on the far left-hand side of the Exhibit 13,
6 that you say has in fact depreciated in value?
7 A. Depreciated in value?
8 Q. Yes, sir.
9 A. Well, I'm not an appraiser, so I can't give you
10 some kind of, you know, expert opinion on that.
11 Q. Okay. Well, putting aside whether or not I'm
12 asking for an expert opinion or not, let me just ask my
13 question. Can you tell me any of the items, using the
14 item number on the left-hand side of Exhibit 13 that you
15 say have in fact depreciated in value? And if so, tell
16 me which items.
17 A. Well, I think a reasoned person would perhaps
18 think that item 95, item 107, item 108, item 153, item
19 156, item 178, item 179, item 207 have likely
20 depreciated.
21 Q. Anything else?
22 A. You want me to go through the entire list?
23 Q. If you are going to claim at trial that
24 something else has depreciated, I want to know it.
25 A. Item 28, item 35, item 37, item 81, item 80,

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1 item 79, item 86, 87, 88, 91, 97, 132, 133, 136, 147,
2 162, 163, 180, 181, 183, 188, 189, 208, 213, all the
3 fishing gear, 1 through 19. I think that covers it.
4 Q. Now, do you claim to have an opinion, if those
5 items depreciated, how much they've depreciated?
6 A. No.
7 Q. Do you claim to be an expert that the items you
8 mentioned are in fact depreciated?
9 A. I have more expertise than most, I would say.
10 Q. Well, do you claim to be an expert?
11 A. Well, I guess we'd have to define an expert.
12 What is an expert?
13 Q. Do you have any specialized training, education
14 or research to speak to whether these items have
15 depreciated, and if so, how much?
16 A. I'm not a certified appraiser, though I have
17 been an antique dealer for many, many years.
18 Q. Okay. Well --
19 A. And --
20 Q. How much did item 30 depreciate?
21 A. Well, again, I'm not speculating on the amount
22 something depreciated. You simply asked me do I feel
23 they have, and I'm telling you I believe they have.
24 Q. Okay. Do you claim that the items in column B
25 have not depreciated?

1 A. I don't know if I mentioned items in column B.
 2 Q. Yes, sir.
 3 A. I might have.
 4 Q. So if you did not in the numbers you mentioned
 5 mention an item in column B, your position is that
 6 otherwise the items in column B did not depreciate?
 7 A. I'm saying that most -- In a cursory glance at
 8 this list, if you're asking me what do I suspect has
 9 depreciated, those would be the most reasonable items to
 10 think have depreciated.
 11 Q. Well, for example, 35 versus 36, do you have
 12 some reason to believe that item 35 depreciated and item
 13 36 did not?
 14 A. Yes.
 15 Q. Okay. And what's that?
 16 A. Many of the items in the household are antique
 17 pieces of furnishings.
 18 Q. Okay. Is item 36 an antique?
 19 A. I believe it to be, yes.
 20 Q. Okay. Is there any item on column B that is --
 21 that is not antique?
 22 A. Again, do you want me to go through the entire
 23 list?
 24 Q. Let's just take the first page, for example.
 25 A. Okay. Well, I don't know what -- From my

1 memory, I can't tell you what number 2 is, as far as
 2 decor. Under crystal, number 9 and number 10, I suspect
 3 that the crystal is something that would hold its value
 4 or --
 5 Q. When you say -- Excuse me. I'm sorry. When
 6 you say "suspect," are you saying you know that to be the
 7 case, or you're just suspicioning?
 8 A. I'm saying, based on my experience -- based on
 9 my experience as an antique dealer --
 10 Q. Okay.
 11 A. -- yes.
 12 Q. And tell me about your experience as an antique
 13 dealer. How long have you been doing that?
 14 A. Well, I had a business that was in operation
 15 probably -- I'm going to -- this is purely a guess, but I
 16 would say probably eight years.
 17 Q. Okay. When is the most recent time you've
 18 dealt in antiques?
 19 A. Well, I still buy antiques personally, but as
 20 far as my business goes, I believe I ceased operation of
 21 that business -- again, this is a guess -- probably in
 22 2009 or '10.
 23 Q. What -- I'm going to ask you a different
 24 question. What items do you claim have increased in
 25 value on this list?

1 A. Well, I -- Again, I'm not trying to specify
 2 particular items because I have not researched every item
 3 on this list. If you ask me to again suspect --
 4 Q. No, sir, let me be clear. I don't want you to
 5 suspect. I want to know that what items you can testify
 6 have increased in value.
 7 A. Okay.
 8 Q. And if you're going to testify to items based
 9 on value, I want to know whether or not you claim to know
 10 how much it's increased in value.
 11 THE WITNESS: Chris, do you happen to have
 12 the proposal that we gave back as far as division of
 13 these items?
 14 MR. McNEILL: No, I didn't bring that with
 15 me.
 16 THE WITNESS: Okay.
 17 A. I believe that -- I'm sorry. I cannot give
 18 you the specifics that you asked for, but I do believe
 19 that there have been changes in market value for some of
 20 the art. And specifically I believe that the valuation
 21 for, let's say --
 22 Q. (BY MR. LOEWINSOHN) You know what, I'm going
 23 to withdraw my question, if you don't mind --
 24 A. Okay.
 25 Q. -- and let me ask you a different question.

1 A. Okay.
 2 Q. I'm going to switch now, column A and B for a
 3 minute.
 4 A. Okay.
 5 Q. If the Court were to order that you and your
 6 sister get column B and Mrs. Hopper get column A, do you
 7 believe that would be a fair and equitable division of
 8 the items that are listed on Exhibit 13?
 9 A. No.
 10 Q. And why not?
 11 A. Because it wouldn't be fair to Jo Hopper, in my
 12 view.
 13 Q. Okay. Assuming Mrs. Hopper said she would
 14 accept it as fair, I want to know what you think for you
 15 and your sister -- Let's put Mrs. Hopper aside for a
 16 moment. From you and your sister's standpoint, if the
 17 Court were to order that you and your sister get
 18 collectively those items in column B and Mrs. Hopper get
 19 those in column A on Exhibit 13, would that be fair and
 20 equitable, at least to you and your sister?
 21 A. It would be fair to me. I can't speak for my
 22 sister.
 23 Q. Okay. Now, at the time of your -- Excuse me.
 24 At the time of your father's death, we've talked about
 25 the golf clubs at issue; right?

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<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 (Exhibit 14 marked)</p> <p>4 Q. Let me show you what's been marked as</p> <p>5 Exhibit 14, and ask you if you can -- if you've seen that</p> <p>6 document before.</p> <p>7 A. Yes.</p> <p>8 Q. And you recognize it as an assignment executed</p> <p>9 as of July 31st, 2013 where the bank is assigning</p> <p>10 undivided interests in the golf clubs at issue,</p> <p>11 50 percent to Mrs. Hopper and 25 percent each to you and</p> <p>12 your sister; correct?</p> <p>13 A. Correct.</p> <p>14 Q. Now, do you, if these were the choices, have a</p> <p>15 preference of whether the Court divides up the golf clubs</p> <p>16 at issue in some way between you, your sister and</p> <p>17 Mrs. Hopper, or says to a sheriff go sell them at a</p> <p>18 public sale and divide the cash, do you have a preference</p> <p>19 as between those two items?</p> <p>20 A. No.</p> <p>21 Q. And we've talked about the wine at issue. Do</p> <p>22 you remember that term?</p> <p>23 A. Yes.</p> <p>24 (Exhibit 15 marked)</p> <p>25 Q. Let me show you what's been marked as</p>	<p>1 Exhibit 16, and ask you if that is a copy of an E-mail</p> <p>2 that you received from Mrs. Hopper in June of 2011.</p> <p>3 A. Yes.</p> <p>4 Q. And it included a proposed division of the wine</p> <p>5 at issue among you, your sister and Mrs. Hopper; correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And did you review the list at some point?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Did you ever conclude that the two</p> <p>10 groupings, put aside who gets which grouping for a</p> <p>11 minute, were inequitable or unfair?</p> <p>12 A. No.</p> <p>13 Q. Okay. And did you have a preference as to if</p> <p>14 you were to be assigned one of the two groups to split</p> <p>15 with your sister, group A or group B, did you have a</p> <p>16 preference between those two groups?</p> <p>17 A. No.</p> <p>18 Q. Do you have a preference today if that was the</p> <p>19 grouping and if it was divided one group to you and your</p> <p>20 sister and one group to Mrs. Hopper, do you have a</p> <p>21 preference today between those groupings?</p> <p>22 A. I couldn't say.</p> <p>23 Q. Well, you can say whether or not you have as</p> <p>24 you sit here today a preference, so as you sit here</p> <p>25 today --</p>
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<p>1 Exhibit 15, and ask if you've seen that document before.</p> <p>2 A. Yes.</p> <p>3 Q. And you recognize it as an assignment executed</p> <p>4 as of July 31st, 2013 of the wine at issue with undivided</p> <p>5 interests 50 percent going to Mrs. Hopper and 25 percent</p> <p>6 going to each you and your sister; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And, again, if these were the choices, the</p> <p>9 Court divide the wine at issue among you, your sister and</p> <p>10 Mrs. Hopper or the Court ordering that a sheriff sell it,</p> <p>11 do you have a preference between those two choices?</p> <p>12 A. No, I do not.</p> <p>13 Q. At some point, Mrs. Hopper proposed a division</p> <p>14 of the wine at issue among you, your sister and</p> <p>15 Mrs. Hopper; correct?</p> <p>16 A. At some point, you mean within the last six</p> <p>17 years?</p> <p>18 Q. Yes, sir.</p> <p>19 A. Yes.</p> <p>20 Q. Do you know when that first occurred, by the</p> <p>21 year?</p> <p>22 A. It first occurred in -- again, maybe June of</p> <p>23 2011.</p> <p>24 (Exhibit 16 marked)</p> <p>25 Q. Okay. Let me show you what's been marked as</p>	<p>1 A. No, I would have to review the columns and the</p> <p>2 wines in those columns to tell you whether I had a</p> <p>3 preference.</p> <p>4 Q. Okay. I'd like you to do so, please.</p> <p>5 A. I'm not prepared to tell you --</p> <p>6 Q. Well --</p> <p>7 A. -- whether I have a preference at this moment.</p> <p>8 Q. Well, sir, that's my question. This is my time</p> <p>9 to depose you before trial.</p> <p>10 A. Yes, I understand.</p> <p>11 Q. Are you refusing to do so?</p> <p>12 A. No, I said I simply couldn't.</p> <p>13 Q. And why is it that you couldn't?</p> <p>14 A. Because I don't have any knowledge to make a</p> <p>15 basis on which column I'd prefer.</p> <p>16 Q. Have you ever engaged in that analysis?</p> <p>17 A. Yes.</p> <p>18 Q. And which group did you pick based on that</p> <p>19 analysis?</p> <p>20 A. Well, which group that we had negotiated at the</p> <p>21 time, I believe my sister and I had decided that we would</p> <p>22 prefer group A.</p> <p>23 Q. And what was that based on?</p> <p>24 A. That was based on drinking preference and</p> <p>25 particular bottles of wine that had some meaning in our</p>

1 history with our father, primarily.
 2 Q. Okay. And did you -- I take it you believed
 3 that group A was therefore at least to you fair; correct?
 4 A. Yes.
 5 Q. Okay. And have you learned something since you
 6 reached that conclusion that would suggest to you that if
 7 you were, along with your sister, to participate in group
 8 A of the wine that that would be unfair to you?
 9 A. Well, I haven't reviewed the most -- the latest
 10 evaluation of those wines, so if we're going to base the
 11 evaluation purely on value of those wines, I would say
 12 there would need to be a regrouping of wines to make it
 13 fair and equitable to both Jo Hopper and my sister and I.
 14 Q. And what -- what specifically are you referring
 15 to?
 16 A. Apparently, these wines have been reappraised
 17 as to their value currently as opposed to their appraised
 18 value in 2010.
 19 Q. Is there -- To your knowledge, is there some
 20 wine in group B that has some sentimental value to you
 21 that you think it would be unfair if you didn't have
 22 access to group B?
 23 A. Again, I would have to look at the groupings to
 24 tell you particular sentimental value that wine has to
 25 me. Well, just to keep it simple, the reason that I

1 personally chose or suggested to my sister that I wanted
 2 group A was because of the first 15 items, which were old
 3 bottles from BV Vineyards. The reason I would have chose
 4 those is because I found those bottles from a -- a
 5 private collector. I knew that my father -- That was
 6 one of my favorite -- my father's favorite wines, so I
 7 introduced the collector to my father and my father
 8 purchased those wines from the collector that I knew, so
 9 to me, this was a time that I shared with my father in
 10 which we did something together and which I have fond
 11 memories of. So to me, if I was to look at these wines,
 12 that has value to me. There are others. There are
 13 others that I could go through, but --
 14 Q. Well, my question was specifically, is there --
 15 And maybe you were answering and I misunderstood your
 16 answer. Is there some wine in group B that has
 17 sentimental value to you --
 18 A. Oh, I'm sorry.
 19 Q. -- that it would be unfair if you had access to
 20 A and not B?
 21 A. Well, frankly, at this point, I don't care
 22 whether I have any of the wine, so...
 23 Q. Okay. If the appraisal -- All right.
 24 MR. LOEWINSOHN: Can I see the next
 25 document?

1 Q. (BY MR. LOEWINSOHN) Are you aware that
 2 Mrs. Hopper has paid storage fees for the wine at issue
 3 since August 2013?
 4 A. Yes.
 5 Q. Okay. Do you know of any reason why you should
 6 not owe at least a quarter of those storage fees?
 7 A. No.
 8 Q. And what is that?
 9 A. I said no.
 10 Q. Okay. Sorry. You don't know of any reason why
 11 your sister should not owe at least a quarter of those
 12 storage fees?
 13 A. No.
 14 Q. Have you offered to pay a quarter of those
 15 storage fees?
 16 A. Yes.
 17 Q. Have you paid a quarter of those storage fees?
 18 A. No.
 19 Q. Have you paid any of those storage fees?
 20 A. No.
 21 (Exhibit 17 marked)
 22 Q. Let me show you what's been marked as
 23 Exhibit 17, and ask you if you can identify it as
 24 including, and the one I want to focus on, an E-mail from
 25 Mrs. Hopper to you and your sister dated June 19th, 2011

1 with an attached spreadsheet.
 2 MR. McNEILL: Alan, for the record, these
 3 are documents that have been produced by the independent
 4 administrator, the bank in the probate proceeding and are
 5 not as of yet in evidence in this lawsuit?
 6 MR. LOEWINSOHN: Well, I don't know what
 7 you mean by "in evidence in this lawsuit." The lawsuit
 8 is not in trial. This is a document that's been produced
 9 and I'm asking him. It should have been produced by your
 10 clients. To my knowledge, it was not, so I picked the
 11 bank's version. If your clients also produced a copy,
 12 then I'm happy to use that if you want to use it, but
 13 that doesn't -- anyway, my question remains.
 14 Q. (BY MR. LOEWINSOHN) Do you recognize at least
 15 the top half of the first page and the rest of it is an
 16 E-mail that you received dated June 19th, 2011 from
 17 Mr. Hopper that had an attached spreadsheet?
 18 A. Yes.
 19 Q. And so you understood that Mrs. Hopper was, as
 20 you previously testified, making a proposed division of
 21 the golf clubs at issue into again two groups, A and B;
 22 correct?
 23 A. At that point in time, yes.
 24 Q. All right. Well, first of all, let me just cut
 25 to the chase. If the Court were to divide the golf clubs

1 according to these two groups, group A and B, and you and
 2 your sister were to get one group and Mrs. Hopper were to
 3 get another, do you care as between the two groups?
 4 A. No.
 5 Q. Do you have some reason to claim that it would
 6 be unequitable or unfair if the Court made the decision
 7 to divide the golf clubs in these two groups and give one
 8 of the two groups to you and your sister and one to
 9 Mrs. Hopper?
 10 A. Well, again, I'm not sure what the current
 11 valuations would be of those golf clubs, so I think it's
 12 potentially unfair if we look at present day value versus
 13 a value in 2010 to stick with those two divisions.
 14 Q. Do you have some basis to affirmatively testify
 15 that any of the values for the golf clubs at issue have
 16 changed differently for different golf clubs?
 17 A. I would think that would be highly probable,
 18 yes.
 19 Q. Do you know that for a fact?
 20 A. No.
 21 Q. Have you done any study to prove that?
 22 A. No.
 23 Q. Mrs. Hopper, as far as you know, has paid
 24 storage fees since August 2013 for the golf clubs at
 25 issue; correct?

1 A. Correct.
 2 Q. And do you know of any reason why you would not
 3 owe at least a quarter of those fees?
 4 A. No.
 5 Q. Do you know of any reason why your sister would
 6 not owe at least a quarter of those fees?
 7 A. No.
 8 Q. Have you paid any of those fees?
 9 A. No.
 10 Q. Is this a true statement: By 2012, you had
 11 agreed to a division of the wine at issue and the golf
 12 clubs at issue into the A and group -- A and B groups
 13 within certain parameters?
 14 A. No.
 15 Q. And why do you say "no"?
 16 A. There was never any agreement reached, which is
 17 why we're here today.
 18 Q. One of your lawyers in this case is Chris
 19 McNeill with the law firm of Block & Garden; correct?
 20 A. Correct.
 21 Q. And he's here today representing you; correct?
 22 A. Correct.
 23 Q. When did Mr. McNeill first become your lawyer,
 24 approximately?
 25 A. I don't recall.

1 Q. Has it been since at least January 1, 2013?
 2 A. I don't recall.
 3 Q. Has it been since at least June of 2013?
 4 A. I don't recall exactly when Chris became my
 5 representative.
 6 Q. You are aware that Mr. McNeill has written
 7 several E-mails in this case --
 8 A. Yes.
 9 Q. -- correct, in this matter?
 10 A. So go back to the timeline. I think I've --
 11 tell -- What's your question again?
 12 Q. Has Mr. McNeill been one of your attorneys
 13 since at least June 1 of 2013 continuously to the
 14 present?
 15 A. Yes.
 16 Q. And since at least June 1, 2013, has
 17 Mr. McNeill and continuing to the present been authorized
 18 to speak orally, in writing -- and in writing on your
 19 behalf?
 20 A. Yes.
 21 Q. Has Mr. McNeill ever said anything orally or in
 22 writing purportedly on your behalf that you claim he was
 23 not authorized to say or do?
 24 A. No.
 25 Q. Has Mr. McNeill ever done anything purportedly

1 on your behalf that you claim he was not authorized to
 2 say or do?
 3 A. No.
 4 (Exhibit 18 marked)
 5 Q. Show you what's been marked as Exhibit 18, and
 6 ask if you've seen that document before.
 7 A. I don't recall, no.
 8 Q. Do you deny having seen it or say you don't
 9 recall?
 10 A. I don't recall having seen it.
 11 Q. As far as you know, did Mr. McNeill forward you
 12 when he would receive E-mails from Mr. Jennings?
 13 A. Usually, I would get E-mails forwarded, yes.
 14 Q. Okay.
 15 (Exhibit 19 marked)
 16 Q. Let me show you what's been marked as
 17 Exhibit 19, and ask if you've ever seen that document
 18 before.
 19 A. I believe I have, yes.
 20 Q. Do you have any explanation for why this
 21 document was not produced by you in this litigation?
 22 A. I wasn't the person who was deciding what
 23 document to be produced, so --
 24 Q. Okay.
 25 A. -- no, I would have no idea.

1 Q. Well, let's talk about that. What effort did
2 you personally make to search for documents that were
3 being called to be -- for to be produced in this lawsuit?
4 A. I was asked to search for documents that had
5 anything to do with communications, E-mails that were not
6 communications to Chris McNeill.
7 Q. Okay. And how did you go about doing that
8 search?
9 A. Searched my E-mail.
10 Q. And what did you physically do to conduct that
11 search?
12 A. I looked through my E-mail.
13 Q. Did you read every E-mail, or did you do some
14 search term or did you have some folder? How did you go
15 about doing it?
16 A. I read every E-mail.
17 Q. For the last six years?
18 A. Yes.
19 Q. So I want to make sure. You read -- Do you
20 keep your E-mails in sub folders or just in an inbox?
21 A. Just in an inbox.
22 Q. How many E-mails would you estimate you have in
23 your inbox for the last six years?
24 A. I have no idea.
25 Q. Well, more than a hundred?

1 dividing the assets in anticipation that they were going
2 to be assigned an undivided interest.
3 Q. Okay. So now we know the time period. Now,
4 what subject matter criteria did you use to decide
5 whether to turn over an E-mail?
6 A. Any E-mail that had anything to do with the
7 division of assets.
8 Q. Okay. This E-mail, Exhibit 19, would meet that
9 criteria; correct?
10 A. It was any E-mail that was not part of his
11 file, so anything extraneous to that. I didn't produce
12 every E-mail that he had sent me, if that's what you're
13 asking.
14 Q. Did you ask him to produce it on your behalf?
15 A. No.
16 MR. LOEWINSOHN: So, Chris, y'all didn't
17 produce any E-mails that weren't privileged that you had,
18 even if he had them?
19 MR. McNEILL: No. We've produced hundreds
20 of pages of E-mails that were in my possession.
21 MR. LOEWINSOHN: Well, do you know why this
22 one wasn't produced?
23 MR. McNEILL: It must have been
24 inadvertently -- I've changed computers since.
25 MR. LOEWINSOHN: This is January '15.

1 A. I'm sure.
2 Q. More than a thousand?
3 A. I'm sure.
4 Q. More than 5,000?
5 A. I doubt that.
6 Q. Okay. So when documents were called for to be
7 produced in this case, you literally went back and read
8 every E-mail for the last six years in your inbox to see
9 if you had any E-mails that were responsive?
10 A. Yes.
11 Q. Okay. And did you turn over any E-mail that
12 had anything to do with Mrs. Hopper to your lawyers?
13 A. No.
14 Q. What criteria did you use to decide what
15 E-mails to turn over to your lawyers to be produced --
16 A. Well, is there --
17 Q. -- other than not turning over an E-mail to
18 Chris McNeill?
19 A. I was instructed to confine that to this
20 particular matter, so that's -- that's what I remember.
21 Q. Okay. So what criteria did you use for this
22 particular matter?
23 A. Well, from the time point that -- I believe
24 the first period in time was probably in January of 2013
25 when Jo's attorney suggested that we revisit the idea of

1 MR. McNEILL: I know. I changed -- I got
2 a new computer at some point in January '15, and there
3 have been some gaps in the E-mails that our IT provider
4 transferred from one to the other, so it must have -- It
5 was inadvertent in any means.
6 Q. (BY MR. LOEWINSOHN) Did your lawyer tell the
7 truth in this E-mail?
8 A. We were amenable as part of a negotiation, yes.
9 THE REPORTER: I'm sorry. Say again.
10 A. We were amenable as part of a negotiation, yes.
11 MR. LOEWINSOHN: Motion to strike,
12 nonresponsive.
13 Q. (BY MR. LOEWINSOHN) Did your lawyer make
14 truthful statements in this E-mail?
15 A. I believe he did.
16 Q. Is there any statement in this E-mail that your
17 lawyer made that was not truthful and accurate?
18 MR. McNEILL: You know, actually for the
19 record, let me state, Alan, that there were multiple
20 communications between myself and Mr. Jennings during the
21 first half of 2015 in the context of a Rule 11 proposed
22 settlement of this lawsuit which was pending at that
23 time. This may have been one of those E-mails from
24 January 2015.
25 MR. LOEWINSOHN: Well, I don't know what

1 you're saying. My question was why did you not produce
 2 this as part of your client's production, so...

3 MR. McNEILL: Well, I didn't produce this
 4 because it was -- it said privileged settlement
 5 communication under --

6 MR. LOEWINSOHN: That's not a basis. So
 7 you're telling me you withheld communications in
 8 discovery because you're taking the position they're not
 9 admissible at trial under some privilege?

10 MR. McNEILL: The settlement negotiations
 11 we've had in this case since it's been pending, you
 12 want -- those are relevant to the part --

13 MR. LOEWINSOHN: You don't -- you don't get
 14 to withhold documents from discovery because you might
 15 later take the position they're a settlement
 16 communication. Whether they come into evidence is for
 17 the Court to decide.

18 MR. McNEILL: Okay. Well, I'm happy to
 19 produce what we have.

20 MR. LOEWINSOHN: Well, I want it produced
 21 so I can examine your clients about it.

22 Q. (BY MR. LOEWINSOHN) Now, is there any
 23 statement in Exhibit 19 that is not truthful or accurate?
 24 A. I do not know.
 25 Q. I'm sorry?

1 A. I do not know.

2 Q. Do you know of any statement in Exhibit 19 that
 3 is not truthful?
 4 A. No.

5 Q. Is this a true statement, that you as a client
 6 of Chris McNeill were amenable to proceeding with the
 7 previously proposed contractual partition of the wine and
 8 golf collection, including the reimbursement of
 9 Mrs. Hopper for the storage expenses she has incurred
 10 attributable to the 50 percent undivided interest
 11 therein? Was that statement by your lawyer a true
 12 statement?
 13 A. I'm not certain, no.

14 Q. Why are you not certain?
 15 A. Because I would have to look at the previously
 16 proposed contractual partition. I'm not sure what he's
 17 referring to.

18 Q. Well, if the previously proposed contractual
 19 partition is the two groups A and B, is that statement
 20 true?
 21 A. That would be true, yes.

22 MR. LOEWINSOHN: All right. He needs to
 23 change tape, so let's take a break.

24 MR. McNEILL: Okay.

25 THE VIDEOGRAPHER: Going off -- going off

1 the videotape record at 11:00 a.m. We're off the record.
 2 (Recess from 11:00 to 11:11 a.m.)

3 THE VIDEOGRAPHER: Back on the videotape
 4 record at 11:11 a.m. This is the beginning of DVD No. 2.

5 Q. (BY MR. LOEWINSOHN) Have you had any oral
 6 communications with Mrs. Hopper between 2013 and the
 7 present about how and whether to divide either the golf
 8 clubs at issue or the wine at issue or anything relating
 9 thereto?
 10 A. Not that I recall.
 11 (Exhibit 20 marked)

12 Q. Let me show you what's been marked as
 13 Exhibit 20. Have you seen that document before?
 14 A. I believe I've seen the first, the top E-mail.

15 Q. And you've seen the attachment; correct?
 16 A. Yes.

17 Q. And, in fact, this document has been produced
 18 by -- on your behalf in this lawsuit. Do you see the
 19 Bates stamp at the bottom?
 20 A. Yes.

21 Q. Okay. And you recognize it's the attachment
 22 containing what we've been calling the A, B list for the
 23 wine at issue and the golf clubs at issue; correct?
 24 A. Correct.
 25 (Exhibit 21 marked)

1 Q. Let me show you what's been marked as
 2 Exhibit 21, and ask if you have seen this document
 3 before.
 4 A. No, I haven't seen this document.

5 Q. You're positive you have -- You are swearing
 6 under oath that you have never seen this document before?
 7 A. I don't believe I have, no.

8 Q. And why are you so sure you've never seen it
 9 before, as opposed to don't recall seeing it?
 10 A. Okay. I don't recall having seen it.

11 Q. Okay. And is there something in it that
 12 specifically causes you to say you don't recall seeing
 13 it?
 14 A. No.

15 Q. Well, how is it you remember the prior E-mail
 16 dated in the same month that you can testify you saw it,
 17 but you're not sure and don't recall ever seeing this
 18 document?
 19 A. Because as I told you, I reviewed all the
 20 E-mails and I don't recall having seen this contained in
 21 the E-mails that I have.

22 Q. Okay. Mr. McNeill was your attorney at the
 23 time this Exhibit 21 was sent; correct?
 24 A. Correct.
 25 Q. And he would have been authorized to send it on

1 your behalf; correct?
 2 A. I would have been authorized?
 3 Q. He would have been authorized to send it on
 4 your behalf; correct?
 5 A. Yes.
 6 Q. And was it a true statement that your lawyer
 7 wrote to Mr. Jennings as of August 13, 2013 that your --
 8 you being one of his two clients, had selected group A
 9 for each of the wine and the golf clubs? Was that a true
 10 statement your lawyer made?
 11 A. That is true.
 12 (Exhibit 22 marked)
 13 Q. Let me show you what's been marked as
 14 Exhibit 22, and ask you if you've seen this document
 15 before.
 16 By the way, let me go back for a minute. You
 17 believe Exhibit 20 would have been sent to you around the
 18 time your lawyer got it, correct, this one that you do
 19 remember and you produced?
 20 A. I'm sorry?
 21 Q. Exhibit 20, this one --
 22 A. Right.
 23 Q. -- you believe you would have received that
 24 shortly after your lawyer received it in August 2015?
 25 A. I saw the top half.

1 Q. I'm sorry. Let me be more precise. You
 2 believe you would have seen the E-mail at the top and the
 3 attachment in Exhibit 20 --
 4 A. Correct.
 5 Q. -- shortly on or after August 6, 2013; correct?
 6 A. Correct, I saw the Dear Mr. McNeill E-mail.
 7 Q. Got it. All right. Exhibit 22, have you seen
 8 that before?
 9 A. I don't believe I have, no.
 10 Q. Now, are you swearing under oath you didn't
 11 receive it or that you don't recall receiving it?
 12 A. I don't recall seeing it.
 13 Q. Okay.
 14 MR. LOEWINSOHN: Chris, I guess I need to
 15 know whether or not I need to depose you relative to the
 16 trial and the summary judgment. Are you willing to
 17 stipulate that this document was sent to your clients, or
 18 do I need to depose you about that?
 19 MR. McNEILL: I would have to look at my
 20 E-mails to see if it was or not.
 21 MR. LOEWINSOHN: Okay. Well, let's make a
 22 note to find that out so I decide whether I need to
 23 depose you on it.
 24 Q. (BY MR. LOEWINSOHN) All right. Show you --
 25 You do recognize that this document has been produced on

1 your behalf in this case by the Bates stamp; correct?
 2 A. Yes.
 3 Q. All right.
 4 (Exhibit 23 marked)
 5 Q. Let me show you what's been marked as
 6 Exhibit 23, and I'll ask you if you've ever seen this
 7 document before.
 8 A. I don't recall having seen it, no.
 9 Q. Do you deny having received it?
 10 A. I don't recall having seen it.
 11 Q. Do you understand there's a difference between
 12 saying I deny something and I don't recall something? Do
 13 you appreciate the difference between those two concepts?
 14 A. Would you explain that to me?
 15 Q. Do you understand there's a difference between
 16 saying in the English language I deny something as
 17 opposed to saying I don't recall something? Do you
 18 appreciate a difference between those two concepts?
 19 A. Yes.
 20 Q. Are you denying that you have seen Exhibit 23,
 21 or are you saying I don't recall seeing it?
 22 A. I'm saying I don't recall seeing it.
 23 Q. All right. Now, I want you to go back to
 24 Exhibit 22. Assuming your lawyer told the truth to
 25 Mr. Jennings that he was sending Exhibit 22 to you for

1 your review, I would like you to look at Exhibit 23 and
 2 tell me is there anything as of August 2013 --
 3 A. Excuse me. I was testifying that I hadn't seen
 4 the E-mail, not the attachment.
 5 Q. Okay. Let's go back. Have you seen
 6 Exhibit 22, the attachment Bates stamped Children's
 7 Partition Production 178 through 181 before?
 8 A. I don't recall seeing that, no.
 9 Q. Okay. Well, stay with it.
 10 A. Okay.
 11 Q. Is -- I want you to look at Exhibit -- the
 12 attachment, Exhibit 22, and tell me was there some term
 13 in this document, some provision that was unacceptable to
 14 you in August of 2013?
 15 A. Yes, and let me -- Give me a chance to read
 16 this a little bit more because some part of this is
 17 familiar to me, so...
 18 (Witness perusing document)
 19 A. So in further review, this is something I have
 20 seen.
 21 Q. Okay.
 22 A. What was unacceptable at that time was a
 23 sentence on page 2, second paragraph. As part of this
 24 Agreement, your clients agree to remove (or have removed)
 25 the wine from its present storage at Classic within the

1 next five days from the Execution Date hereof, at your
 2 client's sole expense.

3 What was unacceptable, still on page 2, the
 4 last paragraph, were the terms of collecting the putters.
 5 Specifically, Your clients will come on either (or both),
 6 Friday and Saturday, August 23rd and 24th, to review the
 7 clubs and exhibit them to one or more charities for
 8 possible donation.

9 What was not acceptable was, If not picked up
 10 before August 31st, 2013, then all Group "A" clubs
 11 remaining at TI Boulevard after Saturday, August 24th,
 12 will become the sole property of Mrs. Hopper.

13 What was not acceptable is the last sentence,
 14 highlighted, If your clients' charity does not pick up
 15 its "Group A" clubs by August 31st, all
 16 unremoved/picked-up items are the sole property of
 17 Mrs. Hopper henceforth.

18 What was not acceptable was on page 3, first
 19 paragraph, regarding Mrs. Hopper's continuing lease of
 20 the warehouse. If she does so, the Heirs will have no
 21 further ownership nor obligations or interests whatsoever
 22 regarding the warehouse, the lease or any of its
 23 contents, hereafter. Specifically contents, since many
 24 of the contents in the warehouse are part of the
 25 community property, not just golf clubs.

1 We were uncomfortable with the review, the
 2 proposal that whatever is in the warehouse, quote,
 3 unquote, miscellaneous property, that we would have to at
 4 that time try to divide again assets that were being
 5 stored there, and that failing an agreement, all
 6 miscellaneous properties stored there would be solely Jo
 7 Hopper's property. That would be it.

8 Q. Are there terms today that you would agree to
 9 split the wine at issue and the golf clubs at issue into
 10 the A and B grouping?

11 A. Of course.

12 Q. And what are those terms?

13 A. The terms that we accepted back in June of
 14 2011. We agreed to take group A or group B.

15 Q. I'm sorry?

16 A. Group A or group B.

17 Q. Either one?

18 A. Either one. And that given appropriate time
 19 frames, given -- given that there are no other strings
 20 attached or other demands and given that it encompasses
 21 an entire resolution of the matters between us, including
 22 wine, golf clubs, personal property, and stock and the
 23 Pollock property. That's all we've ever sought.

24 Q. Okay. But you wouldn't agree, without the
 25 Court ordering you to do so, today to split the wine and

1 the golf club without also a resolution regarding the
 2 Pollock property, the stock; is that your testimony?

3 A. I believe all of that is before the Court --

4 Q. Well --

5 A. -- so that's my understanding.

6 Q. I'm not going to debate you whether it is or
 7 isn't. That wasn't my question.

8 Are you telling me that you would not, without
 9 the Court ordering you to do so, today agree to split the
 10 wine and the golf clubs in one of the A or B groupings,
 11 according to some acceptable time frame, without all the
 12 other items also being agreed to?

13 A. I would consider it.

14 Q. What are your appropriate time frames?

15 A. Well, that depends a lot on issues such as my
 16 schedule, my sister's schedule, obtaining transportation,
 17 deciding what disposition we would make of those items.
 18 At that time, for example, as one kind of -- might
 19 imagine, it was somewhat difficult with those time frames
 20 given to ensure that a donation could be made and pick-up
 21 could be secured within, you know, those defined dates.

22 Q. If you get the golf -- some of the golf clubs,
 23 an undivided interest, you plan to donate those to
 24 charity?

25 A. That would be one of our options, yes.

1 Q. What are the others?

2 A. Well, I suppose we could sell them.

3 Q. Okay. Have you discussed with anyone the
 4 possibility of buying them in the last year?

5 A. In the last year, no.

6 Q. The "them" being the golf clubs at issue. Same
 7 question for the wine at issue.

8 A. No.

9 Q. Is there some reason you excluded some
 10 resolution regarding the Robledo property in your list of
 11 items?

12 A. No.

13 Q. Do you want the Robledo property issue
 14 resolved?

15 A. Yes.

16 Q. Is this a true or false statement: You've
 17 never had an issue with the division of wine and golf
 18 clubs into groups A and B that Mrs. Hopper came up with
 19 as long as you and your sister got the choice between
 20 groups A or B?

21 A. False.

22 Q. Has that ever been your position?

23 A. Say it one more time.

24 Q. Has it ever been your position -- Would this
 25 have ever been a true statement in time in the past, that

1 you had not had an issue with the division of wine and
2 golf clubs into groups A and B that Mrs. Hopper came up
3 with as long as you and Laura got the choice between
4 groups A and B? Has that ever been your position?

5 A. Our position has been in June of 2011 that we
6 were -- that would be an acceptable division, but, again,
7 the time frames and the circumstances given were
8 unacceptable.

9 Q. Have you ever suggested a different division of
10 either the golf clubs at issue or the wine at issue other
11 than what Mrs. Hopper came up with?

12 A. Yes.

13 Q. When?

14 A. Probably May of 2011. I don't -- I don't know
15 what -- The negotiations at that time were not directly
16 with Jo Hopper. The negotiations at that time were with
17 Susan Novak. Jo Hopper sent a check for a different
18 division of wines at that time.

19 There were three divisions. There was a group
20 A which contained most of the collectible wines, there
21 was a group B which contained most of the drinkable
22 wines, and there was a group C of wines that the
23 appraiser felt were not having any value.

24 Jo Hopper sent a check to the IA for purchase
25 of the group B wines. I contacted Susan Novak indicating

1 Q. Can you identify Exhibit 25 (sic) as an
2 exchange of E-mails involving you and other people?
3 (Discussion off the record)

4 A. What is your question?

5 Q. Can you identify Exhibit 24 as an exchange of
6 E-mails involving you and other people?

7 A. Yes.

8 Q. With respect to the PointServ stock, as far as
9 you know, is it true that the cost to re-register the
10 stock into separate shares between you, your sister and
11 Mrs. Hopper would be greater than the value of the
12 shares?

13 A. That's what I've been told.

14 Q. Do you know of anything to contradict that?

15 A. No, not at this time.

16 Q. What do you believe should happen with the
17 PointServ stock at this time?

18 A. I don't know.

19 Q. Do you have a current belief as to what should
20 be done?

21 A. Not at this time, no.

22 Q. Okay. Do you claim that Mrs. Hopper failed to
23 take some action that she should have taken regarding the
24 wine at issue or the golf clubs at issue or other
25 personal property that somehow would have reduced her

1 that I would be a willing buyer of the group A wines,
2 providing that I had a separate appraisal done.

3 Q. When you say Jo issued a check, what do you
4 mean?

5 A. She wrote a check to JP Morgan Chase for the
6 purchase of group B wines.

7 Q. And what happened to that check?

8 A. She demanded that it be returned.

9 Q. Did you or anyone on your behalf ever send to
10 Mrs. Hopper or a lawyer for Mrs. Hopper a -- in writing a
11 different division of the wines at issue, other than
12 groups A and B that she came up with?

13 A. No, not directly to Jo Hopper.

14 Q. You sent such a written proposal to Susan
15 Novak?

16 A. Yes.

17 Q. You -- Do you know whether or not Susan Novak
18 provided it to Jo Hopper?

19 A. I have no idea.

20 Q. Okay. Did you ever propose in writing a -- you
21 or any lawyer on your behalf, a division of the golf
22 clubs at issue, other than the groups A and B that
23 Mrs. Hopper came up with?

24 A. No.

25 (Exhibit 24 marked)

1 claim for damages in this case?

2 A. You'll have to repeat that.

3 MR. LOEWINSOHN: James, read it back,
4 please.

5 (Record read back - Page 79, 21-25)

6 A. You'll have to explain that question. I'm not
7 sure what you're asking.

8 Q. (BY MR. LOEWINSOHN) Do you know of something
9 that Mrs. Hopper did or didn't do regarding the wine or
10 golf or personal property that, if she'd done it, she'd
11 have less damages being claimed in this lawsuit?

12 A. And what damages are we referring to?

13 Q. Damages regarding storage costs, damages -- I
14 think that's it.

15 A. Well, the only thing I would -- I mean, I'm --
16 I'm -- The only thing I can think of is it was at Jo
17 Hopper's insistence that the wine be removed from her
18 home into a storage facility. I'm not suggesting she
19 shouldn't have, but, obviously, they were being stored in
20 her home and she could have lessened her expenses had she
21 continued to store them.

22 Q. First of all, anything else?

23 A. Pardon me?

24 Q. Anything else?

25 A. Well, again, I think that it's possible that Jo

<p>Page 81</p> <p>1 Hopper could have reached a reasonable settlement with my 2 sister and I very early on, early to mid 2011, which 3 would have prevented any potential depreciation of the 4 wine or the golf clubs or other assets. 5 Q. And what settlement is it that you say you 6 proposed that she did not agree to that you say would 7 have been reasonable had she agreed to it? 8 A. Well, for example, with the wine and the golf 9 clubs, we agreed in principle to take group A of the 10 wine, we agreed in principle to take group A, I believe, 11 of the golf clubs. This was, again, at a time when we 12 had lost our counsel. We hired our new counsel. The 13 proposal was being -- was made by Jo Hopper and Jim 14 Jennings, I believe, in June of -- June 15th, 2011. We 15 agreed in principle to the division, as you showed me, 16 that that's when we first got her proposed divisions of 17 the wine and golf clubs. 18 We agreed -- Regrettably, it took us some time 19 to find new representation. Gary Stolbach was hired by 20 us probably at this point, July 5th or 6th. We were 21 given 30 days from June 15th to complete the transaction. 22 So Gary Stolbach comes in on July 6, so we now have a 23 little more than a week to complete the transaction, 24 given the demand that this be completed within 30 days. 25 We instructed Gary Stolbach to negotiate that</p>	<p>Page 83</p> <p>1 July, August 2011. 2 Q. Okay. Who is Lyle Pishny? 3 A. Pishny. 4 Q. Pishny. 5 A. Lyle Pishny was Laura's attorney in Kansas City 6 who initially represented her through July of 2011, so 7 sometime in 2010 through July 2011. 8 Q. Did he ever represent you? 9 A. For that interim period in which I discharged 10 my attorney, I think, sometime in January of 2011. So 11 from January 2011 to July, he was my counsel. He then 12 served as somewhat of a -- I don't know how you would 13 put it. He -- It was arranged that he would continue to 14 consult, and I don't remember when that ended. 15 Q. So why couldn't you have used him to work 16 through these issues when you say you were, quote, 17 without counsel? 18 A. Well, he did not feel that he was -- Things 19 had gotten to a particular point where I believe he felt 20 that he wasn't familiar enough with Texas law, Texas 21 probate to represent us adequately. 22 Q. Were you aware that at one point, your 23 attorney, Mr. Stolbach, was demanding that there be from 24 Mrs. Hopper a guarantee as to the quality of the wine? 25 A. Yes, that came after Jo Hopper's attorney told</p>
<p>Page 82</p> <p>1 as quickly as possible. Again, we had a problem with, I 2 believe, the time frame was we were given, oh, I think 3 five days to remove, I believe, the wine. I don't recall 4 exactly. And there was no way that we were able to 5 accomplish that. 6 We at that point asked repeatedly to go forward 7 with that agreement, but at that point, we were told that 8 Jo Hopper was now insisting that everything be discharged 9 in undivided interest and that she was not going to 10 negotiate on the division of those items and that she 11 would see us in court. 12 Q. Okay. First of all, who told you that? 13 A. Who told me that? 14 Q. Yes. 15 A. That was in various E-mail communications. 16 Q. From who? 17 A. Well, some, I believe, were directly from Jo 18 Hopper to us. I believe that some were from Jo Hopper to 19 Susan Novak. And I believe some were communications from 20 Gary Stolbach to my sister and I, and I believe that was 21 also some E-mail correspondence between Jo's rep -- 22 lawyer and our lawyer. 23 Q. And what time period was this? 24 A. June -- All of that was taking place between 25 June 15th through -- well, the next several months, so</p>	<p>Page 84</p> <p>1 us that if we did not remove the wine within that 30-day 2 period, it would be moved to an unrefrigerated garage. 3 Q. Okay. Are you suing Mr. Stolbach? 4 A. Yes, we are -- Well, we haven't sued him, but 5 he may be sued, yes. 6 Q. You've put him on notice that he will be sued? 7 A. Yes. 8 Q. Okay. Did you put him on notice in writing? 9 A. I don't know. I don't know. I don't believe 10 so. 11 Q. When -- In 2013 to '15, when you would 12 communicate with your sister about issues regarding your 13 father's estate, would you do some of it by E-mail? 14 A. Yes. 15 Q. Would you do some of it by text? 16 A. No. 17 Q. Would you do some of it oral? 18 A. Yes. 19 Q. Okay. And I take it there would have been some 20 E-mail communication between 2013 and 2015 about all of 21 this personal property and wine and golf between you and 22 your sister; correct? 23 A. There might have been. 24 Q. Okay. Have you looked to see if there is any? 25 A. Well, again, I don't re- -- I don't recall --</p>

1 Not specifically. I mean, I can't recall between those
2 dates what -- what E-mail correspondence occurred.
3 Q. How often would you say in that time period you
4 E-mailed your sister, how frequently?
5 A. Infrequently.
6 Q. Once a year?
7 A. I couldn't say.
8 Q. Are you --
9 A. Infrequently.
10 Q. Are you testifying under oath that you have no
11 E-mail communications with your sister between 2013 and
12 2015 having anything to do with wine, golf, personal
13 property?
14 A. No.
15 Q. Are you testifying that you did likely?
16 A. I couldn't say.
17 Q. You couldn't say either way?
18 A. Not here specifically, no.
19 Q. I'm not asking specifically. Generally, can
20 you say?
21 A. It's possible, yes.
22 Q. I know it's possible. Can you say that it
23 generally occurred?
24 A. I'm sure there was correspondence in between
25 she and I by E-mail --

1 Q. Okay.
2 A. -- but I cannot recall.
3 Q. Can you explain why you have not produced any
4 in this lawsuit?
5 A. I have produced what I have.
6 Q. Have you deleted any E-mails?
7 A. Produced what I have as far as this lawsuit,
8 this particular lawsuit. I produced again from what I
9 was told was the specifics to this matter, and the
10 specifics of this matter being from January of 2013
11 covering the division after the assets had been -- or
12 just prior to the assets being distributed in undivided
13 interests.
14 Q. And when you --
15 A. Meaning I did not -- I was not asked to produce
16 E-mails for this matter from 2000- -- 2011 or whatever to
17 2013.
18 Q. So you have not searched for or produced
19 E-mails between 2011 and 2013 that relate to golf, wine,
20 personal --
21 A. No.
22 Q. -- property; is that a true statement?
23 A. That's a true statement.
24 MR. LOEWINSOHN: Okay. Those should have
25 been produced. We would call for their production, and

1 we reserve our rights to examine the witness when and if
2 those documents are produced, as well as to seek costs
3 and sanctions for the fact that the witness didn't even
4 search for them, as well as for the notes that have not
5 been produced. And so subject to that, we pass the
6 witness.
7 Thank you, Mr. Hopper.
8 MR. McNEILL: No questions for the witness.
9 THE VIDEOGRAPHER: Going off the videotape
10 record at 11:46 a.m. We're off the record.
11 (Deposition concluded at 11:46 a.m.)
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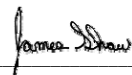
1 CHANGES AND SIGNATURE
2 WITNESS: STEPHEN B. HOPPER DATE: 02/05/2016
3 PAGE LINE CHANGE REASON
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1 SIGNATURE PAGE
 2 I, STEPHEN B. HOPPER, have read the foregoing
 3 deposition and hereby affix my signature that same is
 4 true and correct, except as noted above.
 5
 6 _____
 7 STEPHEN B. HOPPER
 8 THE STATE OF _____)
 9 COUNTY OF _____)
 10 Before me, _____, on this day
 11 personally appeared STEPHEN B. HOPPER, known to me or
 12 proved to me on the oath of _____ or through
 13 _____ (description of identity card
 14 or other document) to be the person whose name is
 15 subscribed to the foregoing instrument and acknowledged
 16 to me that he executed the same for the purpose and
 17 consideration therein expressed.
 18 Given under my hand and seal of office on this ____
 19 day of _____, _____.
 20
 21 _____
 22 NOTARY PUBLIC IN AND FOR
 23 THE STATE OF _____
 24
 25 My Commission Expires: _____

1 following includes all parties of record and the amount
 2 of time used by each party at the time of the deposition:
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 34
 35 I further certify that I am neither counsel for,
 36 related to, nor employed by any of the parties in the
 37 action in which this proceeding was taken, and further

1 CAUSE NO. DC-13-09969
 2 JO N. HOPPER, § IN THE DISTRICT COURT OF
 3 §
 4 Plaintiff, §
 5 §
 6 v. § 44TH JUDICIAL DISTRICT
 7 §
 8 LAURA S. WASSMER and §
 9 STEPHEN B. HOPPER, §
 10 §
 11 Defendants. § DALLAS COUNTY, TEXAS
 12
 13 -----
 14 REPORTER'S CERTIFICATE TO THE
 15 ORAL DEPOSITION OF
 16 STEPHEN B. HOPPER
 17 FEBRUARY 5, 2016
 18 -----
 19 I, James M. Shaw, RMR, Certified Shorthand Reporter
 20 No. 1694 in and for the State of Texas, hereby certify to
 21 the following:
 22 That the witness, STEPHEN B. HOPPER, was duly sworn
 23 by the officer and that the transcript of the oral
 24 deposition is a true record of the testimony given by the
 25 witness;
 26 That the deposition transcript was duly submitted on
 27 February 11, 2016 to the witness or to the attorney for
 28 the witness for examination, signature, and return to
 29 Shaw Reporting & Digital Video Services by March 1, 2016.
 30 That pursuant to information given to the deposition
 31 officer at the time said testimony was taken, the

1 that I am not financially or otherwise interested in the
 2 outcome of this action.
 3 Further certification requirements pursuant to
 4 Rule 203 of the Texas Code of Civil Procedure will be
 5 complied with after they have occurred.
 6 Certified to by me on this 10th day of February,
 7 2016.
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 24
 25


 James M. Shaw, RMR, Texas CSR No. 1694
 Expiration date: 12/31/2016
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1 FURTHER CERTIFICATION UNDER TRCP RULE 203
2 The original deposition was/was not returned to the
3 deposition officer on _____.
4 If returned, the attached Changes and Signature
5 page(s) contain(s) any changes and the reasons therefor.
6 If returned, the original deposition was delivered
7 to _____, Custodial Attorney.
8 That \$_____ is the deposition officer's charges
9 to the attorney(s) representing the Plaintiff for
10 preparing the original deposition and any copies of
11 exhibits;
12 That the deposition was delivered in accordance with
13 Rule 203.3, and that a copy of this certificate, served
14 on all parties shown herein and filed with the Clerk.
15 Certified to by me on this _____ day of
16 _____, _____.
17
18
19 _____
20 James M. Shaw, RMR, Texas CSR No. 1694
Expiration date: 12/31/2016
Firm Registration No. 348
21
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