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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

In Re the Matter of)
)
TRUST A UNDER THE JAMES F. HO)
AND GRACE C. HO DECLARATION)
OF TRUST DATED SEPTEMBER 11, 1992,)
as amended,)
)
PETER C. HO, TRUSTEE OF TRUST A OF)
THE JAMES F. HO AND GRACE C. HO)
DECLARATION OF TRUST DATED)
SEPTEMBER 11, 1992,)
)
Petitioner,)
vs.)
)
DEBBY CHANG and DOES 1 through 20,)
inclusive,)
)
Respondents.)
_____)

No. 17 PRO 00973

**CERTIFIED
TRANSCRIPT**

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JAMS ARBITRATION - DAY 11

Date: Friday, December 15, 2023
Time: 10:05 a.m.
Location: JAMS
160 West Santa Clara St., #1600
San Jose, CA 95113
Reported by: Gina Minnis
CSR No. 11996

Advantage Reporting Services, LLC
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I N D E X O F E X A M I N A T I O N S :

Witness	Direct	Cross	Redirect	Recross
Paul Malone	5	31	39	
Shirley (Sophie) Chang	42			
Rhonda Mattern	104	126	136	
Debby Chang (Continued)	138			

I N D E X O F E X H I B I T S :

Exhibit		Marked	Admitted
Exhibit 337	Letter from Mr. Malone to Ms. Chang		16
Exhibit 340	Grant Deed		19
Exhibit 655	IRA Beneficiary Change Form		143
Exhibit 662	E-mail chain	98	103

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P R O C E E D I N G S

THE COURT: Mr. Malone, we're going to swear
you in. Can you hear us?

THE WITNESS: Yes. I can. Thank you.

THE COURT: Great. Could you raise your right
hand.

PAUL MALONE,
called as a witness on behalf of the Respondents,
having been sworn to tell the truth, testified as
follows:

THE COURT: Very good. Could you please start
by stating your first and last name and spelling any
unusual names.

THE WITNESS: Paul Malone, M-a-l-o-n-e.

THE COURT: Thank you. Mr. Malone, I just need
to know if people need to move around here. You're on
various screens and I'm not quite sure if one or both of
you want to move to the other side of the table.

MR. FRASER: Can you hear us okay, Mr. Malone?

THE WITNESS: Yes.

MR. BAER: Can you hear me too?

THE WITNESS: Yes.

MR. BAER: Great.

1 THE COURT: Okay. That was Mr. Fraser,
2 obviously, and Mr. Baer.

3 THE WITNESS: Which is which person? I'm not
4 familiar with the faces.

5 MR. BAER: I'm Mr. Baer.

6 MR. FRASER: And I'm Mr. Fraser.

7 THE COURT: Okay.

8 THE WITNESS: Okay. Mr. Baer's in the
9 foreground here?

10 MR. BAER: Do you see me, D-B-a-e-r? At the
11 top of the screen there should be like an arrow --

12 THE WITNESS: I see you. Okay. Got you.

13 THE COURT: Okay. This is a true temporary
14 judge case. So it's an open courtroom. Some people are
15 here and some people aren't, some of the litigants. But
16 I just want you to know it's open. People might be
17 coming in and out.

18 Okay. Do you want to start?

19 MR. BAER: Sure.

20 THE COURT: Sorry. I'm Judge Gallagher. I
21 didn't introduce myself. Okay.

22

23 DIRECT EXAMINATION

24 BY MR. BAER:

25 Q. Good morning, Mr. Malone. I'm David Baer and I

1 represent Debby Chang.

2 Can you please state and spell your name for
3 the record?

4 THE COURT: He already did.

5 MR. BAER: He did? I didn't hear that. I'm
6 asleep this morning. Okay. And he was sworn?

7 THE COURT: He was.

8 MR. BAER: I don't know what I am doing.

9 BY MR. BAER:

10 Q. What's your occupation, Mr. Malone?

11 A. I'm an attorney.

12 Q. And how long have you been an attorney?

13 A. Since approximately 1970.

14 Q. And what states have you been licensed in?

15 A. California.

16 Q. Have you maintained your license as an attorney
17 in California since you were first admitted to the bar?

18 A. Yes. I have.

19 Q. Where did you graduate from law school?

20 A. Hastings.

21 Q. Are there any areas in which you specialize?

22 A. Yes. Most of my practice has been concentrated
23 in probate and estate planning, trusts, wills.

24 Q. Are you a certified specialist in any area?

25 A. I am.

1 Q. What area?

2 A. I'm a certified specialist in -- I think it's
3 called probate and trust law.

4 Q. And when did you obtain that certification?

5 A. I don't know exactly. I am guessing ten years
6 ago.

7 Q. Have you maintained it since then?

8 A. Yes.

9 Q. Okay. As of April 2006 can you describe what
10 the nature of your practice was then?

11 A. Probate and estate planning.

12 Q. And how long had you been practicing in that
13 area as of April 2006?

14 A. I didn't specialize in that area when I first
15 became a licensed attorney, but I think by -- I think
16 for the last 30 years or so that's been my area of
17 concentration.

18 Q. 30 years from today or 30 years from 2006?

19 A. 30 years going back from today.

20 Q. Okay. And so at least as of 2006 what in
21 general had you done to develop your expertise as an
22 estate planning attorney up until that time?

23 A. Well, it's the field of practice. So you learn
24 a lot practicing in that area. Of course there's
25 continuing education that's involved too. There are

1 continuing education requirements for the certification.
2 And I would say that my experience was in that area as
3 well.

4 Q. Did you know a woman named Debby Chang?

5 A. I met Debby Chang a couple of times.

6 Q. How did that come to pass?

7 A. You know, I'm not sure. She was referred to my
8 office back in I think it was -- was it 2006? I'm not
9 sure who referred her in. I'm not sure how she wound up
10 in my office but I did meet with her in April of 2006.

11 Q. Do you know a gentleman by the name of James
12 Ho?

13 A. I met Mr. Ho with Debby Chang. I had never met
14 him before.

15 Q. Did you ever represent Ms. Chang?

16 A. Yes.

17 Q. Did you ever represent Mr. Ho?

18 A. No.

19 Q. What was the purpose of your representation of
20 Ms. Chang?

21 A. Well, she was referred to me and we made
22 arrangements to meet. And she and Mr. Ho requested --
23 they were both present at the meeting and they requested
24 that I prepare documents transferring a certain Los
25 Angeles piece of property to Debby Chang's trust.

1 Q. Do you recall how the meeting with them was set
2 up?

3 A. No.

4 Q. Do you recall the date of the meeting?

5 A. I'm thinking, if my memory is correct, I think
6 it was April 17, 2006. You can tell me if that's
7 incorrect.

8 Q. All right. Well, let me see, let me ask a
9 question about an exhibit.

10 MR. BAER: I might need a little help here.
11 Can you just pull up his invoice, please?

12 THE COURT: Mr. Malone, for your information,
13 the person on the screen is Mr. Baer's assistant and
14 paralegal.

15 THE WITNESS: I'm sorry. I didn't understand
16 that, Your Honor.

17 THE COURT: Sure. For your information, the
18 person on the screen is Mr. Baer's assistant and
19 paralegal.

20 THE WITNESS: Okay. Thank you.

21 THE COURT: Mr. Baer, any chance you can tell
22 us the exhibit you are talking about?

23 MR. BAER: Yes. We are talking about
24 Exhibit 3 -- 337. It stopped.

25 MR. KUO: It's wrong in the binder. So I have

1 a replacement for you.

2 MR. BIORN: Oh, it's wrong in the binder?

3 MR. KUO: The same exhibit got printed twice.

4 MR. BAER: Okay.

5 THE COURT: Are you going to share a screen?

6 MR. BAER: We were but it just closed. Sorry
7 about this.

8 THE COURT: I don't think there's any real
9 issue about this exhibit. Just to move on, I have a
10 statement in front of me that is page 2 of Exhibit 337
11 and it says there was an office consultation on
12 April 17, 2006.

13 Is there any controversy about this so we can
14 move along?

15 MR. BAER: No. There's no controversy about it
16 except it goes just a little further than that and says
17 that there's another meeting I believe on April 21st as
18 well.

19 THE COURT: Okay. Thanks. Mr. Biorn, it's
20 page 2.

21 MR. BIORN: Oh, okay.

22 MR. BAER: We'll try one more time quickly
23 here.

24 THE COURT: Well, go ahead.

25 MR. BAER: Anyway, so let me --

1 THE COURT: Sure. Mr. Biorn -- I'm sorry,
2 Mr. Fraser. This is your witness. There we go. We
3 have the screen share.

4 MR. BAER: Yeah. We have it. It disappeared
5 on us.

6 BY MR. BAER:

7 Q. Okay. So do you recognize the document?

8 A. Yes. I do.

9 Q. What is it?

10 A. It's a bill that I sent to Debby Chang
11 following our meetings on April 17th and April 21st.

12 Q. So what was the purpose of the meeting, more
13 specifically -- well, let me ask you about the
14 April 17th meeting. Who was there?

15 A. I was there. Debby Chang was there. James Ho
16 was there.

17 Q. Okay. Do you recall any communication with
18 either of them before the meeting?

19 A. I'm guessing that I had a brief conversation
20 with Debby Chang to arrange the meeting but it wouldn't
21 have been anything of substance.

22 Q. Did you know whether Mr. Ho was going to come
23 with her?

24 A. I'm not certain if I knew that. I probably
25 did.

1 Q. How long was the meeting on April 17th?

2 A. I'm sort of guessing that it was between an
3 hour and an hour and a half, but I don't really honestly
4 have any specific recollection of the time.

5 Q. What is the basis for your statement that it
6 was probably an hour, hour and a half?

7 A. Well, based primarily on what we covered in
8 that meeting.

9 Q. Was Mr. Ho there the entire time or did he
10 leave for part of the meeting?

11 A. I think both of them were present for the
12 entire meeting.

13 Q. At any point in that meeting did Ms. Chang
14 consult with you privately?

15 A. No.

16 Q. What was the general topic of discussion?

17 A. There was a piece of property in Los Angeles,
18 McCollum Street I think, and they wanted that property
19 to be transferred to Debby Chang's existing trust so
20 that that property would be governed by the terms of her
21 trust.

22 Q. You say -- sorry. Go ahead.

23 A. And they made that joint request to me to make
24 that happen.

25 Q. Did you prepare any notes of your meeting with

1 them?

2 A. I'm sure I did but I don't have those because
3 my file was destroyed I think in 2011.

4 Q. Why did you prepare notes?

5 A. Why did I prepare notes?

6 Q. Yes.

7 A. Just to remind myself, I suppose, of what the
8 discussions were, what I learned during the meeting.

9 Q. Okay. As specifically as you can, can you tell
10 us what Mr. Ho said about the McCollum property?

11 A. Mr. Ho and Debby Chang jointly requested --
12 they basically said this is what we want done. We want
13 the -- we want the McCollum property to be governed by
14 Debby's trust. We want the McCollum property to be part
15 of Debby's trust and we want to transfer the property to
16 her trust.

17 Q. Who had title at the time of the meeting?

18 A. I believe title was in Debby Chang and James
19 Ho.

20 Q. And was there discussion then about whether in
21 transferring Mr. Ho's share of the McCollum property to
22 the trust Ms. Chang would pay her anything or whether it
23 would be a gift?

24 A. I don't recall a discussion of that subject but
25 it certainly would have been discussed.

1 Q. Did you give any kind of explanation about the
2 nature of the transaction?

3 A. No. I think it was just -- I think it became
4 clear in the course of the meeting if the property were
5 transferred to Debby Chang's trust it would be governed
6 by the terms of her trust and would be owned by her.

7 Q. Did Mr. Ho express any kind of reticence or
8 reluctance about transferring his interest to
9 Ms. Chang's trust?

10 A. No.

11 Q. Did he say anything to the effect that he
12 needed to get more information before deciding?

13 A. No.

14 Q. Do you recall him asking you any questions
15 about how this would affect him?

16 A. No. I don't have a recollection to his asking
17 any questions. I think he knew what the effect would be
18 of transferring the property to Debby's trust, and I
19 think they both wanted that property to be part of her
20 trust and not governed by whatever arrangement --
21 whatever estate planning arrangements James Ho may have
22 made on his own.

23 Q. What made you think that Mr. Ho understood
24 that?

25 A. Primarily that's what he asked to be done. He

1 asked that -- he explained -- both of them explained,
2 including James Ho, explained to me that they had agreed
3 that this property was to be Debby's and was to be
4 subject to the terms of her trust.

5 Q. Was there any discussion in the meeting about
6 how much equity Mr. Ho might have in the property, what
7 his share was worth?

8 A. There may have been discussion of that but I
9 don't have any recollection of that.

10 Q. Was there any discussion about the possible
11 need for Mr. Ho to file a gift tax return?

12 A. That's a subject that may well have been
13 discussed, but I have no current recollection of what
14 that discussion would have been.

15 Q. So at that meeting did you look for any kind of
16 red flags to make sure that Mr. Ho had not been
17 pressured into giving away his interest in this
18 property?

19 A. Yes. You are always -- under those
20 circumstances I am always alert to whether there are red
21 flags and there didn't appear to be any in this case.
22 There was no reluctance on James Ho's part. He was
23 making the request to me to do that. He didn't appear
24 to be under any kind of pressure. There was no evidence
25 I could see of any diminished capacity. It seemed like

1 a reasonable transaction that they both understood and
2 had discussed and agreed to. So, no, I didn't see any
3 what I would call red flags.

4 Q. Did either of them tell you whether they were
5 married?

6 A. I don't think so.

7 MR. BAER: Can you pull up the deed? I would
8 like to -- what is this exhibit? 337?

9 Can I move 337 into evidence, please?

10 THE COURT: This is a two-page document.

11 MR. FRASER: No objection.

12 THE COURT: Both pages will be received.

13 (Whereupon, Respondent's Exhibit 337 was
14 admitted into evidence.)

15 BY MR. BAER:

16 Q. Exhibit 340 is a deed. Do you recognize the
17 document?

18 A. Yes.

19 Q. Can you explain what it is?

20 A. It's a grant deed that transferred the McCollum
21 property to Debby Chang's revocable trust.

22 Q. Does it refresh your recollection as to whether
23 either of them told you whether they were married? And
24 let me turn your attention specifically to page -- we're
25 on the second page of the document right under the bold

1 "Grant Deed."

2 A. Yeah. They're described there as unmarried
3 individuals and I would have -- I probably got that
4 information from a copy of the deed. I probably ordered
5 an abstract of the existing deed or I was provided with
6 a copy of the existing deed by Debby Chang and James Ho.
7 And the existing vesting undoubtedly described them as
8 unmarried individuals.

9 Q. Would it have been your custom and practice to
10 confirm they remained unmarried since they acquired the
11 property?

12 A. I would have to think about that. I would want
13 to make sure that there was no defect in title or any
14 cloud in title arising from misidentification of their
15 marital status.

16 Q. Based on their interactions, did you form any
17 impression of the nature of their relationship; that is,
18 whether they were, for example, business associates or
19 friends or romantic partners or anything else?

20 A. I'm sorry. What was the question?

21 Q. Sure. You met with them on the 17th and then
22 you met again with them on the 21st. Right?

23 A. Yes.

24 Q. Okay. So based on the nature of their
25 interactions in those two meetings, did you have an

1 impression about the nature of their relationship; that
2 is, whether they were partners or business associates or
3 just friends or what?

4 A. Yes. It was my conclusion that they were a
5 couple involved in a romantic, couple-type relationship.

6 Q. All right. What made you think that?

7 A. Especially during the first meeting we spent a
8 considerable period of time with just kind of small
9 talk. I wanted to find out generally who the people
10 were and get some impression about whether, I guess,
11 there were any red flags.

12 I wanted to make sure that I understood what
13 they wanted to do. And in the course of those
14 discussions, I think it became clear to me anyway that
15 they were partners in a couples relationship.

16 Q. Was that something -- was what you did unique
17 to that transaction or your custom and practice in
18 gifting transactions?

19 A. That would be my custom and practice.

20 Q. Why do you do that?

21 A. Well, just to make sure what is being done
22 seems appropriate and make sure that -- we talked about
23 red flags before -- to make sure there are no red flags,
24 make sure that everybody was capable of expressing
25 himself or herself, making sure that what they were

1 asking me to do wasn't anything crazy. And I generally
2 spent a period of time with people before I take action
3 on a request like that just to make sure it seemed
4 appropriate.

5 Q. Did they sign the deed in your presence?

6 A. Yes.

7 Q. Page 3 the notary, who is Virginia Malone?

8 A. Virginia Malone is my wife. She was my
9 paralegal at the time and she was a notary.

10 Q. Was there anyone else at the meeting when this
11 deed was signed besides the four of you?

12 A. No.

13 MR. BAER: I would like to move -- what's the
14 exhibit?

15 MR. KUO: 340.

16 MR. BAER: -- 340 into evidence.

17 MR. FRASER: No objection.

18 THE COURT: Received.

19 (Whereupon, Respondent's Exhibit 340 was
20 admitted into evidence.)

21 BY MR. BAER:

22 Q. Can you go to the letter of April 21st, please?
23 The first page -- the page I'm showing you now is
24 Exhibit 337.

25 Can you explain what this document is?

1 A. Let me read it.

2 Q. Sure.

3 A. Yeah. This is a letter that I wrote to Debby
4 Chang just sort of admonishing her that we had
5 characterized the transaction as a gift transaction
6 which would make it exempt from transfer taxes. And I
7 wanted to make sure she understood that if this
8 characterization were challenged by the assessor that a
9 gift tax could result.

10 Q. Okay. Does the letter refresh your
11 recollection about any discussion at either meeting
12 concerning the possibility of filing a -- the need to --
13 the possible need for Mr. Ho to file a gift tax return?

14 A. Well, that's a subject that would have been
15 discussed, but, frankly, I don't have any current
16 recollection of exactly what that discussion was.

17 Q. Okay. Did you prepare this letter before or
18 after the meeting on April 21st, if you know?

19 A. I think it was probably prepared after the
20 meeting but on the same day as the second meeting.

21 Q. Did you -- did you send the letter to Ms. Chang?

22 A. Yes.

23 Q. Did she -- did she call you in regards to the
24 letter or otherwise respond to it?

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

1 Q. Did you ever have any contact with Ms. Chang
2 again after April 21st?

3 A. There was a telephone conversation at a later
4 point in time.

5 Q. What was that about?

6 A. As I am sitting here right now, I don't
7 remember, but I have a vague recollection that there may
8 have been some notes prepared at that time that would
9 show what was discussed, but I have no current
10 recollection of what the discussion was on that.

11 Q. Do you remember when it was or how long ago?

12 A. It may have been in connection with a subpoena
13 for my records from counsel for James Ho. I may have
14 spoken to her at that time about that.

15 Q. Did you release your records or not?

16 A. Yes. I think I explained to everyone that --
17 well, at least to Debby Chang's lawyer at that time and
18 to Debby that I no longer had my hard copy file. It had
19 been destroyed in 2011 as I recall. And -- but that I
20 did have some electronic files, some documents on
21 electronic file on my computer that I had printed out
22 and made Debby Chang and her attorney aware of those
23 records because they were going to be claiming a
24 privilege that maybe would have prevented me from
25 providing copies of those documents to counsel for James

1 Ho.

2 Q. And ultimately did you provide them?

3 A. I did.

4 Q. Did you assert the attorney-client privilege to
5 protect any of them?

6 A. No. I think Debby Chang and her attorney at
7 that time both waived the privilege and instructed me it
8 was okay to honor the subpoena.

9 Q. At either of the meetings did Mr. Ho explain
10 how he had obtained his interest in the McCollum
11 property?

12 A. I don't have any current recollection of that,
13 but it may very well have been discussed.

14 Q. Did they describe what kind of property it was?

15 A. Yes. That would have been discussed, but,
16 again, I don't have any current recollection. This has
17 been, I think, 17 years since this meeting.

18 Q. Did they tell you how they were funding the
19 property's expenses?

20 A. I don't have any current recollection of that.

21 Q. Did they tell you how they were dividing the
22 property's profits or losses at either meeting?

23 A. No. I don't think so. My impression at the
24 time was that -- was this property was recently acquired
25 and the two of them had agreed that this was Debby's

1 property and was supposed to be subject to the terms of
2 her trust.

3 Q. Do you recall any discussion at either meeting
4 about how they would report the property's net income or
5 net losses on their income tax returns after the
6 transfer?

7 A. I have no recollection of that subject being
8 discussed.

9 Q. Okay. A little bit more specifically, did
10 either one of them ask you whether Mr. Ho could continue
11 to report on his income tax returns the property's net
12 income or net loss?

13 A. I don't believe there was any such discussion.

14 Q. Did either of them say anything to you to the
15 effect that they just wanted to change record title but
16 they had some sort of side deal or agreement that in
17 fact they would continue to treat the property as
18 co-owned?

19 MR. FRASER: Objection. Leading.

20 THE WITNESS: That was not my impression --

21 MR. BAER: Wait.

22 THE COURT: It appears to be. It appears to be
23 leading.

24 MR. BAER: Okay.

25 BY MR. BAER:

1 Q. Was there any discussion about whether this
2 transfer would just be a paper transaction effectively?

3 A. No. My impression -- my impression was that
4 somehow James got on title but he regarded that property
5 as being Debby's. She regarded it as being hers, that
6 the two of them had had discussions and had agreed that
7 they were going to come in and ask me to transfer title
8 out of James' name into Debby's trust and that that's
9 what they wanted me to do.

10 Q. After the first meeting did you have any plan
11 as to what you were going to do next?

12 A. I think during the course of the first meeting
13 I concluded that it would require a grant deed
14 transferring title to Debby's trust.

15 Q. Did you prepare the grant deed during or before
16 the April 21st meeting?

17 A. Before.

18 Q. At the April -- how long did the April 21st
19 meeting last?

20 A. It wouldn't have lasted for a real long time.
21 I'm guessing a half an hour. Could have been as much as
22 an hour.

23 Q. Okay. During that meeting, the second meeting,
24 did you consult with Ms. Chang or maybe I should say it
25 differently.

1 Did Ms. Chang consult with you outside of
2 Mr. Ho's presence at any time?

3 A. No.

4 Q. Were they both there for the entire meeting?

5 A. Yes.

6 Q. Was there any further discussion then about
7 whether they still wanted -- was there discussion then
8 about whether they wanted to sign the deed?

9 A. Yes. I would have described again what the
10 deed did. And they both said, yes, that's what we want
11 and signed the deed.

12 Q. Did you look for any red flags at that meeting
13 or had you satisfied yourself at the first meeting that
14 Mr. Ho understood what he was doing?

15 A. Well, you know, you are always alert to whether
16 there are red flags. There didn't appear to be any in
17 this case. It looked like -- I concluded that they both
18 wanted the same thing during the second meeting that
19 they wanted during the first meeting and that it was
20 something that had -- something that was consistent with
21 their agreement with each other.

22 Q. What made you think there were no red flags?

23 A. I didn't detect any reluctance on James Ho's
24 part to sign the documents. He seemed perfectly
25 willing. I didn't detect any lack of capacity. I

1 didn't detect any pressure from Debby on James. It
2 didn't look to me like what they were doing was crazy.
3 It seemed appropriate in view of their discussions with
4 each other. So --

5 Q. Did you -- sorry.

6 A. So -- no. That's okay.

7 Q. Did you communicate with either of them between
8 the two meetings?

9 A. I don't think so.

10 Q. Did you prepare notes at the second meeting?

11 A. I don't think -- I don't think so.

12 Q. At the second meeting did you explain the
13 nature of the transaction again or not?

14 A. Yes. Yes.

15 Q. Do you remember whether or not you said it was
16 a gift?

17 A. I think I had -- prior to the second meeting I
18 had prepared the grant deed and preliminary change of
19 ownership report taking the position that it was a gift
20 and that probably would have been discussed in the
21 second meeting.

22 Q. Did Mr. Ho have any questions about the
23 transaction at the second meeting?

24 A. No.

25 Q. Did he at the second meeting express any kind

1 of reluctance or reticence about signing the deed?

2 A. No.

3 Q. Did he say anything at the second meeting to
4 the effect he wanted to get any more information before
5 deciding whether to do that?

6 A. No.

7 Q. Was there discussion at the second meeting
8 about the value of James' interest in the McCollum
9 property?

10 A. I don't believe so.

11 Q. Did your impression of the nature of their
12 relationship change at the second meeting?

13 A. No. Pardon me. No.

14 Q. At either meeting did you -- did you observe
15 Ms. Chang pressure or badger Mr. Ho?

16 A. No.

17 Q. At either meeting did they argue with one
18 another?

19 A. No.

20 Q. How did they get along at the two meetings?

21 A. They got along with each other just fine.

22 Q. Do you --

23 A. They were on the same page the whole time.
24 They both wanted the same thing. They didn't have any
25 disagreements about anything. They seemed friendly with

1 each other.

2 Q. Was either one of them -- did either one of
3 them dominate the conversation at either meeting?

4 A. No.

5 Q. When Mr. Ho was speaking was he fluent?

6 A. Was he fluent?

7 Q. Yes.

8 A. Yes.

9 Q. Was it difficult for you to understand what he
10 was saying?

11 A. No.

12 Q. Was he lucid?

13 A. Yes.

14 Q. Was he attentive or did he lose focus at any
15 point in the two meetings?

16 A. No. He was attentive. He seemed -- let me see
17 how to say this. It didn't seem to be a big deal to
18 him. He wanted the property transferred to Debby's
19 trust. He asked me to do that. Debby asked me to do
20 that. Their instructions were consistent with each
21 other and didn't seem to be -- he didn't seem to have
22 any reluctance whatsoever. He just wanted it done.

23 Q. At either meeting did he appear to be ill to
24 you in any way?

25 A. No.

1 Q. At either meeting did he appear to be in any
2 kind of emotional distress?

3 A. No.

4 Q. Was there any indication in either meeting he
5 was having any kind of difficulty with his memory?

6 A. No.

7 Q. Was there any indication at either meeting that
8 he was having any kind of other cognitive problem or
9 deficit?

10 A. No.

11 Q. When you spoke to Mr. Ho and he responded, was
12 he responsive or did he stray off into tangents?

13 A. The former.

14 Q. At either meeting did he ever appear to be
15 disoriented?

16 A. No.

17 Q. At either meeting did he ever appear to be
18 confused about anything?

19 A. No.

20 Q. Did either of them nag the other?

21 A. Nag each other did you say?

22 Q. Yes.

23 A. No.

24 Q. At any point in either meeting did Mr. Ho
25 appear to be upset?

1 A. No.

2 Q. At either meeting did he appear to be unhappy?

3 A. No.

4 Q. Did either of them get angry about anything at
5 either of the meetings?

6 A. No.

7 Q. Did either of them do anything at either
8 meeting to prevent the other from expressing him or
9 herself?

10 A. No. They were on the same page. They wanted
11 the same thing. It didn't seem that James Ho regarded
12 it as a big deal. He just wanted it transferred. It
13 was a simple, straightforward request.

14 Q. When --

15 MR. FRASER: Move to strike his response after
16 the answer no.

17 THE COURT: Sustained. Stricken.

18 BY MR. BAER:

19 Q. When Mr. Ho signed the deed, did you doubt that
20 he was doing that freely and voluntarily?

21 A. It was clear that he was doing that freely and
22 voluntarily.

23 Q. What is the basis of your conclusion?

24 A. Just his demeanor and his actions.

25 MR. BAER: I don't have any further questions.

1 MR. FRASER: Can you take down the screen?

2 MR. BAER: What is this exhibit?

3 MR. KUO: It's already moved in and I believe
4 it's 337.

5 MR. BAER: Okay. Great.

6

7 CROSS-EXAMINATION

8 BY MR. FRASER:

9 Q. Mr. Malone, my name is Scott Fraser and I
10 represent Peter Ho. I have a couple questions for you.

11 A. Sure.

12 Q. You didn't know James Ho or Debby Chang before
13 April 2006. Correct?

14 A. That's correct.

15 Q. You only represented Debby Chang in this
16 matter. Correct?

17 A. That's right.

18 Q. During your initial meeting with Debby and
19 James on April 17, 2006, Debby did most of the talking.
20 Correct?

21 A. Maybe more than 51 percent but not 90 percent.

22 Q. And Debby was the one who described to you the
23 proposed transaction. Correct?

24 A. I don't have a specific recollection of whether
25 she was the primary speaker or he was. It's probably

1 fair to say that she spoke more than he did. He was
2 less interested in the transaction, frankly.

3 Q. So would it be fair to say that he was more of
4 a passive listener in the conversation?

5 A. Well, he was a joiner in the request.

6 Q. I understand that but could you answer the
7 question that I asked you?

8 A. Can you ask me once again, please?

9 Q. I said would it be fair to say that he was more
10 of a passive listener in the conversation?

11 A. No. He made the request as well as Debby made
12 the request. So in that sense he was more than a
13 passive listener.

14 Q. And you don't recall asking Debby and James the
15 circumstances under which the McCollum property was
16 purchased; is that correct?

17 A. I don't recall that.

18 Q. You don't recall asking them who provided the
19 down payment. Correct?

20 A. I don't recall that.

21 Q. And you don't recall asking them who paid the
22 expenses. Correct?

23 A. No. Those are things that were undoubtedly
24 discussed but I have no current recollection of what
25 those discussions were.

1 Q. You don't have any recollection of asking James
2 about his assets other than the McCollum Street
3 property. Correct?

4 A. That's correct.

5 Q. You don't recall asking James about his estate
6 planning. Correct?

7 A. That's correct.

8 Q. You don't recall asking James how many children
9 he had. Correct?

10 A. That's correct.

11 Q. You don't recall asking James to identify his
12 immediate family members. Correct?

13 A. That's correct.

14 Q. And you didn't have any background facts
15 regarding whether James was married. Correct?

16 A. Whether James was what?

17 Q. Was married.

18 A. That's correct. I think I concluded that he
19 was not but I don't remember what the discussions on
20 that subject may have been. I don't think I knew -- I
21 don't think I was informed that he was married.

22 Q. You don't recall any discussion with James
23 about his medical condition. Correct?

24 A. That's correct.

25 Q. You don't recall any discussion with Debby

1 about James' medical condition. Correct?

2 A. That's correct.

3 Q. At either of your meetings in April, do you
4 recall anyone informing you that James had a brain
5 tumor?

6 A. No.

7 Q. If you learned that he had a brain tumor, would
8 that be a red flag to you?

9 MR. BAER: Objection. Calls for opinion and
10 speculation.

11 THE COURT: Overruled.

12 THE WITNESS: That definitely would have
13 invited further inquiry.

14 BY MR. FRASER:

15 Q. You don't recall asking Debby about any of her
16 assets other than the McCollum Street property.
17 Correct?

18 A. I don't recall. I don't recall asking Debby
19 about her other assets.

20 Q. You don't recall asking Debby about how many
21 children she had. Correct?

22 A. I don't recall that.

23 Q. You don't recall asking Debby whether or not
24 she was married. Correct?

25 A. That's correct.

1 Q. Would the fact that Debby was married to
2 someone other than James had been a red flag to you?

3 A. I think it would have invited further inquiry.

4 Q. You never reviewed Debby's estate planning
5 documents; is that correct?

6 A. That's correct.

7 Q. The transfer of James' interest in the McCollum
8 Street property benefited Debby. Correct?

9 A. Yes.

10 Q. You did not explain the transaction to Mr. Ho
11 in writing before the grant deed was signed. Correct?

12 A. That's correct.

13 Q. You did not explain the potential consequences
14 of the transaction to Mr. Ho in writing before the grant
15 deed was signed. Correct?

16 A. That's correct.

17 Q. You did not explain to Mr. Ho in writing that
18 he was not receiving any remuneration for the transfer
19 before the grant deed was signed. Correct?

20 A. Sorry. The question was sort of garbled in
21 transmission here.

22 Q. No. That was my fault.

23 You did not explain to Mr. Ho in writing that
24 he was not receiving any remuneration for the transfer
25 before the grant deed was signed. Correct?

1 A. There was no such written warning, yes.

2 Q. You did not explain to Mr. Ho in writing that
3 you did not represent him before the grant deed was
4 signed. Correct?

5 A. Yes. That was explained verbally, not in
6 writing.

7 Q. You did not advise Mr. Ho to retain independent
8 counsel in writing before the grant deed was signed.
9 Correct?

10 A. That's correct.

11 Q. To your knowledge, James did not consent
12 independent counsel prior to signing the grant deed.
13 Correct?

14 A. I had no information on that subject.

15 Q. In your representation of Debby, did you
16 consider whether James and Debby were business partners
17 as related to their ownership, their joint ownership of
18 the McCollum Street property?

19 MR. BAER: Objection. Vague and ambiguous.

20 THE COURT: Overruled.

21 Sir, if you don't understand the question, just
22 state that.

23 THE WITNESS: Yeah. Can the question be
24 repeated, please?

25 BY MR. FRASER:

1 Q. In your representation of Debby, did you
2 consider whether James and Debby were business partners
3 as related to the ownership of the McCollum Street
4 property?

5 A. I don't have a recollection now of knowing
6 exactly what their relationship was with each other with
7 respect to that property. So I can't tell you if I
8 concluded or suspected or believed that they were
9 business partners on that property.

10 Q. So you did not consider whether as business
11 partners James and Debby would owe fiduciary duties to
12 each other; is that correct?

13 A. I have no recollection of that.

14 Q. And you did not advise them in writing of that
15 issue. Correct?

16 A. That's correct.

17 Q. So you did not advise James that Debby could
18 have a fiduciary duty to him as his business partner.
19 Correct?

20 A. Not in writing.

21 Q. I'm going to pull back up Exhibit 337. And I
22 believe you testified earlier this is a letter from you
23 to Debby Chang enclosing your invoice dated April 21,
24 2006?

25 A. Yes.

1 Q. So you only sent this letter to Debby.

2 Correct?

3 A. That's correct.

4 Q. And Debby was the one who paid your invoice.

5 Correct?

6 A. Yes.

7 Q. And you did not send this letter to James.

8 Correct?

9 A. That's correct. I don't believe I did anyway.
10 I mean, I can't tell you 100 percent with 100 percent
11 certainty, but I don't believe I sent a copy to him.

12 Q. You never represented James Ho after
13 April 2006. Correct?

14 A. That's correct.

15 Q. And the only times that you ever met James Ho
16 or spoke with him were on April 17th and April 21, 2006.
17 Correct?

18 A. That's correct.

19 Q. Those were your only two points of contact with
20 him?

21 A. Yes.

22 Q. You never represented Debby Chang after 2006.
23 Correct?

24 A. That's correct.

25 Q. You have no personal knowledge of how James and

1 Debby treated their income and expenses on the McCollum
2 Street property after 2006. Correct?

3 A. That's correct.

4 Q. You have no personal knowledge of how they
5 reported the income and expenses on the McCollum Street
6 property for tax purposes after 2006. Correct?

7 A. Yes. That's correct.

8 Q. You have no personal knowledge of whether James
9 remained on the mortgage to the McCollum Street property
10 after the transfer in 2006. Correct?

11 A. That's correct.

12 Q. If James remained on the mortgage after the
13 transfer, would that be a red flag to you?

14 A. I think it would have invited further inquiry.

15 MR. FRASER: No further questions at this time.

16 THE COURT: Redirect.

17 MR. BAER: Okay.

18

19 REDIRECT EXAMINATION

20 BY MR. BAER:

21 Q. So on the question of the mortgage, did you --
22 before preparing the deed, do you remember whether or
23 not you did any kind of a title search?

24 A. I probably did. I probably ordered a title
25 abstract on the property after the first meeting and

1 before the second meeting.

2 Q. Okay. Would the nature of the title abstract
3 that you ordered include information as to whether or
4 not the property was encumbered by a mortgage or
5 mortgages?

6 A. Probably not.

7 Q. Your chitchat meeting with them, what are the
8 kind of things that you typically discuss in that
9 initial part of the meeting?

10 A. I mean, it's just small talk. It takes you
11 wherever it leads, talking about families, talking about
12 things that may be requested, how she happened to get my
13 name, whether we knew anybody in common, just small talk
14 like that.

15 Q. Okay.

16 MR. BAER: No further questions.

17 THE COURT: Anything further?

18 MR. FRASER: No.

19 THE COURT: Very good. Is this witness excused
20 or is he subject to recall?

21 MR. BIORN: Excused.

22 MR. FRASER: Excused.

23 MR. BAER: He's excused.

24 THE COURT: Okay. Thank you very much,
25 Mr. Malone. You are free to go. You will not be

1 recalled unless there's express permission from me
2 basically. Thank you.

3 THE WITNESS: Okay. Thank you. Hope you guys
4 are able to resolve your differences.

5 MR. BAER: Thank you, Mr. Malone.

6 MR. FRASER: Thank you, Mr. Malone.

7 THE COURT: Okay. Do you want to take a
8 recess?

9 MR. BAER: Probably. I'm not positive if
10 Sophie is here or not.

11 (Whereupon, a brief recess was taken.)

12 THE COURT: We have another witness. Can you
13 swear in the witness, please.

14
15 SHIRLEY (SOPHIE) CHANG,
16 called as a witness on behalf of the Respondent,
17 having been sworn to tell the truth, testified
18 as follows:

19
20 THE COURT: Could you state your full name,
21 please.

22 THE WITNESS: Shirley Chang. I prefer to be
23 called Sophie, though.

24 / / /

25 / / /

DIRECT EXAMINATION

BY MR. BAER:

Q. Ms. Chang, when were you born?

A. My full birth date?

Q. That's fine.

A. 1964.

Q. Where were you born?

A. Where? In Taipei, Taiwan.

Q. When did you first come to the United States?

A. 1974.

MR. BIORN: Sorry. We are going to have to
have her speak up. Your Honor, I can't hear.

THE WITNESS: Okay.

MR. BAER: He has a bit of a hearing
impairment.

THE WITNESS: Okay.

THE COURT: Would it be easier if she sat here
and projected? Unfortunately the microphone is in the
middle of the table.

MR. BIORN: There's other people down here as
well.

MR. BAER: You can sit by me as well and you
can see her mouth.

MR. BIORN: Yes. I will move over there.

BY MR. BAER:

1 Q. Who did you come with?

2 A. I came with my father and my sister Rita.

3 Q. Where was your mother then?

4 A. She was already in California.

5 Q. And who was she here with?

6 A. She was here with my youngest sister, Judy.

7 Q. And where were they living then?

8 A. They were living in Redwood City.

9 Q. Have you resided in the United States since
10 then?

11 A. Yes. I had a little break. After I got
12 married I moved to Toronto for about a year and lived in
13 Italy for about four months and came back after.

14 Q. Did you become a citizen?

15 A. Yes.

16 Q. When?

17 A. I believe it was 1983.

18 Q. And do you have a profession or occupation?

19 A. Currently I am retired.

20 Q. What was your profession before retirement?

21 A. I was an associate director at a transitional
22 residence for single mothers and children who were
23 homeless.

24 Q. Briefly, what is your educational background?

25 A. I have a bachelor's degree in art and I have

1 three and a half years of additional education in
2 graphic design.

3 Q. When did you get married?

4 A. In 1995.

5 Q. And your husband's name is?

6 A. Baruch Saeed, B-a-r-u-c-h S-a-e-e-d.

7 Q. Did you live with anyone other than your mother
8 in Redwood City when you moved there? Who else was
9 living with you and your mother in Redwood City?

10 A. When we first came to the --

11 Q. Yes. When you first came.

12 A. We were -- let's see, my dad, my mom, Rita,
13 Judy and I.

14 Q. How long did your father stay in the United
15 States?

16 A. I believe he returned in 1980 to Taiwan.

17 Q. Did he go back permanently or did he come back
18 to the U.S. to reside?

19 A. He pretty much lived there since.

20 Q. Did you ever live with your mother anywhere
21 else in the Bay Area?

22 A. In El Cerrito, yes.

23 Q. What was the address at the El Cerrito place?

24 A. There were several places actually. Actually,
25 prior to El Cerrito we had lived in Albany.

1 Q. All right. And how old were you when you
2 stopped living with your mom?

3 A. I can't do the math fast enough. I basically
4 stopped living with her when I got married.

5 Q. All right. So you lived with her from -- at
6 least in the United States from -- when did you say you
7 came again?

8 A. '74.

9 Q. '74 until '95.

10 A. Until about '95, yes.

11 Q. Okay. Did you ever meet James Ho?

12 A. Yes.

13 Q. When did you first meet him?

14 A. It was close to the time of my wedding. I
15 think it was a little before my wedding.

16 Q. Where did you meet him?

17 A. Maybe at my mom's house in El Cerrito.

18 Q. Did he go to your wedding?

19 A. Yes.

20 Q. Did you invite him?

21 A. No. My mother invited him.

22 Q. Did she tell you she was doing that?

23 A. No.

24 Q. And what was the status of your mom's marriage
25 when you first met James?

1 A. She had been separated from my dad at the time.

2 Q. Did you see James again ever after your
3 wedding?

4 A. Yes. After we returned to the U.S. I saw him.

5 Q. Where?

6 A. At my mother's house.

7 Q. Did you know he was going to be there when you
8 came?

9 A. No.

10 Q. Was there any particular occasion or event for
11 your visit?

12 A. No. I was just visiting my mom.

13 Q. Was there anyone with your mom and James at her
14 home in El Cerrito besides the two of them?

15 A. You mean living there with them?

16 Q. No. Just there that day when you came to
17 visit.

18 A. I don't remember if it was just myself or if it
19 was my husband and I who visited my mom.

20 Q. Okay. So what did you do that day, if you can
21 remember, during that visit? Did you just stay there?
22 Did you go out to eat? Did you go on a trip?

23 A. You know, we probably just ate a meal at her
24 house or we might have gone to a restaurant. I don't
25 remember.

1 Q. Did you and James speak?

2 A. Yes.

3 Q. What were your initial impressions with him?

4 A. That he was a very kind man, very gentlemanly.
5 He was smiling, you know, all the time and he was very
6 easy to talk to. Yeah. And he was just -- just a very
7 nice person all around.

8 Q. What were your initial impressions from that
9 day of James' interactions with your mom?

10 A. They were very friendly with each other. They
11 were basically joking with each other a lot, and I think
12 they were just being very friendly with each other.

13 Q. Do you know whether James spent the night at
14 your mother's house that day?

15 A. I have no idea.

16 Q. Do you know whether he ever spent the night at
17 her house?

18 A. Yes.

19 Q. What do you know? In other words, did he or
20 did he not?

21 A. He did --

22 Q. All right.

23 A. -- spend nights there.

24 Q. How do you know that?

25 A. He had a bedroom in her house. There were

1 things in his bedroom that belonged to him: His
2 computer, his books, his newspaper, maybe little jars of
3 snacks, his pillow, his bedding, things like that, his
4 books.

5 MR. FRASER: I apologize but if you can just
6 speak up a little bit. I'm having a little trouble.

7 MR. BIORN: It could help also -- the witness
8 is directing her -- not on purpose -- but directing her
9 voice in this way which can make it harder to hear. I'm
10 just going to have him move down one chair.

11 MR. BAER: Okay. Are we ready to go?

12 MR. BIORN: Yes.

13 MR. BAER: Great.

14 BY MR. BAER:

15 Q. When did you first realize he was spending the
16 night there?

17 A. My husband and I had gone to visit my mother
18 and we would go out to dinner or have a meal at her
19 house. And it would be fairly late in the evening, nine
20 or ten o'clock, before we left, and it was obvious that
21 he wasn't going anywhere. So . . .

22 Q. When was that if you can recall? What year or
23 what month? Let me withdraw the question.

24 Was that before or after your wedding?

25 A. It was after my wedding.

1 Q. How much after wedding if you can say?

2 A. Maybe a year or two. Well, actually, let me
3 rephrase that. I would say probably a year or so after
4 we had started visiting -- after I had seen him at the
5 house.

6 Q. Where were you living at the time that you
7 first came to the house and saw James there?

8 A. I was -- I was living in Berkeley at the time
9 with my husband but -- yeah. I suppose that -- I
10 suppose that I was -- yeah. If I had not been married
11 and had seen him before my marriage, I would have been
12 living at home at that time. So he would have been
13 visiting.

14 Q. Okay. So between the time that you came back
15 to the United States after your wedding and your mother
16 retired in 2001, did you live anywhere other than
17 Berkeley?

18 A. No.

19 Q. So during that same period of time, how
20 frequently did you visit your mother when you were
21 living in Berkeley and she was living in El Cerrito?

22 A. I was probably visiting her anywhere between
23 three weeks to six weeks.

24 Q. When you came to visit her, was she typically
25 doing anything in particular at her house?

1 A. Sometimes she would be cooking for us or she
2 could be working in her yard or she could be talking to
3 the contractors or the cleaning lady.

4 Q. So again during that same time frame through
5 your mom's retirement, did James continue to have a
6 bedroom there or did that stop?

7 A. He's always had a bedroom there.

8 Q. When you came to visit during that time frame,
9 would you usually see James or not?

10 A. Sometimes he would be there and there were a
11 few times that he wasn't.

12 Q. When you came and he was there, did he -- do
13 you remember whether he ever left to go somewhere else
14 before you left?

15 A. Yes. Sometimes he would go and play tennis by
16 himself. Sometimes he would go to church.

17 Q. Could you tell during that time frame whether
18 he was staying at your mom's house when you were coming
19 to visit her or whether he was leaving to go home?

20 A. Oh, he was definitely staying there. He would
21 just step out to play tennis and come back. That's
22 how --

23 Q. How do you know that?

24 A. Because I would see him later in the afternoon
25 and evening.

1 Q. Speak up a little.

2 A. Sorry.

3 Q. It's okay. Did you -- did you learn he had
4 been married to a woman named Grace?

5 A. Yes.

6 Q. How did you learn that?

7 A. I don't recall exactly but my mom could have
8 told me or Della could have told me at one point.

9 Q. Did you ever hear James mention Grace in your
10 mother's presence?

11 A. No.

12 Q. So through this period of time, your mother's
13 retirement in 2001, when you are coming up to Brewster,
14 what were your impressions of James and Debby's
15 interactions then?

16 A. That they were loving towards each other. They
17 were very concerned about each other all the time. They
18 took care of each other, helped each other with
19 everything from very mundane tasks to larger projects.
20 My mom would cook for him. I know that when he was
21 traveling back and forth between my mom's home and his
22 home in San Mateo, my mom would cook him meals for him
23 to take home. And I know he has assisted my mother on
24 several projects associated with her house.

25 Q. At that point in their relationship, were they

1 physically affectionate with one another in front of
2 you?

3 A. In the Chinese culture it's really -- it would
4 be very inappropriate to show physical affection in
5 front of others. So I did not see that.

6 Q. Did you ever visit James in the Peninsula?

7 A. Yes.

8 Q. Where did you visit him -- first visit him
9 there?

10 A. I first visited him in his CSM home, a couple
11 of times I was there.

12 Q. When you visited James in the Peninsula, did
13 you ever visit him without your mother being there --

14 A. No.

15 Q. -- just him?

16 Where else in the Peninsula did you visit James
17 and your mother?

18 A. When they bought the Flying Cloud property, I
19 visited them a couple of times. When they were staying
20 at -- well, yeah. When they were staying at Boothbay --
21 and I'm not sure if James was staying there but I know
22 my mom was staying there at Boothbay -- I visited them.
23 He was there when I was visiting. I visited probably
24 two or three times there and at Promontory Point
25 probably twice and at Fulton, the Fulton property

1 probably four or five times.

2 Q. Okay. When you visited James and your mother
3 at the CSM property in San Mateo, did James ever appear
4 to be ill to you?

5 A. No.

6 Q. Through that time did he ever tell you that he
7 was sick?

8 A. No.

9 Q. Did he have any apparent health problems
10 through the time in any way during the time you visited
11 him at CSM?

12 A. None.

13 Q. Did you talk to James when you went down to his
14 house in San Mateo?

15 A. Yes, of course.

16 Q. What kinds of things did you and James talk
17 about?

18 A. Well, I remember once he was I think replacing
19 his floor, and we talked about how that project was
20 going. And I think my mom was helping him with some of
21 the landscaping and so we talked about that. We
22 probably talked about the children a little bit, how
23 they were doing.

24 Q. Did you yourself enjoy being with James?

25 A. Yes.

1 Q. Why?

2 A. Well, since my father had left and I had a
3 really good relationship with my father, I really missed
4 having a father. And when James was there, he was sort
5 of like my surrogate father. And we had quite a few
6 things to talk about and we joked around a lot. And he
7 was -- you know, he was very lighthearted and funny just
8 like my father was. And so I really enjoyed being in
9 his company.

10 Q. Through the times you were talking with him at
11 his home in San Mateo, was he lucid?

12 A. Yes.

13 Q. When you went to the Boothbay property, what
14 did you see there?

15 A. To be honest, it was kind of a mess. They were
16 doing some kind of remodeling there. I think they had
17 just taken the popcorn texture off the ceiling. There
18 was asbestos that they had to deal with, and I think
19 they had plans to replace the sliding door and so -- and
20 then there was a lot of -- landscaping project to be
21 done to this property.

22 Q. What made you think that your mother was living
23 there at the time?

24 A. She had her belongings in the room. She had
25 toiletries in the bathroom. There were utensils, plates

1 and cups and things like that in the kitchen, bedding in
2 the bedroom.

3 Q. Do you remember if she had a bed there?

4 A. I think it was a floor -- mattress on the floor
5 or something. I can't quite remember.

6 Q. Did you see her doing any work there?

7 A. Yeah. She was in the midst of working on the
8 landscape when we visited her.

9 Q. Did you ever see James doing any work there in
10 your -- I think you said it was two or three visits?

11 A. Not physically doing the work, no. But they
12 were definitely talking about details of their projects.

13 Q. Did they get into any arguments in front of you
14 over the project?

15 A. No.

16 Q. You visited Flying Cloud. Could you tell
17 whether they were living -- sorry. How many times did
18 you say you went down there?

19 A. I think a couple of times.

20 Q. Could you tell whether they were living
21 together there?

22 A. Yes.

23 Q. How could you tell?

24 A. They each had their own bedroom, the cupboards
25 were stocked and the most important thing was that I had

1 swapped out my furniture. So I basically gave them my
2 couch, my armoire, my coffee table. My sisters had
3 loaned them or given them their additional pieces of
4 furniture and artwork.

5 Q. Did James have any health problems that were
6 apparent to you when you visited him and your mom at
7 Flying Cloud?

8 A. Absolutely not.

9 Q. Was he lucid during those visits?

10 A. Yes.

11 Q. Can you describe the Flying Cloud property just
12 briefly?

13 A. It was situated in a court and it was a
14 two-story home and it had an A-framed roof. There was a
15 small yard in the front and the back -- in the backyard
16 was basically a small patio and beyond that that was the
17 lagoons. And it had a living room, dining room, at
18 least a couple of bathrooms and of course the bedrooms.

19 Q. Did James talk to you at all about whether he
20 liked the place?

21 A. He seemed to have liked it.

22 Q. I forgot to ask you this, but did you and James
23 have any common interests?

24 A. Common interests? Well, we would talk about
25 various subjects from time to time.

1 MR. BIORN: What?

2 THE WITNESS: We would talk about various
3 subjects from time to time, things like religion,
4 history, politics.

5 BY MR. BAER:

6 Q. What religion was James?

7 A. He was Christian.

8 Q. Could you tell whether that was important to
9 him?

10 A. Yes. It was. It was important to him I think
11 on a spiritual level, but he also enjoyed going to
12 church for the social interaction.

13 Q. Did James and your mother have any kind of
14 argument in front of you at the Flying Cloud property?

15 A. No.

16 Q. Did they ever have any kind of argument in
17 front of you?

18 A. They bickered quite a bit. They never really
19 screamed or yelled at each other.

20 Q. What did they bicker about?

21 A. Stupid things. Just really trivial things. I
22 can't even remember.

23 Q. Okay. And then you visited them at Promontory
24 Point next. Can you describe that property again just
25 briefly?

1 A. Well, the unit that they were living in was a
2 rental and so it was a huge complex. I thought -- I
3 think -- I can't remember which floor they lived on, but
4 we had to take an elevator up to the level they were at.
5 And their unit was at the end of this very long corridor
6 that was exposed on both sides.

7 And the unit itself was very large. I would
8 say it's -- it was probably larger than my house. So
9 when you went in, it was a very open sort of layout with
10 a living room, a bar, and the bedrooms were in the back
11 and there was a dining area as well.

12 Q. The first time you visited there, why did you
13 go down?

14 A. Just to visit them to see their new place.

15 Q. Did you ever go down for any other reason?

16 A. Well, James was starting to be a little bit
17 more ill. So I wanted to make sure that we visited him.
18 And the other thing was that I had not seen my mother in
19 a very long time because she had been very busy taking
20 care of James. And I just wanted to see her as well,
21 see how everyone was doing.

22 Q. When you visited the Promontory Point, did you
23 know whether they were contemplating moving?

24 A. Moving?

25 Q. To another place.

1 A. Oh, yes. Yes.

2 Q. How did you know that?

3 A. James was interested in another unit in the
4 complex and he wanted me to -- and my husband to take a
5 look at it. And so he made an appointment and we were
6 able to see it. And he wanted my opinion on the unit
7 and I gave him my honest opinion.

8 Even though he really liked it and I knew he
9 liked it, I didn't think it would have been a good
10 investment because the building was settling. And it
11 was apparent when you looked at the floor, especially
12 toward the corner of the room, it had started sloping in
13 one direction. And the balcony basically was very
14 uneven. You can see sort of a -- kind of a wavy sort of
15 underlay foundation in the concrete. So I advised
16 against.

17 Q. What was his reaction to that?

18 A. Well, he was clearly not pleased but I had to
19 be honest with him. You know, it would be a big
20 investment.

21 Q. Was he lucid during your visits to Promontory
22 Point?

23 A. Yes.

24 Q. During your visits to Promontory Point, was
25 there anything that gave you the impression that he

1 might be having any kind of cognitive problem?

2 A. No.

3 Q. Did you ever eat out with James and your mom?

4 A. Yes. Many times.

5 Q. Who paid when you would eat out with the two of
6 them?

7 A. Sometimes my mom would be able to pay, but I
8 would say James would pay most of the time. And
9 occasionally I would be able to sneak my credit card to
10 the waitress a little bit before the meal is over so I
11 can pay.

12 Q. How did James react when you paid?

13 A. Well, I think he was not exactly pleased but he
14 didn't show anger. And my mother had told me on one
15 occasion that I probably should not do that anymore
16 because James would like to pay for the meals.

17 Q. Did James say anything about that when you
18 paid?

19 A. Oh, he probably just smiled and said, oh, you
20 shouldn't have done that.

21 Q. The last time that you went down to Promontory
22 Point, what do you remember about that visit?

23 A. It was a little frustrating for me because I --
24 again, I had not seen my mother for a long -- in a long
25 time. And I really wanted to talk to her, but she was

1 running around all over the place, getting this and that
2 for James, getting his medicine, preparing his meals,
3 bringing him meals, that sort of thing and getting him
4 ready for naps. So I really probably had about
5 15 minutes' worth of conversation with her at that
6 point.

7 Q. Did you say with her?

8 A. With her, yeah.

9 Q. Did you have any conversation with him during
10 that visit?

11 A. Very briefly. His energy level was fairly low
12 at that point. So I didn't want to sap his energy, but
13 I was still able to ask him questions and see how he was
14 doing.

15 Q. Was he lucid?

16 A. Yes. He was able to answer my questions.

17 Q. When you were talking to him was he attentive
18 or had he lost focus?

19 A. He was still attentive.

20 Q. Then you said you visited them four or five
21 times at the Fulton property.

22 Was there any reason you visited them there
23 more often than the other places that they lived
24 together in the Peninsula?

25 A. Yes. I knew that he had been undergoing chemo

1 treatment. So I knew that would be very hard on his --
2 his body. So I just wanted to offer him emotional
3 support and let him know that we're there for him and
4 we're encouraging him to fight, you know, against this
5 disease and to just provide emotional support for him.
6 And I also, you know, brought him some gifts to show him
7 that we care.

8 Q. Did you say any of those things to James? You
9 said you were providing him emotional support. It's not
10 at least clear, I don't think, as to what you actually
11 told him, if anything.

12 A. Well, I told him that we are rooting for him
13 and that he's a strong guy and that he's a fighter and
14 that he definitely can get through this thing.

15 Q. What was his response?

16 A. He smiled and nodded.

17 Q. Did you think that was genuine or that he was
18 just kind of going along with you?

19 A. Oh, I think he wanted to fight. He was genuine.

20 Q. Why did you think that?

21 A. Because of who he is or was.

22 Q. What year was that?

23 A. That was 2017.

24 Q. Did you celebrate James' birthday with him that
25 year?

1 A. Yes.

2 Q. Where?

3 A. It was at a restaurant in I think it was
4 Burlingame, and it was a birthday meal that was
5 organized by my mother. And she had invited the family
6 including Della, Della's in-laws, me and my husband, my
7 sister and a few other friends.

8 Q. Did you speak with James at the dinner?

9 A. Briefly. There were so many guests and we were
10 sat -- we were sitting in the big round table and the
11 restaurant was quite noisy. So I didn't really get to
12 speak to him that much.

13 Q. Do you remember what month it was?

14 A. His birthday is in July.

15 Q. How was he doing then?

16 A. He was -- he was okay. He wasn't quite as ill
17 as he was at Fulton but he was -- I mean, he was still
18 at Fulton at the time. I'm sorry. So, I mean, his
19 level of energy was definitely more limited but he was
20 still engaged.

21 Q. Did you think he was doing better or worse than
22 the -- well, let me kind of organize things temporally.

23 What came first, the dinner or your visit when
24 you told James that he needed to fight to live?

25 A. I'm sorry. Can you repeat the question?

1 Q. Which was first? The dinner or the visit when
2 you told James that he needed to fight to live?

3 A. Oh, the birthday dinner was first, yes.

4 Q. At the birthday dinner was James lucid in your
5 brief conversation?

6 A. Yes.

7 Q. What did you bring to him for his birthday?

8 A. I don't think I brought him anything that year.

9 Q. Oh. Did you typically get James presents on
10 his birthday?

11 A. Sometimes I would.

12 Q. What would you get him?

13 A. I recall one year it was a bathroom scale
14 because he said that he had seen one in our bathroom and
15 really liked it. So I bought him that. On other
16 occasions I would buy things that I think that he would
17 need, such as a thermos or a blanket or a vest or a
18 backpack.

19 Q. Why did you get him the backpack?

20 A. I got the backpack for him when he was still
21 commuting between his CSM home and my mother's home. He
22 was carrying food back home. So I thought a backpack
23 would make things a little easier for him to carry.

24 Q. You said you brought him a present or presents
25 at Fulton. What did you bring him then?

1 A. I brought him a couple of blankets.

2 Q. Why did you get him those things?

3 A. I just wanted to show him that he was being
4 cared for and that -- a blanket is sort of an
5 appropriate thing I thought for someone to maybe feel a
6 little bit cozier, you know, when they are ill.

7 Q. How did he react to getting the blanket from
8 you?

9 A. Appreciative.

10 MR. BAER: Your Honor, it's -- I don't know if
11 you want to break or not. I'm not going to end real
12 soon. It's really up to you.

13 THE COURT: How much more time do you have with
14 this witness?

15 MR. BAER: Maybe an hour or a little more than
16 that.

17 (Whereupon, a brief discussion was held off the
18 record.)

19 (Whereupon, a lunch recess was taken.)

20 THE COURT: I remind you, you are still under
21 oath. Mr. Baer.

22 BY MR. BAER:

23 Q. Did you ever observe your mother threaten
24 James?

25 A. No.

1 Q. Did you ever observe James threaten him?

2 A. No.

3 THE COURT: Her.

4 THE WITNESS: Yes. I knew what he meant.

5 BY MR. BAER:

6 Q. Yes. Did either of them ever say in your
7 presence that they were going to leave the other?

8 A. No.

9 Q. Did your mother ever tell you she wanted to
10 leave James outside of his presence?

11 A. No.

12 Q. Did she ever tell you she wanted to break off
13 her relationship with him?

14 A. No.

15 Q. Did she ever tell you that she wanted a break
16 from him?

17 A. It was I think -- I think it was during the
18 time when James was taken away from her that she said
19 something about Peter offering, you know, a break -- an
20 opportunity for her to take a break, you know, for a few
21 days.

22 Q. Did she want to do that or not -- or did she
23 tell you she wanted to do that or not?

24 A. She didn't tell me outright but she said she
25 welcomed the opportunity.

1 Q. Did James ever say anything to you to the
2 effect that he wanted to leave your mother?

3 A. No.

4 Q. Did he ever say anything to you to the effect
5 that he wanted or needed a break from her?

6 A. No.

7 Q. Did you ever communicate with James in writing
8 by e-mail or text, cards, letters?

9 A. I have sent him birthday cards in the past.

10 Q. Did your mother talk to you about her feelings
11 towards James?

12 A. Yes.

13 Q. What did she say?

14 A. She said that James was the most caring person
15 that she has in her life -- she had in her life and
16 besides my grandmother that nobody came close to how he
17 cared for her and that he was intelligent. He was
18 funny. He was warm. He was always, you know, taking on
19 her problems when she had, you know, whatever she had
20 either with the remodeling or any other issues with -- I
21 don't know -- with whatever, he was always there for
22 her.

23 Q. Did she ever tell you how she felt about her
24 relationship with James?

25 A. That she felt that she was -- that he was very

1 caring, that she felt like they were basically like
2 husband and wife, that they cared and loved each other
3 very much and -- I mean, I'm not sure what --

4 Q. You have answered.

5 A. -- there is to say.

6 Q. You have answered.

7 Did James talk to you at all about his feelings
8 toward your mother?

9 A. No.

10 Q. Did you have a sense about whether he enjoyed
11 being with her?

12 A. Oh, it was very obvious.

13 Q. How was that obvious to you?

14 A. Well, what I have seen is sort of playfulness
15 that he had around her. They joked a lot. They laughed
16 a lot, you know, and whenever my mom needed a little
17 help, even if it's just a dish from the kitchen that she
18 had cooked, he did it with, you know, just a lot of
19 enthusiasm.

20 It was almost like he wanted to please her, you
21 know, and to be -- I don't know if it was a show for us
22 in front of the kids but it was genuine, you know, but
23 at the same time it was -- yeah. It was authentic.

24 Q. Was he critical of her?

25 A. Not in front of me.

1 Q. Did he say anything about her characteristics
2 in front of you?

3 A. No. Well, nothing negative but positive, yes.

4 Q. What did he say positive about her?

5 A. That she was a very capable woman, that she
6 knew how to do a lot of things and that she was a good
7 mother.

8 Q. Did he ever say anything to you about what he
9 thought about how she cared for him after he got ill?

10 A. I don't recall anything specific.

11 Q. What did you call James?

12 A. Ho Bobo.

13 Q. What does that mean?

14 A. Uncle Ho.

15 Q. Why did you call him uncle when he was not your
16 uncle?

17 A. That's just a polite term for a male person who
18 is older.

19 Q. And --

20 A. It's a term for basically any male family
21 friend.

22 Q. Did your mother ever tell you whether she
23 wanted to marry James?

24 A. No.

25 Q. Did you ever hear your mother talking about the

1 possibility of marrying James?

2 A. No.

3 Q. Was it your impression that the two of them got
4 along poorly, well, very well or what?

5 A. They got along very well except for just
6 occasional bickering.

7 Q. What gave you that impression?

8 A. Well, they did everything together, you know.
9 They went on trips together. They had friends that they
10 saw together. They did tours together. They ran
11 errands together. They were just with each other a lot,
12 and they were happy being in each other's company.

13 Q. Before they moved to the Fulton house, did you
14 ever see James doing anything to help Debby?

15 A. Yes. Like I said, my mother had various
16 projects with her home. And he helped a lot with the
17 projects in terms of sorting out some problems she ran
18 into, managing some of the contractors. He helped
19 design a few things. I think he helped design the
20 filtration system in the pond that she had at her house
21 with fish in it. And he had helped with some of the
22 landscaping. He even had a wet suit just for cleaning
23 out the filter, fish pond.

24 Q. Did --

25 A. And I'm sorry. And there was one other thing

1 that was really, really important, which was the time
2 when she was carjacked.

3 Q. Can you explain what -- first of all, did you
4 see your mother in the aftermath of the carjacking?

5 A. Yes. I did.

6 Q. Where was she?

7 A. She was already at the hospital then.

8 Q. What kind of condition was she in when you saw
9 her at the hospital?

10 A. She was in shock basically and she had some
11 injury in her face.

12 Q. What kind of injury did she have?

13 A. Bruises, scratch.

14 Q. Did James -- did you see James at the hospital?

15 A. I know he must have been there because -- I
16 think he was the one that informed me about the
17 incident.

18 MR. BIORN: Objection. Move to strike as
19 nonresponsive.

20 THE COURT: Sustained. Stricken.

21 BY MR. BAER:

22 Q. How did you find out about the incident?

23 A. I believe he called me.

24 Q. What did he tell you?

25 A. That my mother was in the hospital.

1 Q. And what was his emotional state then?

2 A. He seemed shaken.

3 Q. How in general did he respond to the fact that
4 your mother -- to that incident, if you saw anything he
5 did or said?

6 A. I'm sorry --

7 MR. BIORN: Objection. Calls for speculation.
8 I don't know. A phone call I think -- I thought you
9 were saying if he saw something. I don't know that we
10 have established that they saw each other.

11 THE COURT: Establish foundation. Rephrase.

12 MR. BAER: Sure.

13 BY MR. BAER:

14 Q. Did you talk to James about what happened?

15 A. Yes.

16 Q. Did he explain what happened?

17 A. Yes. He was the one that told me what
18 happened, which was that he had arrived by BART to meet
19 my mother who had been waiting for him in her car and
20 that when he arrived he found her lying on the curb
21 slumped over.

22 Q. Did he say whether she was conscious?

23 A. I think he said that he had to wake her up and
24 ask her what happened.

25 Q. Did he explain what he had done then?

1 A. Well, I guess he took her to the hospital.

2 Q. Is that what he said?

3 A. I can't remember the details exactly.

4 Q. Okay. Do you know from personal knowledge
5 whether he helped care for her after the incident?

6 A. Yes. I was working at the time. And he was
7 staying with her to take care of her on a daily basis
8 until I was able to get there to visit her and check up
9 on her.

10 Q. Where was that happening?

11 A. At the El Cerrito Brewster home.

12 Q. Did you think your mother supported James
13 emotionally?

14 A. Yes. She did.

15 Q. How?

16 A. Just being there for him and providing, you
17 know, for his daily care, making meals for him and
18 taking him to places, expanding his social network. She
19 had introduced a lot of her friends to him and just
20 being his companion.

21 Q. After James became ill, did you personally see
22 your mother doing anything to care for him?

23 A. Yes.

24 Q. What did you see her do?

25 A. She cooked for him. She gave him medication.

1 She just made sure he was comfortable at every moment.
2 Probably took him to see the doctor probably a couple of
3 times, researched alternative medicine for him, shopped
4 for him, made sure that all the ingredients for the meal
5 preparations were of the highest quality.

6 Q. Was James ever mean to your mom?

7 A. No.

8 Q. Did your mother tell you that she loved James
9 or not?

10 A. Yes.

11 Q. What did she say?

12 A. She didn't -- well, she didn't use the word
13 love, but as I said before, she said that she felt that
14 James loved her intensely and that she -- she feels, you
15 know, the same way towards him.

16 Q. In general, how did you think that James
17 treated your mother?

18 A. Extremely well.

19 Q. What makes you say that?

20 A. He was her protector. He made sure that her
21 life was as easy as possible. He took some of the
22 burden off of her when she had a lot of things on her
23 plate and just made sure that everything that she was
24 involved in went as smoothly as possible.

25 Q. Did she ever refer to James as her husband in

1 your presence?

2 A. No.

3 Q. Did he ever refer to her as his wife in your
4 presence?

5 A. No.

6 Q. Did you ever see either -- I should say hear
7 either one of them tell anybody else they were married?

8 A. There might have been an occasion or two where
9 there were contractors working at her home and they may
10 have called -- you know, referred her -- to her as his
11 wife and vice versa.

12 Q. Okay.

13 A. But I can't recall anything, you know, any more
14 specific than that.

15 Q. Okay. Do you remember whether either one of
16 them corrected that or just let it go by?

17 A. No. They kind of ignored it.

18 Q. After your mother met James, do you have any
19 information to the effect that she dated anyone else?

20 A. She did not date anyone else.

21 Q. Why do you say that so confidently?

22 A. She was devoted to James.

23 Q. How did your mom take it when she learned that
24 James had passed away?

25 A. She was in shock. She couldn't believe that

1 after all this time that the care that she had put in
2 that he would be gone in such a short period of time and
3 so -- she was expecting to see him and this was just a
4 tremendous shock.

5 Q. In your presence did she cry?

6 A. Yes. She more than cried. I mean, she was so
7 distraught. She was depressed for almost a year and a
8 half, in deep depression, and she got a little bit
9 better after that. But I don't think she's ever gotten
10 over it.

11 Q. How did that deep depression manifest itself to
12 you in the year and the half following James' death?

13 A. It was hard for her to get out of bed. It was
14 hard for her to be interested in anything. She loved
15 listening to classical music every day. She loved
16 playing on her piano. She stopped doing that for many
17 years. She still hardly does that these days.

18 Q. Let me change the subject now and ask you some
19 questions about your observation of James in the mid
20 2006 period. I know that's a long time ago. So I will
21 try to peg it to, say, four to seven years after your
22 mom's retirement in 2007. So like from 2005 to 2008, in
23 that general time frame. Okay?

24 A. Okay.

25 Q. So in that time frame where were you living?

1 A. I was in Berkeley.

2 Q. How often were you typically seeing James
3 during that period of time?

4 A. Like I said, it was probably anywhere from
5 every three weeks to about six weeks.

6 Q. Okay. During that period of time had anyone
7 told you that James had any kind of significant health
8 problem?

9 A. I think my mom had mentioned that there was a
10 brain tumor at the time.

11 Q. Before she told you that, had your observations
12 of James caused you to suspect that there might be some
13 problem with him?

14 A. No.

15 Q. After she told you that -- after she told you
16 that -- first of all, when did you first hear that from
17 your mom?

18 A. It was sometime around, I don't know, 2005,
19 20- -- I can't remember exactly.

20 Q. What's your best estimate?

21 A. 2006, '7.

22 Q. Okay. For the next five years or so after you
23 learned that, was there anything about James that caused
24 you to think that he was having any health problem?

25 A. No. In fact, I mean, after I was told about

1 the brain tumor, I actually had forgotten it because he
2 was just behaving like a normal, healthy human being.
3 He was -- you know, he had a lot of vitality. He was
4 active physically. He was conversing with everyone and
5 socializing with his friends and had outings with us.
6 So there was no reason for me to suspect anything --

7 Q. After --

8 A. -- was wrong.

9 Q. After your mom told you about his brain tumor,
10 for the next five years did you observe him to have any
11 kind of cognitive problem?

12 A. No.

13 Q. For the next five years did anybody tell you
14 about any incident that suggested that he had a
15 cognitive problem?

16 A. No.

17 Q. During that time frame did James say anything
18 to you to the effect that he thought his memory was
19 going downhill or he was having trouble thinking?

20 A. No.

21 Q. Did you typically speak with James in English
22 or Mandarin or both?

23 A. Both.

24 Q. Okay. Did he have any difficulty making
25 himself clear to you in Mandarin?

1 A. No.

2 Q. Did he have any difficulty making -- so let me
3 go back just a sec. Okay. For the next five years
4 after learning he had the brain tumor, did he have any
5 difficulty making himself clear to you when he was
6 speaking in Mandarin?

7 A. No.

8 Q. Okay. How about in English, for the next five
9 years after learning he had the brain tumor, did he have
10 any difficulty making himself clear to you in English?

11 A. No.

12 Q. Did you ever observe James have any difficulty
13 in expressing himself to you in either language?

14 A. No.

15 Q. When was the last time you saw James?

16 A. This was at Della's home. We were informed by
17 Shan-Yuan that his dad wasn't doing well, that we should
18 come by and see him.

19 Q. Did you -- go ahead.

20 A. Yeah.

21 Q. Did you see him there?

22 A. Yes.

23 Q. Did you talk to him there?

24 A. I spoke to him but --

25 Q. Did he talk to you?

1 A. He was not able to talk. His jaw -- his mouth
2 was wide open and remained open the entire time that we
3 were there. He was not able to speak at all.

4 Q. How long before that was the last time that you
5 saw James?

6 A. Probably a week to a couple weeks before.

7 Q. Okay. So before your last visit with James,
8 did you ever observe him to lose focus on what you were
9 saying to him?

10 A. No.

11 Q. Again, until the last time you saw James, did
12 he exhibit any kind of memory problem to you?

13 A. No.

14 Q. Did he complain to you ever that he thought he
15 was losing his ability to recall or something to that
16 effect?

17 A. No.

18 Q. Did you learn from anybody that any incident
19 occurred that would indicate he might have a cognitive
20 deficit?

21 A. No.

22 Q. When you spoke to him, other than, of course,
23 the last time you saw him, would he be responsive to
24 what you said or would he stray off into tangents?

25 A. He was responsive. His answers were short

1 because his energy level was quite low.

2 Q. Did he ever appear to be disoriented to you?

3 A. No.

4 Q. Did you ever see him meet somebody who he knew
5 or a family member and not recognize them?

6 A. No.

7 Q. Was he ever confused about who you were?

8 A. No.

9 Q. Did you ever take any trips with your mother
10 and James?

11 A. We went out of town a few times. We went to
12 Sonoma, Napa. We went to Sea Ranch. I took them to the
13 museums, Golden Gate Park, places like that.

14 Q. Did anyone else go besides your mom, you and
15 James?

16 A. My husband.

17 Q. Who typically organized those outings?

18 A. Me.

19 Q. Did you invite James?

20 A. Yes.

21 Q. Did he ever turn you down?

22 A. No.

23 Q. Did you celebrate James' birthday with him
24 ever?

25 A. Yes.

1 Q. How often would you do that?

2 A. Quite a few times at my mom's place or we would
3 go out to restaurants.

4 Q. Did you celebrate your mother's birthday with
5 her and James?

6 A. Yes.

7 Q. How often did that happen?

8 A. Probably a few more times than that.

9 Q. Was there any birthday celebration for your mom
10 before James' passing that he did not go to obviously
11 after 1995?

12 A. No, not that I can remember.

13 Q. Did James -- first of all, did you ever have
14 any celebrations for your birthday after 1995?

15 A. For my birthday?

16 Q. Yes. For your own birthday, did you ever go
17 out or have a party or anything like that after 1995?

18 A. Yeah. I tend not to make a huge deal out of my
19 own birthday. I'm sure there were a few celebrations.

20 Q. Okay. Do you remember whether James came to
21 any of them?

22 A. Yes.

23 Q. Did he or did he not?

24 A. Yes. He did.

25 Q. Okay. And after 1995 do you remember ever

1 having any celebration in the Bay Area that he did not
2 come to?

3 A. Sometimes he didn't, yeah. He wasn't there.

4 Q. Do you know why?

5 A. He had other engagements.

6 Q. Okay. Did you ever decide -- well, do you
7 remember having a -- strike that.

8 Okay. Did you ever go to any events or
9 occasions with any of James' children?

10 A. Yes.

11 Q. What were they?

12 A. Peter came to our house for Thanksgiving and
13 Christmas occasionally and -- with his wife and James.
14 We had meals at restaurants a couple of times with Peter
15 I think. And I went to Della's home with my mom after
16 Sarah's birth. Let's see, and I actually met Della at a
17 mutual friend's birthday party once.

18 Q. Did you ever meet any of James' children or get
19 together with them at the El Cerrito house?

20 A. Yes.

21 Q. When was that?

22 A. I think I must have -- yes. I have seen Peter
23 there a few times and Shan-Yuan I believe came to visit
24 one year.

25 Q. Did you celebrate Thanksgiving, Christmas with

1 Peter anywhere other than your house or was it just at
2 your house?

3 A. At my house, at my sister's home and I think at
4 Brewster, my mom's Brewster home.

5 Q. Your sister Judy, is she married?

6 A. Yes.

7 Q. When did she get married?

8 A. I want to say 2007.

9 Q. Did you go -- or did they have a reception,
10 first?

11 A. Yes. I think so.

12 Q. Did you go?

13 A. Yes.

14 Q. Did James or any of his children go?

15 A. James went, not the children.

16 Q. Did any of James' children ever discuss their
17 relationship with their father with you?

18 A. Della did.

19 Q. What did -- when did that happen?

20 A. There were a couple of occasions. As I
21 mentioned, I ran into her at a mutual friend's birthday
22 party.

23 Q. When was that?

24 A. That was maybe ten years ago, maybe not quite
25 ten years, maybe nine. My memory is a little fuzzy on

1 that.

2 Q. What did Della say then about her relationship
3 with her father?

4 A. That it was not good. Basically that he didn't
5 go to her son's games and that he had taken wedding
6 checks from her, I think. Let's see. Yeah. I think
7 that was what I remember.

8 Q. Did she display any emotion about it?

9 A. Yeah. She was crying at the party and I
10 started crying with her.

11 Q. Did she say anything about what she wanted to
12 do?

13 A. What do you mean? About --

14 Q. Did she express any desire to try to patch
15 things up with her dad or improve the relationship?

16 A. She didn't seem interested.

17 Q. What makes you say she didn't seem interested?

18 A. I think she just said that it was so -- it's
19 just been too long that they had a good relationship,
20 that she didn't think it was possible.

21 Q. Did she talk about your relationship with
22 James?

23 A. She actually said my relationship with James
24 was probably better than what she had with her father.

25 Q. Did you ever speak with Della about James'

1 health or any illness he had?

2 A. Yes. I ran into her once in the driveway of my
3 neighbor who was also a mutual friend of ours. And I
4 had -- I said to her, I said, "I'm really sorry about
5 what is happening with your dad, how ill he is." And
6 she seemed surprised. She said she didn't know that,
7 that he was ill.

8 Q. What year was the conversation?

9 A. 2017.

10 Q. At least based on what you had been told, what
11 was wrong with James then? What was his illness?

12 A. He was diagnosed with myeloma.

13 Q. Did you meet with Della any other time in 2017?

14 A. At James' birthday party.

15 Q. And --

16 A. And also there was a family meeting that we
17 had.

18 Q. The --

19 A. I'm sorry. Another occasion where she came
20 over and wanted to talk about something, about, I guess,
21 the incident with my mom that she had.

22 Q. Okay. So let's go through those one by one.
23 Did you talk to Della at the birthday party?

24 A. Yes. I did.

25 Q. Did she say anything to you then about her dad?

1 A. Just what I have already told you about her
2 relationship with him or lack thereof.

3 Q. Do you remember whether you saw Della speaking
4 with her father at his birthday party that year?

5 A. I don't remember. All I remember is that she
6 didn't seem to want to come. My mom had sent a text to
7 her inviting her to the party and received no response
8 from her. Finally my mom reached out to me to text
9 Della. I texted Della and Della responded and she
10 showed up at the party.

11 Q. In responding did she say she was going to
12 come?

13 A. Yes.

14 Q. Okay. So you were talking about an event when
15 she came over to your house. When was that?

16 A. That was, I want to say, the end of August
17 sometime.

18 Q. Okay. And --

19 THE COURT: Can we have an approximate year?

20 MR. BAER: Sorry.

21 THE WITNESS: 2017. Sorry.

22 MR. BAER: Sorry about that.

23 BY MR. BAER:

24 Q. Did -- first of all, did you invite her or did
25 she ask to come?

1 A. She reached out to me and wanted to talk about
2 something she said.

3 Q. Okay.

4 A. At that point I knew she had already had a
5 run-in with my mother. So I kind of had a hunch that
6 she was going to talk about that.

7 Q. Okay.

8 A. So I said yes, you can come.

9 Q. So when she came what did she talk about?

10 A. So she came with her husband, Steven. And my
11 husband was also there. And I asked her what this is
12 all about. And, first of all, I thought it was strange
13 because she and I really don't have too much of a close
14 relationship. And so she proceeded to talk about how --
15 about the down payment that James had put down for the
16 Fulton house, then continued to tell me again about the
17 wedding checks that her father had taken from her, about
18 how he had taken \$60,000 worth of money from her and her
19 sister and that Steven's business wasn't doing so well
20 and that they could really use the money and that her
21 dad would probably need the money for -- to hire some
22 care providers.

23 Q. So do you remember anything more specific that
24 she said about the down payment?

25 A. She asked me if I considered that as a huge

1 amount, whether that was appropriate for James to give
2 to my mother. And I told her that was their business,
3 not mine.

4 Q. Did she say how much she thought James had
5 given to your mother or how much of a down payment he
6 had made?

7 A. I think she referred to the 1.1 million at that
8 point.

9 Q. Did she ask you to do anything about it?

10 A. She wasn't very specific. And I think she
11 assumed that I would ask my mom about it or act as a
12 mediator for the two of them.

13 Q. Did she ask you to do that?

14 A. I just assumed that that was her intention.

15 Q. Okay. Did you have any discussion with her
16 about care options for your -- for her father?

17 A. I asked her if she and her siblings had talked
18 with an estate lawyer about his estate and about
19 whether -- how he -- if he had allocated money for his
20 caretaking and she said no. And I said that it would be
21 wise. Both my husband and I suggested to her that it
22 would be wise to talk to an estate lawyer.

23 Q. Why did you give her that advice?

24 A. Because my husband and I had already made
25 provisions for each other and that was an appropriate

1 thing to do, especially at this stage in James' life. I
2 was a little shocked that that wasn't in place.

3 Q. Did she tell you whether she thought James had
4 given your -- gifted the money to your mother?

5 A. She questioned whether that money was given to
6 her inappropriately.

7 Q. Okay. Did she say why she was questioning it?

8 A. She thought it was a huge amount for someone.

9 Q. Did you see Della again after that?

10 A. Yes. There was a family meeting at the
11 beginning of September that involved the siblings on the
12 Ho side and the siblings on the Chang side.

13 Q. When was that?

14 A. At the beginning of September. I think it was
15 Saturday, first week of September.

16 Q. Who was there?

17 A. Peter, Shan-Yuan, Della, Rita, Judy and I.
18 Judy conferenced in by video but dropped out because the
19 connection was really bad about a third of the way
20 through.

21 Q. Did you want to meet?

22 A. Yes. I wanted to meet because I wanted to have
23 an opportunity to talk to the Ho kids about getting our
24 parents back together.

25 Q. Why did you want to do that?

1 A. Well, it was obvious that my mom wanted James
2 back and she had told me that she had received several
3 messages from James saying that he wanted to be back.
4 So we needed to get them back together.

5 Q. How was the meeting arranged?

6 A. I think I had reached out to Peter about
7 getting the parents together. Then we had exchanged a
8 few texts. And he insisted I be at the meeting because
9 he assumed that I was on top of my mother's financial
10 situation. And since my priority was to get the parents
11 back together, I agreed to meet him.

12 Q. Was there an -- at least an informal sense, was
13 there any kind of agenda for the meeting? Had the Hos
14 or the Changs expressed what they wanted to talk about?

15 A. In the text I did state that I wanted to talk
16 about getting the parents back together, but at one
17 point Peter said that -- I think Peter said that -- it
18 was either Peter or I said that maybe we should just
19 keep the parents out at this point at the meeting. I
20 can't quite remember.

21 Q. Okay. Before the meeting occurred had you
22 wanted them to both come at any point?

23 A. I think so.

24 Q. Did you have any discussion about setting up
25 anything so that Debby and James could see one another?

1 A. I'm sorry?

2 Q. At that meeting, the family meeting, two family
3 meetings -- or at the two-family meeting, was there any
4 discussion about setting something up so that James and
5 Debby could see one another?

6 A. Well, we had asked the Ho kids whether they
7 would be able to see each other, if we could arrange
8 something, but the kids didn't seem interested. They
9 said their father was happy where he was, that they
10 didn't want to rock the boat.

11 Q. Was there any discussion at the meeting about
12 his health?

13 A. I don't remember exactly if there was anything
14 specific.

15 Q. Do you remember if any of the Hos expressed any
16 concern about his health?

17 A. They didn't seem to be -- to be concerned at
18 that meeting.

19 Q. Why do you say they didn't seem to be
20 concerned?

21 A. All they wanted to talk about was money. They
22 somehow went through James' records and discovered that
23 he had written a series of checks to my mom over the
24 years. And they also brought up the subject of the down
25 payment for the Fulton house and did say at one point

1 that he -- or Peter mentioned something about splitting
2 the down payment with my mom and the sisters. So I
3 don't know what came of that.

4 Q. Okay. What did you -- what did you say about
5 that?

6 A. I said it would be appropriate for them to give
7 something to my mother since my mother and James
8 basically were a couple and, you know, they were living
9 as a married couple. And normally a spouse would leave
10 something to a surviving spouse. That's appropriate.

11 Q. Did you say that at the meeting or is this --
12 you're talking about what you think?

13 A. I didn't -- I didn't use those words
14 specifically. We just suggested that my mother get
15 something for all the years that she devoted to James.

16 Q. Okay. What was the response to that if you
17 recall, if any response?

18 A. I think someone nodded in agreement and just
19 left it at that.

20 Q. Okay. And so when the meeting ended, was there
21 any kind of arrangement made for James and Debby to see
22 each other again?

23 A. No, nothing specific.

24 Q. Okay. And then -- so after that meeting what
25 was the next thing that happened vis-à-vis the Ho

1 family?

2 A. I believe it was the day when Shan-Yuan and
3 Peter came by the Fulton house to retrieve the handicap
4 placard and the car for James.

5 Q. Do you remember any of the discussion that day?

6 A. Some of it, yes. I remember that it was kind
7 of a difficult situation because my mother was still
8 fairly angry about what happened between her and Della.

9 Q. All right. What was your next interaction with
10 anyone in the Ho family?

11 THE COURT: Can I interrupt you? It's 1:56.
12 Do you want to -- I'm just concerned about your
13 two o'clock witness.

14 MR. BAER: I am just about done.

15 THE COURT: Okay.

16 MR. BAER: I am just about done. So I would
17 rather -- maybe somebody could tell her that we'll get
18 to her soon.

19 THE COURT: We're off the record.

20 (Whereupon, a brief discussion was held off the
21 record.)

22 THE COURT: Okay.

23 MR. BAER: Could you read the last question
24 back?

25 (Whereupon, the record was read.)

1 THE WITNESS: Well, we were going back and
2 forth about how to retrieve the car, return the car to
3 Peter.

4 BY MR. BAER:

5 Q. And then after that?

6 A. After that -- I can't remember exactly the
7 sequence of events, but Shan-Yuan said something about
8 the fact that they had already changed the will, the
9 father's will, which I didn't understand. I don't know
10 how they could have done that.

11 Q. Okay. So let's go to the final time that you
12 saw James again for a little bit. Who was there at that
13 time? Let's back up just a second.

14 Where was that?

15 A. It was at Della's home. We had --

16 Q. Wait a sec. Let me just ask the next question.
17 Okay. You answered.

18 When did that occur?

19 A. Sometime in the afternoon. Is that what you
20 are asking?

21 Q. What date?

22 A. It was September 3rd maybe or 4th.

23 Q. Okay.

24 A. I don't remember exactly.

25 Q. So who was there when you got there?

1 A. It was Shan-Yuan and one other woman. I didn't
2 quite know who she was but Shan-Yuan directed her to
3 stand at a certain spot in the room where James was
4 staying.

5 Q. Before -- when you got the e-mail from
6 Shan-Yuan saying you should come, what did you do next?

7 A. I was in Fremont at the time. I was trying
8 to -- I contacted my mom to tell her what happened, that
9 we had received a text from Shan-Yuan and that we
10 were -- that we had to get to Della's home very quickly.
11 And my mother was obviously on -- you know, in Redwood
12 City.

13 So I had to go get her in rush hour traffic and
14 eventually -- and get her dressed, get myself cleaned
15 up. I was working in the yard at the time. So it all
16 took awhile. Eventually we got to Della's, met Rita
17 there. And Shan-Yuan let us in.

18 Q. Okay. What did Shan-Yuan say when she let you
19 in?

20 A. She said that we only had a little window to
21 visit with James because she had sent out Peter and
22 Della. And so we were to just visit with James a little
23 bit.

24 Q. Do you remember -- well, and so what happened
25 next after she told you that?

1 A. And so we entered the room where James was
2 staying and saw James in his condition that I had
3 described earlier. And my mom started crying and saying
4 to James that the kids had kept him away from her and
5 that she kept trying to contact the kids to let her see
6 him.

7 And at that point Shan-Yuan reprimanded us and
8 told my mom not to upset James by talking about the
9 abduction basically and that she would remove us from
10 the room and terminate the visit if we continued to talk
11 about the subject.

12 Q. That day when you were watching James, did you
13 see him in any way respond to anything that was
14 occurring or said?

15 A. No.

16 Q. All right. So what happened after Shan-Yuan
17 reprimanded your mother?

18 A. So we basically had to comfort James, tell him
19 how much we cared about him and loved him and that --
20 hope that he would get better so that we can be together
21 again, something to that effect. It was a very
22 traumatic experience. So I can't recall the exact
23 conversation.

24 Q. How long were you there?

25 A. It seemed like about 15 minutes.

1 Q. Why did you leave?

2 A. Shan-Yuan basically escorted us out because she
3 said Peter and Della were coming home.

4 Q. Do you recall how you learned -- how you first
5 learned that James had passed?

6 A. I believe my mom had received news from someone
7 she knew at James' church and soon after we received a
8 text from Shan-Yuan. Rita had received a text from
9 Shan-Yuan.

10 MR. BAER: Let me mark as next exhibit --
11 what's the next exhibit? Let me show you Exhibit 662.

12 (Whereupon, Respondent's Exhibit 662 was marked
13 for identification.)

14 MR. BAER: Is it two pages?

15 MR. KUO: Three pages.

16 MR. BIORN: Yes. There is one extra page.
17 There's two copies of the first page.

18 BY MR. BAER:

19 Q. Have you seen the e-mail thread that is
20 Exhibit 662 before?

21 A. Yes.

22 Q. Did you receive the first e-mail on the first
23 page from Shan-Yuan to you and Rita and Della and Peter
24 sent on September 6th?

25 A. Yes.

1 Q. Okay. Does that refresh your recollection as
2 to when you saw James last?

3 A. Yes.

4 Q. When was that?

5 A. That was September 5th.

6 Q. Okay. Then the next e-mail down in the thread
7 sent by you apparently on September 7, 2017, did you
8 send that e-mail to -- well, strike that.

9 Did you send the e-mail?

10 A. Yes.

11 Q. Who is Kato?

12 A. That's Shan-Yuan.

13 Q. Okay. Then this says: "We just received the
14 news about your dad from someone at his church. We are
15 profoundly sad about your father's passing as we have
16 enjoyed his company."

17 Did your mom tell you who at the church told
18 you he had passed?

19 A. No.

20 Q. Do you remember any more specific ---first of
21 all, when your mom -- when you got the news, did you get
22 the news from your mother or from someone else?

23 A. I got it from my mother.

24 Q. Okay. Just in the context of this e-mail, do
25 you remember anything else about -- well, strike that.

1 How did -- did she tell you face-to-face? Did
2 she tell you on the phone? How did she communicate to
3 you he had passed?

4 A. I think it was face-to-face.

5 Q. Okay. Do you recall anything more about that
6 event?

7 A. Yes. Basically that she was just -- she was
8 just shocked, very distraught.

9 Q. Okay. Then the next e-mail in the thread is
10 from Shan-Yuan to you and Rita and Della and Peter at
11 6:24.

12 Did you have any communication with Shan-Yuan
13 between the time of your e-mail at 6:16 p.m. that day
14 and hers of 6:24 p.m. that day?

15 A. Let's see, I think -- I think just a text that
16 informed us that he had passed away.

17 Q. Okay. And so in her e-mail at 6:24 she invited
18 your mother or one of you to be present.

19 Did you decide to go to the funeral?

20 A. Yes. Rita and I decided to go to the funeral.

21 Q. Why did you go to the funeral?

22 A. Because it was important to me to be at James'
23 funeral being so close to him to pay my respect.

24 Q. Did your mother attend?

25 A. No.

1 Q. Did she say why not?

2 A. Yes.

3 Q. What did she say?

4 A. She said that she would faint if she were to
5 attend. She was afraid that she would faint.

6 Q. Before you saw James at Della's house in
7 September, had your mother told you that she was there?
8 I'm sorry.

9 Had your mother told you that he was there?

10 A. I think she was a little bit confused about
11 where he was exactly.

12 Q. Did she say whether she wanted -- when she
13 first brought up that he wasn't in Fulton anyway, did
14 she say whether she wanted to see him?

15 A. Yes.

16 Q. What did she say about that?

17 A. That she felt really ambivalent basically. She
18 was very exhausted taking care of him, that she needed a
19 break and, like I said, she was relieved that Peter was
20 taking care of James that weekend. But then after not
21 being able to really talk to James and see him for a
22 while, she really wanted him back.

23 Q. Did she ever complain to you about James?

24 A. No.

25 Q. Did she ever complain to you about caring for

1 him?

2 A. No.

3 Q. Did she ever talk to you about whether caring
4 for him had any impact on her?

5 A. Yes. She was very exhausted. She told me that
6 and that it was impacting her health, her sleep, her --
7 just her body physically. It was draining emotionally.

8 Q. Did you give her any advice?

9 A. I told her that she needed help and that -- and
10 I was wondering why the kids hadn't stepped up to hire
11 help for them.

12 MR. BAER: Okay. I don't have any further
13 questions for the witness.

14 THE COURT: Okay. This will be an appropriate
15 time to take a recess.

16 Sophie, you are in a kind of awkward position.
17 You are not excused. You can talk to the attorneys
18 about the case but you can't talk to anyone else and
19 that makes it awkward.

20 THE WITNESS: I understand.

21 THE COURT: You want to talk to your husband
22 but you can't. Okay? And you will be called back
23 probably in months the way things are going. You are
24 free to go but you are not excused from testifying.

25 THE WITNESS: I am free to go for today?

1 THE COURT: Yes.

2 MR. BAER: At some point we will get back
3 together and Mr. Biorn will have questions for you.

4 THE WITNESS: I would expect that.

5 THE COURT: Thank you.

6 THE WITNESS: Thank you.

7 MR. BAER: Let me move the -- what's the e-mail
8 exhibit number?

9 MR. KUO: 662.

10 THE COURT: Any objection?

11 MR. BIORN: No.

12 THE COURT: Received.

13 (Whereupon, Respondent's Exhibit 662 was
14 admitted into evidence.)

15 (Whereupon, a brief recess was taken.)

16 THE COURT: On the record. We have a new
17 witness. Could you please swear in the witness.

18

19 RHONDA MATTERN,
20 called as a witness on behalf of the Respondent,
21 having been sworn to tell the truth, testified
22 as follows:

23

24 THE COURT: Could you state your first and last
25 name and spell your last name.

1 THE WITNESS: Yes. Rhonda Mattern,
2 M-a-t-t-e-r-n.

3 THE COURT: Thank you.
4

5 DIRECT EXAMINATION

6 BY MR. BAER:

7 Q. Ms. Mattern, I'm David Baer. I represent Debby
8 Chang in this case. I'll be asking you some questions
9 and then opposing counsel may have some questions after
10 that.

11 What is your occupation?

12 A. I'm retired at the moment. I might be working
13 again but I'm retired for the moment.

14 Q. Okay. What did you retire from?

15 A. I was executive director of a psychotherapy
16 training organization.

17 Q. And where was that?

18 A. In Berkeley, California.

19 Q. Do you know Debby Chang?

20 A. I do.

21 Q. How did you come to meet her?

22 A. She was renting an apartment that I rented from
23 her.

24 Q. And how did you find out about that?

25 A. Online, some online listing.

1 Q. Did you respond to the ad?

2 A. Yes. I came to an open house.

3 Q. Did you meet Ms. Chang there?

4 A. Yes. She was showing the apartment.

5 Q. Did you rent the apartment from her then?

6 A. I did. She offered it to me of all the people
7 that were there, and I signed a lease with her sometime
8 after that.

9 Q. Okay. When did that happen?

10 A. We rented that place in 2014, August 2014.

11 Q. Did you move out?

12 A. Yes. The end of 2017.

13 Q. Did you know a man by the name of James Ho?

14 A. Yes.

15 Q. How -- let's just go back a little bit. So
16 when you agreed to rent -- well, what did you agree to
17 rent?

18 A. Debby had a two-floor house and the bottom
19 floor was an apartment.

20 Q. Where was --

21 A. And I rented the bottom floor apartment.

22 Q. Where was it?

23 A. It was 1319 Brewster Court in El Cerrito,
24 California.

25 Q. Okay. Was there any hiatus between the time

1 that you -- how long was it after you agreed to rent the
2 place before you moved in?

3 A. I don't know exactly. Probably couple of
4 weeks.

5 Q. Do you know James Ho?

6 A. Yes.

7 Q. How did you meet him?

8 A. Debby introduced him as her husband when he
9 was -- he came one time with her to the property.

10 Q. When you were living -- well, did anybody live
11 with you at the apartment?

12 A. Yes. My partner Dick Reedington (phonetic).

13 Q. So do you know during the time that you were
14 there, three years or so, whether Ms. Chang ever lived
15 there?

16 A. She stayed upstairs occasionally if she had to
17 stay overnight when, say, workmen were coming to work on
18 the house.

19 Q. Did you ever see where she lived?

20 A. She took me upstairs once and I vaguely
21 remember there was a bedroom. She rented the upstairs
22 to people as well, people that she knew, and she stayed
23 in the back bedroom --

24 Q. Did you -- sorry.

25 A. -- when she stayed.

1 Q. When did she show you her room?

2 A. That was actually the day that she rented to
3 me. She explained the situation to me, that she and her
4 husband lived on the Peninsula that, you know, she came
5 every once in a while when there were problems with the
6 property and she showed me that. So that was, you know,
7 end of July probably before I signed the lease.

8 Q. Did you see her after that?

9 A. Yeah. I would see her when she came to check
10 out the property for different problems, you know, pest
11 control, gardening issue. She had a fish pond. So it
12 seemed like there were contractors and people around a
13 lot. She would come for that sort of thing, I mean, not
14 often but, you know, every couple of months.

15 Q. Did she ever tell you whether she liked that
16 property?

17 A. Yeah. She liked it a lot. In fact, she would
18 have preferred to live there.

19 Q. How do you know that?

20 A. Well, she told me that she would have preferred
21 to live in that property in El Cerrito but her husband
22 James wanted to live on the Peninsula.

23 MR. BIORN: Your Honor, I will move to strike
24 as hearsay.

25 MR. BAER: I think it's intent. We're talking

1 about state of mind.

2 THE COURT: Okay. Will not be received for the
3 truth of the matter. It will just be received to show
4 her intent.

5 MR. BAER: And his.

6 MR. BIORN: And whose?

7 MR. BAER: His.

8 MR. BIORN: James'?

9 MR. BAER: Yes. That's what she said.

10 THE COURT: I see. Okay. Yes.

11 MR. BIORN: I think it should be stricken as
12 least as to his.

13 THE COURT: For the limited purpose on why
14 they're living on Fulton.

15 MR. BAER: Or wherever it was at the time.

16 BY MR. BAER:

17 Q. Okay. So did you ever do any work for
18 Ms. Chang?

19 A. Yes. Occasionally she would have me write
20 letters for her to her tenants when there were problems
21 with her tenants, when their rent was late, things like
22 that.

23 Q. Were you -- did she pay you to do that or did
24 you just volunteer to do it?

25 A. I volunteered to help her but she actually did

1 pay me.

2 Q. Did you use her address for that
3 correspondence?

4 A. Yeah. I think it was her address in Redwood
5 City or on the Peninsula.

6 Q. Why did you use the address in Redwood City or
7 the Peninsula?

8 A. Well, that's where she lived.

9 Q. Did -- what means did you use for paying rent
10 to Ms. Chang?

11 A. We sent checks.

12 Q. To what address did you send checks?

13 A. I don't have the exact address in front of me.
14 There was one in Redwood City. I can look it up if you
15 need it and then later I think Foster City.

16 Q. Who did you see more frequently, Mr. Ho or
17 Ms. Chang?

18 A. Definitely Debby Chang.

19 Q. Were you on a first-name basis with either of
20 them?

21 A. Both of them. We got to know them over time.

22 Q. When you first met James, did he appear to be
23 ill?

24 A. No.

25 Q. Did that ever change?

1 A. Yes.

2 Q. How long was it before Mr. Ho appeared to you
3 to be ill?

4 A. Maybe six months before he passed away.

5 Q. Had anybody told you before you saw him that he
6 appeared to be ill, whether there was anything wrong
7 with him?

8 A. Yeah. Debby had mentioned that he had cancer.

9 Q. Okay. What did she say about that?

10 A. Well, she said he had cancer and that, you
11 know, I guess he had been diagnosed and she was
12 concerned. She seemed to not quite know what to do
13 about it or, you know, where to go, how to get help.

14 Q. Do you remember anything else about the
15 conversation?

16 A. The first conversation when she told me that --
17 well, she was very upset he was ill. I mean . . .

18 Q. Did she ever ask you for any kind of advice or
19 help in connection with James?

20 A. Well, it seemed to us that -- to my partner and
21 I that she and James didn't have much help. They didn't
22 even know how to use online resources. So I had said,
23 "Do you need help with this?" And she said she
24 definitely would like my help to research the options,
25 medical options, things like that.

1 Q. Did you do that for her?

2 A. My husband actually was a member of a patient
3 advocacy program at UCSF and he did research for James.

4 Q. How many times did you see James would you
5 estimate before he got ill?

6 A. Before he got ill, maybe six to eight times.

7 Q. How many times did you see him after he got
8 ill?

9 A. Maybe another handful like that, maybe another
10 six times.

11 Q. Okay.

12 A. He would come to the property with Debby.
13 Actually, more frequently after he was ill.

14 Q. Why did he come?

15 A. Debby had told me that he was feeling weaker
16 and she was worried to leave him alone.

17 Q. I think you testified that your husband did
18 research. What kind of research did he do?

19 A. Just different medical options. He didn't seem
20 to have any help or resources to -- like, to get on the
21 Internet and kind of think of options for his care. So
22 it was that kind of work. He hooked him up with a
23 support group. That sort of thing.

24 Q. Were you ever there -- well, did you or -- did
25 you or your husband ever invite James to come up to the

1 property either directly or through Debby?

2 A. Yeah. After we offered to help, James and
3 Debby came over. That was the only time -- I think
4 maybe once or twice that we actually had them in the
5 apartment and we went over some paperwork and things
6 that Dick had printed out for them because we weren't
7 sure how Internet savvy they were or what kind of
8 support they had.

9 Q. Did James read any of the things that were
10 printed out?

11 A. He did. He and Dick discussed them.

12 Q. Do you remember anything James said about the
13 materials that Dick had printed out?

14 A. Well, he asked questions. You know, he seemed
15 to be thoughtful about the whole thing and asked
16 questions, and I don't remember specifics but it was
17 about different aspects. You know, it was quite
18 technical material.

19 Q. Did James indicate whether he already knew any
20 of the information that your husband printed out for
21 him?

22 A. No. He seemed -- again, part of the reason we
23 offered to help is he seemed not to have any local
24 resources. So it seemed new to him.

25 Q. Did he read anything when he was there besides

1 what had been printed out?

2 A. I don't remember. I just remember them looking
3 over the papers that Dick had printed and the
4 information.

5 Q. Did James complain it was difficult for him to
6 read anything?

7 A. No.

8 Q. Did he complain it was difficult for him to
9 understand any of it?

10 A. No. He seemed very, you know, with it, right
11 and able to ask questions. He didn't complain.

12 Q. Did James ever talk about his children?

13 A. No. I had no idea he had children. We were
14 kind of shocked to find out he had children because he
15 seemed, you know, so lacking in resources to help him
16 out with basic things like Internet research.

17 Q. Did he ever come up there without Debby?

18 A. No. Well, not to my knowledge. I never saw
19 him without Debby.

20 Q. Right. That's what I mean. Okay.

21 Did James -- after James got sick, did his
22 appearance change over time or did he more or less
23 continue to look the same as when you first realized he
24 was ill?

25 A. At first he looked very much the same but over

1 time he definitely looked more pale, looked a bit
2 weaker, hunched over. He lost weight.

3 Q. Did you form any impression of the nature of
4 the relationship that Ms. Chang and Mr. Ho had?

5 A. Well, like I said, I was told they were married
6 and, you know, they seemed affectionate, warm. You
7 know, in fact, they seemed so affectionate and warm that
8 when I later found out they'd been together 20 years, I
9 was a little surprised. I kind of thought that they
10 might have just gotten married.

11 Q. When you say they were affectionate, did they
12 display that physically or verbally?

13 A. Both. You know, they would be holding hands or
14 he would have his arm around her. They would joke and
15 look at each other affectionately, you know, the kind of
16 thing couples do.

17 Q. What kind of things did James talk to you about
18 over the course of time when he came up to Berkeley and
19 saw you?

20 A. Well, you know, it was mostly polite kind of
21 chatter. I was renting from them. So, you know, they'd
22 talk about the Peninsula or the weather or the garden or
23 the fish or their time in Taiwan. Sometimes they would
24 talk about that.

25 Q. What did James say about his time in Taiwan

1 other than he was there?

2 A. You know, the thing I most remember is that he
3 and Debby knew each other in Taiwan, that they were
4 friends there, that they had known each other for a long
5 time.

6 Q. Was James -- sorry. Was Debby ever critical of
7 James when she was speaking to you?

8 A. No.

9 Q. Was she ever critical of him when she was
10 speaking to him in your presence?

11 A. No.

12 Q. Did she have any complaints about James when
13 she was talking to you?

14 A. No.

15 Q. Did she ever complain about anything she did
16 for James?

17 A. Well, near the end she would say, you know, she
18 was worried about him and that she was tired from caring
19 for him but not complaining. I mean, I thought she was
20 overdoing it a bit. She was making him these special
21 Chinese soups and this and that. And I was a little
22 worried for her but she was not complaining other than
23 to say she was really tired and of course she was really
24 worried about him.

25 Q. Was she overdoing it in complaining?

1 A. I'm sorry. I didn't understand.

2 Q. Did you think she was overdoing it in
3 complaining?

4 A. No. She wasn't really complaining. I mean, I
5 have nursed sick people younger than her and it's
6 tiring. So I don't think she -- no. I think she was
7 tired but she was, you know, obviously into it and
8 caring -- caring for him.

9 Q. Did you ever see Ms. Chang try to pressure
10 Mr. Ho?

11 A. No.

12 Q. Did you ever observe him trying to pressure
13 her?

14 A. No.

15 Q. Were either one of them ever domineering?

16 A. No, not at all.

17 Q. Was it your impression that either one of them
18 was effectively the alpha in the relationship?

19 A. No. I mean, they were just a couple, you know,
20 together. I didn't have that kind of impression
21 that . . .

22 Q. What were your impressions of James?

23 A. He was bright. He was, you know, articulate.
24 He was an interesting person with a varied background.
25 I enjoyed talking to him.

1 Q. How did you learn -- did you learn -- did
2 someone inform you that he passed away?

3 A. Yes. Debby told me.

4 Q. Did she tell you in person or on the phone or
5 e-mail? How did you find out from her?

6 A. I believe she called.

7 Q. What did she say, if you remember?

8 A. Well, she was just very upset. She said that
9 he had passed away and that she had been unable to see
10 him in the period before he passed away.

11 Q. Did she express any kind of emotion in the call
12 that you could tell?

13 A. Oh, yes, she was sobbing. She was very sad.

14 Q. How long before that call was it when you'd
15 last seen James?

16 A. Maybe a month and a half, two months.

17 Q. When you saw him then, was he lucid?

18 A. Oh, yeah. He was, you know, maybe a little
19 quieter than he had been but definitely clearheaded.

20 Q. When he came that time, did he do any reading?

21 A. Not that I recall, no.

22 Q. That time did he meet with your husband or was
23 that before then?

24 A. That was before.

25 Q. Okay. Any of the times you were speaking with

1 James, when you were having a conversation with James,
2 did he ever lose focus on what you were saying?

3 A. No.

4 Q. Did he ever appear to be confused to you?

5 A. No. He's a very sharp guy, like I said.

6 Q. What makes you say that?

7 A. Well, he would respond appropriately to things
8 and, you know, he was well read and well -- he was
9 thoughtful. You can tell just by the way he talked and
10 what he talked about. He was articulate.

11 Q. Did he exhibit any kind of memory problems when
12 he was -- when you saw him?

13 A. Not that I saw, no.

14 Q. Did you ever hear of any incident from anyone
15 indicating that he might have a memory problem?

16 A. No.

17 Q. Did he himself ever complain that he thought
18 his memory was declining?

19 A. No, not that I recall, no.

20 Q. Did he ever complain to you about thinking that
21 he was having any kind of problem with his mental
22 processes besides --

23 A. No.

24 Q. -- just memory? Okay.

25 A. No.

1 Q. Did you make any kind of suggestions for James'
2 care to either Debby or James?

3 A. You know, at one point when Debby -- I was
4 concerned about Debby because she was taking care of him
5 so much and doing all this special cooking and whatnot,
6 and so I suggested that, you know, maybe it's time for
7 hospice to come in. She didn't seem aware of hospice.
8 And I told her I would call and, you know, get some
9 information for her.

10 Q. What was her reaction to the suggestion?

11 A. I think she was glad I was caring for her, but
12 I think she was also was happy and wanting to care for
13 James. I explained to her that this would only be --
14 somebody could come in once in a while, change the
15 sheets and help out like that.

16 Q. Did you -- did Debby ever talk about any of
17 James' children?

18 A. No. I never knew he had children until right
19 near the end.

20 Q. Okay. Did you ever meet any of James' --
21 Debby's children? Sorry.

22 A. Yeah. Debby talked about her children
23 regularly when I would see her, and I met one of her
24 kids once or maybe twice when they came to the house for
25 something.

1 Q. Do you remember which child?

2 A. I believe it was Rita. It was definitely not
3 Sophie. Rita.

4 Q. Did you ever socialize with Debby and James?

5 A. Only once for Debby's birthday. This was after
6 we had helped James. I think this was sort of to thank
7 us for that help. They were having a little birthday
8 gathering at a restaurant with some friends of theirs
9 and they invited us for dinner that day.

10 Q. Who invited you? Debby or James or both?

11 A. Debby -- well, Debby and James. Debby extended
12 the invitation on behalf of both of them.

13 Q. Did you go?

14 A. We did.

15 Q. Did you talk to James there?

16 A. Yeah. We did.

17 Q. Could you tell whether he enjoyed being at
18 Debby's birthday?

19 A. Yeah. He seemed -- I mean, we did notice that
20 he was having a little trouble walking then. My husband
21 took his arm at a certain point, but other than that he
22 was, you know, pretty much his usual self.

23 Q. Did Debby ever talk to you about her feelings
24 towards James?

25 A. Oh, yeah. I mean, she -- well, I don't talk

1 about it -- you know, she would tell me things about him
2 affectionately, you know, little stories about him, that
3 sort of thing.

4 Q. Did she tell you whether she enjoyed being with
5 him?

6 A. I mean, it was obvious that they enjoyed being
7 with each other. I'm not sure she came right out and
8 said, oh, I enjoy being with him but it was clear. She
9 would show me little trinkets he had bought her. She
10 had this little rooster he bought her she cherished,
11 that kind of thing. It was clear they had an
12 affectionate relationship.

13 Q. Do you remember anything else about the
14 rooster?

15 A. Yeah. Actually, after James died, she couldn't
16 stand looking at it because it would make her so sad.
17 She said it meant so much to her and she gave it to me
18 as a little parting gift when I left because she said
19 she couldn't -- she was so full of grief that she
20 couldn't stand, you know, looking at it. It just made
21 her cry.

22 Q. What was your impression, if you formed one,
23 about James' feelings toward Debby?

24 A. It seemed the same. Like I said, they were --
25 I don't mean to be racist. I have known other Chinese

1 couples and that culture doesn't seem to be demonstrably
2 affectionate, and they were clearly affectionate with
3 each other. They seemed to both care about each other a
4 lot, and they had been married for 20 years.

5 Q. Did you ever -- did anyone ever tell you they
6 were not actually married?

7 A. After James died Debby said to me they weren't
8 actually married.

9 Q. Did you ever see them argue or disagree?

10 A. No.

11 Q. Did James ever talk to you about what he
12 thought about Debby's care?

13 A. Debby's care?

14 Q. Yes. Care for him. Was she doing a good job,
15 a bad job or any other kind of thing that he expressed
16 about her?

17 A. James caring for Debby?

18 Q. Sorry. Did I say it wrong? It's Friday.

19 A. I'm not sure.

20 Q. Debby caring for James?

21 A. Oh, well. He said he was incredibly grateful.
22 You know, after he was sick, he would say things like,
23 "I don't know what I would do without her" and "She's my
24 rock" and that kind of thing. And I think he might have
25 even felt a little bad she was doing so much, but Debby

1 seemed, you know, determined to get him well even when
2 it was clear he was not going to get better.

3 Q. What made you think he might feel bad about
4 that, about what she was doing for him?

5 A. Well, he would say things like she's really
6 working hard for me and making me all these special
7 things. I remember once him saying, "I'm worried about
8 her. "She's not a young girl," that kind of thing, but
9 Debby was like, oh, you know, you need your special
10 soups and she was encouraging and . . .

11 Q. After James died, did you see Debby again?

12 A. Yeah. Same thing, when she would come to the
13 house for repairs and things I would see her.

14 Q. Did she ever come back to stay there
15 permanently? Let me withdraw the question.

16 After James' death, did she stay there more
17 often than before or less often than before or is it
18 about the same?

19 A. She stayed a little more. She stayed
20 downstairs. She was going through papers and things.
21 She was going through stuff. I didn't know much about
22 it because I didn't always know when she was there or
23 not, but it seemed she was there a little bit more.

24 Q. Okay. When you saw her there, did you have any
25 talks with her about James' death?

1 A. Yeah.

2 Q. What did she say?

3 A. Well, she was grief-stricken and she was also
4 upset because she was denied access to seeing him near
5 the end.

6 Q. When was your last -- for how long after James'
7 death was she saying things like that, if at all, other
8 than the one time you mentioned?

9 A. It seemed like she was saying it almost every
10 time I would talk to her. She was clearly upset,
11 missing him and upset, you know, at the way the final
12 days were. She seemed really upset about that.

13 Q. Other than during the call that you testified
14 about, did you ever see or hear Debby cry again?

15 A. No. I never -- she's a very strong woman.
16 I've never seen Debby cry until James -- you know, right
17 near the end.

18 Q. And after that did you see her cry anymore or
19 not? Just at the end or continuing on?

20 A. She would cry over his death, yeah. She
21 wouldn't sob but she would get teary. She was mourning,
22 you know, the loss of a . . .

23 Q. For how long did you think she was mourning?

24 A. I don't know. At least a year, if not longer.
25 It's hard to say. You know, we left in -- we left in

1 2018.

2 Q. Was she still mourning at that point or did you
3 think she --

4 A. Yeah. I think she was still in -- which is
5 common. I mean, it's taken me that long to get over
6 losses.

7 MR. BAER: Okay. I don't have any further
8 questions of the witness.

9 THE COURT: Cross-examination.

10 MR. BIORN: Your Honor, we did not -- this
11 witness was not disclosed in discovery and we did not
12 take her deposition.

13 MR. BAER: She was disclosed in discovery but
14 you didn't take her deposition. Yes. She was. We went
15 through this.

16 MR. BIORN: Okay. My prior counsel did not
17 take her deposition. I would request a five-minute
18 break so I can just take a look at --

19 THE COURT: Of course.

20 MR. BIORN: All right. Thank you.

21 THE COURT: Off the record.

22 (Whereupon, a brief recess was taken.)

23 THE COURT: Let's go back on the record.

24 / / /

25 / / /

CROSS-EXAMINATION

BY MR. BIORN:

Q. Ms. Mattern, let's see, where is it that I am looking? Am I looking at you right now? Is that what it looks like?

A. Who is speaking?

Q. I'm the one speaking.

A. Okay. You are a little speck on my screen.

Q. I know. That's unfortunate. Is that better?

A. Yes.

Q. I'm attorney Chris Biorn and I'm the attorney for Peter Ho.

How are you?

A. Good. Thank you.

Q. I have a few questions for you. What was James ill with? What was his illness?

A. I can't remember the type of cancer. My husband would know it but it was a form of cancer. That's all I can tell you.

Q. Do you know what his course of treatment for the cancer was?

A. No. Again, it's my husband who is conversant with those details.

Q. Did either he or Debby tell you that Mr. Ho was undergoing chemotherapy in 2017?

1 A. I know he was undergoing treatment. I can't
2 remember the specifics of the treatment at this point.

3 Q. So you don't recall that it was chemotherapy;
4 is that right? Just that he was undergoing some form of
5 treatment?

6 A. I know he was undergoing treatment. I guess
7 I -- you can assume it was chemo but I don't remember
8 details of his treatment at this point.

9 Q. Did anyone tell you that Mr. Ho was undergoing
10 radiation therapy in 2016?

11 A. No. I don't remember any details of his
12 treatment at this point. It's now been, you know, seven
13 years.

14 Q. Do you know if you ever saw Mr. Ho shortly
15 after his radiation -- course of radiation treatment?

16 MR. BAER: Vague and ambiguous. Lacks
17 foundation.

18 THE COURT: I'm sorry, Ms. Mattern.

19 Sustained. Please rephrase.

20 BY MR. BIORN:

21 Q. It would be fair to say you have no idea if you
22 met with Mr. Ho shortly after he had had radiation
23 therapy?

24 A. Yeah. I don't know because I don't know the
25 exact times. I met with him while he was being treated.

1 That I remember but I don't remember specific times he
2 might have been treated with what sort of thing.

3 Q. And it's also fair to say that you don't know
4 if you met with Mr. Ho shortly after he had any of his
5 chemotherapy sessions?

6 A. Right. I just know that we met -- we
7 definitely saw him while he was being treated.

8 Q. It's fair to say you don't know his condition
9 in the day or so following a chemotherapy treatment?

10 A. Yes. I couldn't speak to that.

11 Q. Couldn't speak to his mental condition. Right?

12 A. Not -- not specifically the day or so after
13 treatment, per se.

14 Q. And, likewise, you couldn't speak to his
15 physical condition the day or so after a chemotherapy
16 session?

17 A. No.

18 Q. Did you ever see his medical records?

19 A. No. My husband might have but I wasn't
20 involved in any of that.

21 Q. As you sit here now, do you know if your
22 husband actually saw Mr. Ho's medical records?

23 A. No. I don't know for a fact.

24 Q. You had two I would call them more extended
25 visits with Mr. Ho. I believe one was when you and your

1 husband met with Mr. Ho and Ms. Chang to discuss courses
2 of treatment and that was at your apartment. Right?

3 A. Yes.

4 Q. There was another one at the restaurant for a
5 birthday party.

6 A. Yes.

7 Q. You saw him there. Correct?

8 A. Yes.

9 Q. Were there any -- the other times that you saw
10 Mr. Ho, I believe you said, six to eight times before
11 his illness and five or so times after his illness,
12 those times, were those always when Debby was coming to
13 check on her apartments?

14 A. Yes. Except for the restaurant visit and the
15 time that James came to talk over his treatment.

16 Q. Let's just focus on the times then at the
17 rental unit. How long would they be there?

18 A. Well, I don't know how long they were there
19 because they were in the upstairs, but, you know, we
20 might talk to them for 15 or 20 minutes. You know, see
21 them in the driveway or coming on the porch, you know,
22 we would see them. So we would sit and chat a little
23 bit.

24 Q. Sometimes were the discussions shorter than 15
25 or 20 minutes?

1 A. Yeah. You know, maybe 10 minutes now and then,
2 maybe 20 minutes.

3 Q. Sometimes when they came to the rental unit,
4 did Mr. Ho stay in the car?

5 A. I don't recall.

6 Q. Every time you saw Mr. Ho he was with -- Debby
7 Chang was also present; is that right?

8 A. Yes.

9 Q. You never met with him alone. Correct?

10 A. No, not to my recollection.

11 Q. At the restaurant where there was a birthday,
12 where were you sitting vis-à-vis Mr. Ho?

13 A. I was sitting right across from him. It was a
14 small table. There was only six of us.

15 Q. And where was your husband sitting?

16 A. Maybe to the left of me.

17 Q. So neither of you would have been seated
18 directly next to Mr. Ho. Correct?

19 A. Not that I can recall. You know, it's hard to
20 really remember that kind of detail. I remember being
21 very close to James. He was soft-spoken --

22 Q. Ma'am --

23 MR. BIORN: Your Honor, there's no question
24 pending.

25 MR. BAER: I think she's answering your

1 question.

2 THE COURT: She's trying to answer.

3 You don't have to give additional facts. Just
4 if you don't remember, that's fine.

5 BY MR. BIORN:

6 Q. I think my question was about where they were
7 sitting. So --

8 A. I think he was across from me and my husband
9 was to the left but I don't -- it's been a long time.
10 It was one dinner, lunch.

11 Q. When did you suggest Debby look into obtaining
12 hospice for Mr. Ho?

13 MR. BAER: Lacks foundation.

14 THE COURT: Overruled.

15 THE WITNESS: Maybe a couple months before he
16 passed away.

17 BY MR. BIORN:

18 Q. What had you observed in Mr. Ho that made you
19 suggest Debby look into hospice?

20 A. Well, I'm not so sure that it was what I
21 observed in him. He was obviously getting weaker but I
22 had no way of knowing how close to death he was. I
23 think it was more that -- you know, it was -- Debby was
24 clearly spending more time taking care of him and very
25 concerned for him and he seemed to be getting a bit

1 weaker physically. And I knew that hospice could help
2 as soon as six months before the death.

3 THE COURT: Can I interrupt just for a moment?
4 Off the record.

5 (Whereupon, a brief discussion was held off the
6 record.)

7 BY MR. BIORN:

8 Q. Your husband, Dick, printed out some articles
9 for Mr. Ho to read, and he read them at your apartment
10 that day. Right?

11 A. He didn't necessarily read over every detail
12 but he looked things over and asked questions.

13 Q. Did he actually read any of the articles from
14 beginning to end?

15 A. I have -- I mean, he sat there reading awhile.
16 I have no -- I wasn't looking over his shoulder. So I
17 can't say that he completely read every article. He
18 read a lot and discussed a lot. I mean, it was hours,
19 you know, of reading and talking and questions.

20 Q. Did your husband, Dick, also e-mail an article
21 to Mr. Ho for his review?

22 A. I don't know what Dick e-mailed and didn't
23 e-mail but it's quite likely he might have.

24 Q. During this time period from 2014 to 2017 when
25 you were no longer renting from Debby, did she ever tell

1 you she was employed?

2 A. During the time after I rented, is that what
3 you said?

4 Q. During the time you were renting from Debby
5 Chang, did she ever tell you she was employed?

6 A. She told me she used to work at a certain
7 place, but I don't remember her saying she was working,
8 no.

9 Q. Did she ever mention her employer Evergreen
10 Life Company?

11 A. Not to my knowledge.

12 Q. Did she ever tell you she was a sales executive
13 in accounting for Evergreen Life Company?

14 A. She told me, you know, that she had worked
15 years ago. I would have to look at my notes but I don't
16 remember where she worked, and I had the impression she
17 wasn't working.

18 Q. Did she tell you she was retired?

19 A. I don't recall her ever saying that and -- I
20 don't recall her ever talking about work. I knew she
21 had these properties and she had worked maintaining
22 these different properties. That's all I knew about
23 that.

24 Q. She never mentioned a job that she had with an
25 office in El Cerrito during the time you were renting

1 from her?

2 A. Not that I recall, no.

3 Q. When she was visiting, she never said I just
4 came from the office or I need to get leaving now to go
5 to the office?

6 A. No, not that I recall.

7 Q. Did Debby or Mr. Ho talk to you about their
8 purchase of the property on Fulton Street in Redwood
9 City?

10 A. They talked to me about the second rental.

11 Q. Well --

12 A. But I don't remember if that was Foster City
13 or the second rental -- I mean a purchase. Excuse me.

14 Q. Okay.

15 A. They were looking at a new -- they were looking
16 at a new property.

17 Q. Did they tell you they were buying the house
18 together?

19 A. I don't remember. I mean, I assumed that.
20 They were a married couple but they didn't talk about
21 any financial details, no.

22 Q. Were they buying this property around the time
23 you learned Mr. Ho was ill?

24 A. It was in that time frame. I don't remember
25 exactly when. You know, I had the impression they were

1 buying it together but, again, I don't -- I don't know.

2 Q. Did Debby ever mention to you that she got
3 Mr. Ho to gift her \$1.1 million to buy that house?

4 A. No.

5 Q. Did she mention to you that that left Mr. Ho
6 with less than \$30,000 in the bank?

7 A. No.

8 Q. How much does hospice cost? Are you aware?

9 A. Hospice?

10 Q. Yeah. You suggested hospice. Do you know how
11 much it cost to get hospice?

12 A. I always thought it was free. I never paid
13 anything for hospice for my parents' illness or dad.

14 Q. The meeting at your house with Mr. Ho when Dick
15 went over some of the articles, what was the timing of
16 that in relation to when you first learned Mr. Ho was
17 ill?

18 A. It seems not long afterwards.

19 Q. Okay.

20 A. I couldn't say exactly, though, when it was.

21 MR. BIORN: Okay. Thank you, ma'am. I have no
22 further questions at this time.

23 MR. BAER: Okay.

24 / / /

25 / / /

REDIRECT EXAMINATION

BY MR. BAER:

Q. I just have a couple more questions for you.

A. Okay.

Q. So the day that Mr. Ho came and spoke to your husband at your apartment, how long was Mr. Ho there?

A. Quite a while. I would say maybe two hours.

Q. Did he do anything while he was there besides speak with your husband and read materials?

A. No. I mean, we chatted a bit, you know.

Q. How long did he spend reading materials?

MR. BIORN: That calls for speculation --

THE WITNESS: Maybe an hour and a half.

MR. BIORN: Objection. Lacks foundation and calls for speculation --

THE COURT: Establish foundation.

MR. BAER: Okay.

BY MR. BAER:

Q. Did you observe him reading the materials?

A. Yes.

Q. How long did you see him reading materials?

A. I mean, on and off, you know, between -- I can't say how much was reading and how much was talking but maybe an hour and a half, two hours that he was there, you know, going over things with Dick.

1 MR. BAER: No further questions.

2 MR. BIORN: Nothing further, Your Honor.

3 THE COURT: Can this witness be excused?

4 MR. BIORN: Yes, Your Honor.

5 MR. BAER: She may.

6 THE COURT: That means obviously she will not
7 be called back without Court approval.

8 What that means is -- thank you very much for
9 appearing via Zoom and you are excused as a witness. In
10 all probability you won't be called back. If we needed
11 to call you back, we'd give you plenty of notice and it
12 has -- they have to make special arrangements to get
13 permission to call you back.

14 THE WITNESS: Okay.

15 THE COURT: Thank you. Have a nice weekend.

16 MR. BIORN: Thank you.

17 MR. BAER: Thank you, Ms. Mattern.

18 THE WITNESS: Uh-huh. Bye-bye.

19 THE COURT: Very good.

20 Could you swear in the interpreter, please?

21 DANIEL HSUEH,

22 being first duly sworn by the Certified
23 Shorthand Reporter to interpret from English
24 to Mandarin and from Mandarin to English to
25 the best of his ability the testimony of:

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DEBBY CHANG,

called as a witness having been previously sworn
to tell the truth, testified further as follows:

THE COURT: Could you kindly state your first
and last name.

THE INTERPRETER: Yes. First name is Daniel
Hsueh, spelled H-s-u-e-h, cert number 337847, court
certified in Mandarin Chinese. And I do have an oath on
file with the County of Santa Clara.

THE COURT: Thank you.

Mr. Chang, I remind you, you are still under
oath.

THE WITNESS: Debby Chang.

THE COURT: Thank you.

DIRECT EXAMINATION (CONTINUED)

BY MR. BAER:

Q. I would like to show you what's been marked
Exhibit 665. We'll get you a copy. Exhibit 655 is an
IRA beneficiary change for a Wells Fargo investments
account.

Do you recognize Mr. Ho's signature at the
bottom of the page?

A. (In English) I'm not sure. I don't know.

1 Q. Had you -- the date next to his name,
2 October 17, 2001, had you already retired by then?

3 A. (Through the Interpreter) Retired.

4 Q. Did Mr. Ho tell you at any point in 2001 that
5 he was going to assign a beneficiary change form to make
6 you a beneficiary of an account?

7 A. No.

8 Q. Have you ever seen the document at any time
9 before this litigation was filed?

10 A. No.

11 Q. More -- well, let's go after. So after 2001
12 did Mr. Ho ever tell you that he had made you the
13 beneficiary of a Wells Fargo investment account?

14 A. No.

15 Q. Okay. So let's make sure that, you know, you
16 understand what I am asking. Have you heard the word
17 beneficiary before?

18 A. Yes.

19 Q. Okay. Do you understand that is somebody who
20 would receive money on somebody else's death?

21 A. Yes. I understand.

22 Q. All right. Let me -- oh, did Mr. Ho ever show
23 you any account statement so that you -- well, did he
24 ever show you any account statement showing how much
25 money was in a Wells Fargo investment account?

1 A. No.

2 Q. Did he ever tell you how much was in any Wells
3 Fargo investment account of his?

4 A. No. But I do remember on this issue because I
5 am a little confused. In my lifetime I do remember just
6 the once, just once before he went to Taiwan he did say
7 to me that he was going to change beneficiary.

8 Q. Did he identify the account?

9 A. Maybe he said it but I do not recall.

10 Q. Did he tell you how much money was in the
11 account at the time?

12 A. No.

13 Q. Did he give you any document showing what was
14 in the account then?

15 A. No.

16 Q. Did you ask him?

17 A. No.

18 Q. Did you ever have -- did you discuss any
19 beneficiary designation or change with him after that?

20 A. No. To tell you the truth, I'm not interested
21 on these matters.

22 Q. In very general terms, did he ever tell you
23 anything to the effect you are going to receive money
24 from one of my accounts or one or more of my accounts
25 when I pass away?

1 A. No.

2 Q. All right. This next page is kind of a mess.
3 I didn't realize it was this bad.

4 Anyway, the next page of the document looks
5 like an American General administrative change form.
6 It's a little hard to follow.

7 But in any event, before this litigation was
8 filed, did you ever see this document?

9 A. No.

10 Q. Did he ever talk to you about an American
11 General account?

12 A. I never heard this name before.

13 Q. Did he ever show you how much money was in an
14 American General account?

15 A. No.

16 Q. Okay. Towards the bottom on the right-hand
17 side there are two signatures. Do you recognize the top
18 signature?

19 A. It looks like it but I cannot be certain.

20 Q. When you say "it," do you mean Mr. Ho's
21 signature?

22 A. Yes. Yes.

23 Q. Let's look at the next page.

24 A. Sorry. I have a question about that previous
25 page, please. Writing my name, that part, it doesn't

1 seem like his handwriting.

2 Q. Do you mean next to primary beneficiary?

3 A. That's correct. And also my address below,
4 5319.

5 Q. You don't think that's his handwriting?

6 A. That's correct. I believe not and also that
7 address, Court, it doesn't seem like it.

8 Q. Okay. You just have to answer the questions
9 that I ask. Okay?

10 A. Okay.

11 Q. It looks like the third page is identical to
12 the first with some minor changes.

13 In any event, have you ever seen the third page
14 of Exhibit 655 before this litigation was filed?

15 A. No. I have never seen this document before.

16 Q. Okay. This is a little better copy anyway. On
17 the lower right-hand side appears what looks to be
18 Mr. Ho's signature.

19 Do you recognize that as his signature?

20 A. Are we looking at the same page? Page 3?

21 Q. Page 3, it has a little mark on the lower
22 right-hand side, DC00266.

23 A. All right. On this page it looks more like it.

24 Q. What looks more like what?

25 A. His signature.

1 MR. BIORN: David, aren't all of these in
2 evidence already?

3 MR. BAER: They might be in evidence already.
4 I don't know. Kysen, are they --

5 MR. KUO: No. Some of them are, yes.

6 MR. BAER: I don't need to ask about the
7 signature if they are.

8 MR. BIORN: It sounds more like authentication.

9 MR. BAER: Anyway, you can figure it out and if
10 I should stop asking I will stop. It sounds like not
11 all of them, not every page is in. And I don't
12 know which is --

13 MR. BIORN: We'll agree these are all admitted.

14 MR. BAER: Okay. Then I will stop asking --

15 MR. BIORN: So we don't have to do the
16 authentication.

17 MR. BAER: Great. That will save time.
18 Thanks.

19 THE COURT: Exhibit 655 will be received into
20 evidence.

21 (Whereupon, Respondent's Exhibit 655 was
22 admitted into evidence.)

23 MR. BAER: Great.

24 BY MR. BAER:

25 Q. The next page says at the top "Vanguard

1 Directive Beneficiary Plan Application." Before the
2 suit was filed, did you ever see this?

3 A. No.

4 Q. Did you ever have any discussion with Mr. Ho
5 about any Vanguard account of his?

6 A. No.

7 Q. Did he ever give you a Vanguard account
8 statement?

9 A. No.

10 Q. Did he ever show you one?

11 A. No.

12 Q. All right. Let's go to the next page. It's
13 got the notation at the bottom 344-1 in the lower
14 right-hand side.

15 A. I see 243.

16 Q. Go to the next page.

17 A. I see the next 343-2.

18 Q. Okay. Go to the page after that.

19 A. Okay. I see it.

20 Q. Have you seen this before?

21 A. No.

22 Q. So now can you go through -- why don't you take
23 a look at the page that is marked at the bottom
24 Exhibit 541-1. That's the next to last page.

25 A. Okay. I'm there.

1 Q. This is a John Hancock form. Have you seen --
2 did you ever see this before the lawsuit was filed?

3 A. No.

4 Q. Do you remember Mr. Ho ever signing any
5 document naming a beneficiary in your presence?

6 A. No.

7 Q. Did Mr. Chang [sic] ever tell you how much
8 money he had or what the value of the assets was in any
9 John Hancock account of his?

10 A. No.

11 MR. FRASER: David, I think you mean Mr. Ho.

12 MR. BAER: What did I say? Mr. Chang?

13 MR. FRASER: Mr. Chang.

14 MR. BAER: Sorry. Let me go back to James. I
15 am bad with names.

16 BY MR. BAER:

17 Q. Did James Ho ever tell you the value of his
18 assets in any John Hancock investment account?

19 A. No.

20 Q. Did he ever give you any John Hancock
21 investment account statement?

22 A. No.

23 Q. Did he ever show you one?

24 A. No.

25 Q. Did you ask James to leave anything to you when

1 he died?

2 A. Never.

3 Q. Did he ever tell you you were going to
4 inherit -- other than the one time that you talked
5 about, did he ever tell you you were going to inherit
6 anything from him when he passes away?

7 A. No.

8 Q. Did he tell you who would get what under his
9 trust?

10 A. He just told me that this trust belongs to his
11 three children. If I need to spend any money, he can
12 give it to me, but he cannot touch anything within this
13 trust.

14 Q. Okay. Let me -- did you ever see the trust
15 before the suit was filed?

16 A. Never, no.

17 Q. Did you ever ask James for a copy?

18 A. Never thought about it before.

19 Q. Did -- so I'm going to ask you some questions
20 about a property at 71811 -- sorry -- 718 Evelyn Avenue
21 in Albany.

22 Are you familiar with that property?

23 A. Yes. I do.

24 Q. How did you find out about it?

25 A. This house -- when I was still in real estate,

1 I had referred a customer to purchase. And then they
2 want to sell it and that was it.

3 Q. Can you describe the property?

4 A. On the top floor three bedrooms. There's a
5 living room and a kitchen. It has the same space at the
6 bottom floor. But it seems like on the bottom floor it
7 looks like you can change it into a second unit.
8 However, it's still not high enough. With this house we
9 did not have that much money to make these plans.
10 Therefore, they would like to sell it.

11 Q. What was not high enough?

12 A. So the height of the house, according to the
13 architectural code there is a regulation. You can't
14 just make it a living -- dwelling, place with any
15 residence.

16 Q. But I don't understand. What was not high
17 enough?

18 A. From floor to the roof, it's not that height.

19 Q. So did you make an offer to buy that property?

20 A. I was thinking about that because I thought
21 there's a lot of potential in this property and then --
22 but I wasn't very urgently or actively doing this thing.

23 Q. Okay. And did you ultimately after that at
24 some point make an offer to buy it?

25 A. Yes. Yes. Then I did talk -- had a discussion

1 with my partner regarding this matter and then my
2 partner -- and then my partner says, "Well, I can" --
3 "Because I don't owe any mortgage, so I can actually
4 refinance and loan the money to you or I can get a line
5 of credit."

6 Q. Who do you mean -- who are you referring to as
7 your partner?

8 A. James Ho.

9 Q. Did you buy the property with James?

10 A. Originally he said he was going to loan me the
11 money. So I accepted his assistance and I was ready to
12 write the offer, but I was thinking that with him
13 loaning me the money and his name is not on there what
14 should I do? And so I don't want to shortchange him.
15 So I said, "Can we add your name on there?" And he said
16 yes. So we purchased this house and I am his co-buyer.

17 Q. Had you ever made an investment together with
18 James before then?

19 A. No, this is first ever even in my lifetime
20 because of his gesture. I am in gratitude.

21 Q. Was any work done before -- strike that.

22 Was any work done to rectify the height problem
23 before or after you bought it?

24 A. Yes. And then we had to lift -- they had to
25 lift. Yes. The seller then had lifted higher the house

1 height-wise.

2 Q. So was it ready to rent when the two of you
3 bought it or did it still need more work?

4 A. The top, yes. But then the bottom, no. But
5 then of course with the lifting higher that height,
6 there's just -- the top floor is also affected. There's
7 a lot of work to be done and because of that reason they
8 had to sell it.

9 Q. Okay. After the sale was there any further
10 renovation work done?

11 A. A lot of renovation as if it's building a new
12 house.

13 MR. BAER: Okay. I don't think my question was
14 very clear frankly. I object to it.

15 MR. BIORN: Sustained.

16 BY MR. BAER:

17 Q. After the sale to you and Mr. Ho, was any
18 further renovation work necessary?

19 A. I have answered that. My answer previously but
20 I'll answer again.

21 Q. No. No. It's okay. I think I clarified.

22 Okay. Who supervised that work? Mr. Ho, you
23 or anybody else?

24 A. It was me, myself because I had a lot of
25 experience prior to this of projects, renovation

1 projects.

2 Q. What role did Mr. Ho have in connection with
3 the renovation work, if any?

4 A. So at the very get-go he told me that I don't
5 need to make any more money. So I was basically going
6 to delegate all these tasks to you, completely hands
7 off.

8 Q. Did you get any kind of separate compensation
9 for doing that work?

10 A. So, Mr. Baer, you asked me this question. I
11 just feel kind of funny. Even though Mr. James Ho and
12 myself haven't been together that long but we're like
13 husband and wife. So I am shocked about your question.
14 So I am not requesting from him any compensation and
15 vice versa.

16 Q. Can you in general terms describe what your
17 role was in connection with the renovation work?

18 A. So basically not the top floor but the bottom
19 floor basically it's like starting from scratch needing
20 a bathroom, rooms, kitchen, floor, walls, almost like
21 building from scratch.

22 Q. But what was your role? What did you do?

23 A. So that was my role, that I had to, first of
24 all, hire an architect and get drawings and ask to apply
25 for building permits and different licensures, had to

1 hire a contractor. All these things, those were my
2 roles.

3 Q. Over what period of time -- how many months or
4 how many years were you involved in the renovation
5 project?

6 A. Six to seven months.

7 Q. And after it was done, how long did it take --
8 the plan was to lease it to tenants. Right?

9 A. Yes, to rent.

10 Q. How long did it take to do that after the
11 renovation work was done?

12 A. Quite quickly because the location is within a
13 very nice school district.

14 Q. Did James help you in the process of finding
15 tenants and getting a lease signed?

16 A. No. Because as he said -- he said, "All these
17 matters, you take care of it yourself."

18 Q. Okay. And once you -- once the property was
19 leased, the first tenants, did you hire a property
20 manager?

21 A. I have never hired a property manager. It's
22 always been me.

23 Q. Did James help you at all in managing the
24 property?

25 A. No.

1 MR. BAER: Okay. Can we go off record for a
2 sec?

3 THE COURT: Sure.

4 (Whereupon, a brief discussion was held off the
5 record.)

6 (Whereupon, a brief recess was taken.)

7 MR. BAER: Let's go back on the record, please.

8 THE COURT: Yes.

9 BY MR. BAER:

10 Q. Ms. Chang, I would like to show you
11 Exhibit 323. This is a grant deed.

12 A. Okay. I don't know how to find it.

13 Q. Kysen is getting it for you. Sorry.

14 MR. BIORN: This is number what?

15 MR. BAER: 323.

16 MR. BIORN: Don't forget to put that
17 stipulation on the record.

18 MR. BAER: Okay. I will finish this exhibit
19 and then do it.

20 BY MR. BAER:

21 Q. Okay. Take a look at Exhibit 323 and let us
22 know if you recognize the document.

23 MR. BIORN: This is admitted as well already.
24 It's our 150.

25 MR. BAER: Okay. That's fine.

1 MR. BIORN: All right.

2 THE WITNESS: Do you still need me to answer?

3 BY MR. BAER:

4 Q. Yes. Do you recognize it?

5 A. It's been a while back now. I don't recall.

6 Q. Okay. So it refers at the top to a property
7 at -- the property at 718 Evelyn Avenue.

8 Do you see that?

9 A. I do not. I don't see it.

10 Q. In the upper left-hand corner.

11 MR. BIORN: (Indicating).

12 THE WITNESS: Okay. I see it.

13 BY MR. BAER:

14 Q. Okay. And do you recognize the names Xiu Yi Li
15 and Qi Ping Xu?

16 A. So these are their Chinese names. We don't
17 normally call them by that name.

18 Q. Who are they?

19 A. They would -- I think they were the sellers of
20 the 718 address.

21 Q. Okay. Then below their names it says: Hereby
22 grants to James Ho, an unmarried man, and Debby Chang,
23 an unmarried woman, as joint tenants.

24 A. Yes. I do see it.

25 Q. Did you discuss with James the idea of taking

1 title as joint tenants?

2 A. So this was only the second time. The first
3 time is my own home, second time purchasing. So I --
4 all these matters were handled by the title company or
5 the agent. So I don't quite recall.

6 Q. Did you tell the title company or agent that
7 you wanted to take title as a joint tenant?

8 A. No. I had no understanding of it.

9 Q. Do you know what a joint tenant is?

10 A. Right now I think I do.

11 Q. When did you find out what a joint tenant is?

12 A. When I was purchasing the house with my
13 husband. Sorry. No. Again, no. During that purchase
14 we were just in a hurry to purchase it. So I did not
15 find out until much, much later.

16 Q. When you found out later was James still alive?

17 A. Again, I'm not particularly paying attention to
18 that particular matter specifically. So I don't know
19 when I found out but supposedly so.

20 Q. Did you talk to him about the fact that you had
21 acquired the Evelyn property as joint tenants?

22 A. Never.

23 Q. How long did you --

24 MR. BAER: Let's do a couple things. First of
25 all, I want to say that Exhibit 323 is the same

1 as Petitioner's Exhibit 150 I think you said.

2 MR. BIORN: Correct.

3 MR. BAER: So I'm not going to move this into
4 evidence but it's the same thing. Then also I believe
5 that Mr. Biorn and I have reached an agreement with
6 respect to the expert reports. And we agree that they
7 will be admissible and the documents on which they --
8 well, I shouldn't say this.

9 The documents on which they rely, I agree they
10 will all be admissible with respect to the financial
11 reports and the handwriting reports. I am not prepared
12 to say that yet with respect to the medical reports,
13 but, anyway, we can talk about that later.

14 MR. BIORN: Okay.

15 MR. BAER: We don't need to resolve that now.
16 So, anyway, those two for each side, the expert reports
17 who did -- accounting reports and forensic document
18 examination reports, those reports and the exhibits upon
19 which they rely are all admissible. Agreed?

20 MR. BIORN: Agreed.

21 THE COURT: Are you going to point out the
22 exhibits that were relied upon?

23 MR. BAER: They -- well, I think they do it
24 themselves. I'm pretty positive they do. I know my
25 client -- my two reports do. I'm almost positive yours

1 do too. But, anyway, we will point it out. We will
2 make sure you get them all.

3 THE COURT: And I'm going to get testimony from
4 these people?

5 MR. BAER: That's not clear yet beyond their
6 reports. We have not decided yet whether they are going
7 to be deposed or not. I suspect you will get
8 explanations about them, but I don't know that you will
9 get --

10 MR. BIORN: Yes.

11 MR. BAER: -- them in briefing. I don't know
12 that there will be deposition testimony about it.

13 MR. BIORN: And certainly they are not coming
14 into trial with our stipulation long ago.

15 THE COURT: They are physically not going to be
16 here.

17 MR. BIORN: Right.

18 THE COURT: But they might be -- they haven't
19 been deposed?

20 MR. BIORN: Only the handwriting experts have
21 been deposed. The other two, he and I are still talking
22 whether we need to have that done or not.

23 THE COURT: Okay. I appreciate --

24 MR. BIORN: We should get that figured out
25 soon.

1 MR. BAER: We can and should. Can we go off
2 record for a sec?

3 THE COURT: Yes. Off the record.

4 (Whereupon, a brief discussion was held off the
5 record.)

6 BY MR. BAER:

7 Q. Do you still own the Albany property?

8 A. No.

9 Q. When was it sold?

10 A. Around 2004.

11 (In English) Yeah. I think 2004.

12 Q. Why did you sell it?

13 A. (Through the Interpreter) It's a long story
14 but basically the neighbor had a problem with our tenant
15 complaining to the City that the kids, children were
16 playing very loud and noise, music. In the City they
17 know about that neighbor and the City suggested why
18 don't you just sell it since you still need -- the City
19 said since you still need to make modification on the
20 parking spaces. So we listened to the suggestion and
21 sold it.

22 Q. Was James there when the City suggested that
23 you sell it?

24 A. Yes. Both of us went there together.

25 Q. Okay. Did you -- did you decide there, the two

1 of you, to sell it?

2 A. I had no choice but both of us said yes.

3 Q. All right. So were you expecting to make a
4 profit on selling the property?

5 A. Supposedly, no. But I was very lucky and that
6 the buyer was willing to add a lot more money to the
7 price.

8 Q. Okay. When you went into contract on that
9 property, did you and James talk about what you would do
10 with the money?

11 A. Yes. We had discussed it. We also consulted
12 an expert and then we decided to purchase another
13 property. And this is to save on the taxes.

14 Q. What kind of transaction was that that you were
15 going to save on the taxes?

16 A. So there was a law named 1013, 1-0-1-3 [sic].
17 So we utilized that law, the 1013. So we did not touch
18 or withdraw any money from -- so there was a company
19 that helped manage this money and moving into the new
20 buyer -- sorry -- new seller.

21 Q. Okay. So what did you and James do to find a
22 replacement purchase?

23 A. Well, we went to see a lot of houses but none
24 qualified under the 1013. And also the income wasn't
25 that great. But we were pretty anxious because we only

1 had six months to find replacement. So one thing my
2 daughter told me is that right here there is a very good
3 income property. My daughter resides in LA. So early
4 in the morning I took a plane there myself. And then in
5 the afternoon, that same afternoon, I made an offer.

6 Q. So where was the property? What's the address?

7 A. In Los Angeles. 1627 McCollum Street,
8 M-c-C-o-l-l-u-m Street in LA, 90026.

9 Q. When you made the offer to buy the property,
10 had you checked with James first?

11 A. From the beginning to the end he insist on you
12 take care of the matter.

13 Q. Did he come with you to Los Angeles when you
14 saw that property first?

15 A. No. He did not.

16 Q. You and James bought the property. Right?

17 A. Yes.

18 Q. Did you have any discussion with James -- well,
19 was your offer accepted?

20 A. That night after I returned back home, they
21 accepted it, yes.

22 Q. Did James ever express any opinion as to
23 whether you paid too much or too little for the
24 property, whether you got a good deal or bad deal
25 effectively?

1 A. He said nothing at all. He was pretty happy
2 that I made the purchase.

3 Q. Why did the two of you buy it rather than just
4 you?

5 A. Well, because his name was already on the other
6 address, the 718 address. So if he doesn't participate
7 in the 1013, then if his name is not going to be on
8 there, then he's got to pay the taxes.

9 MR. BAER: I believe she's been saying 1031 by
10 the way.

11 THE INTERPRETER: I'm sorry. 1031.

12 MR. BAER: Are you saying 1031 or --

13 THE WITNESS: (In English) 1031.

14 THE INTERPRETER: 1031.

15 BY MR. BAER:

16 Q. Okay. So at the time you purchased the
17 property with James, did you make any agreement with him
18 about how the property would be handled?

19 A. (Through the Interpreter) Not really because
20 before the purchase of this home, remember how he loaned
21 me money to purchase the 718 Albany home that he wanted
22 to purchase together with me? And if he earned a
23 profit, he would have taken the money away but because
24 he did not take that money away, the loan money that he
25 loaned me, I went to purchase 718 property. And I have

1 made a loan to return the money back to him. But he had
2 no money in there already, but I wanted the tax savings
3 and he wanted to help me out. So he's been very
4 helpful, you know, towards me, helping me out. And I
5 wanted to help him save on the taxes.

6 Q. What did you do with the McCollum property
7 after the purchase?

8 A. So when we purchased this home, I thought this
9 house has potentials. So I wanted to make addition --
10 additions to it. If I had no additional build, then I'm
11 going to lose money because even at the get-go at the
12 purchase every month I had to -- there was a loss.

13 So very quickly after the purchase I hired an
14 architect to get permits and we made additional builds.
15 So there are three units all together: One add-on and
16 then the other two units renovations. Renovations, I
17 would say there were minor renovations, minor
18 remodeling.

19 Q. Did James have any role in connection with the
20 remodeling or the construction of the new unit?

21 A. No, none whatsoever because he told me
22 previously and I said -- he told me that he really
23 doesn't want to spend his time in thinking about earning
24 money.

25 Q. So what did you do? You mentioned a few

1 things, I think hiring an architect, hiring a
2 contractor, getting permits.

3 Did you have any other role in connection in
4 the remodeling and construction of the new unit?

5 A. So just on the additional unit itself, there's
6 so many items that I can name, numerous, countless. Of
7 course I also had to find tenants.

8 Q. Okay. How long did it take to finish the
9 remodeling and expansion project?

10 A. Seven to eight months.

11 Q. During those seven to eight months --

12 A. Maybe six to seven months.

13 Q. Okay. During that time where did you live?

14 A. I lived in a room that they remodeled. I
15 basically separated my room with just a curtain.

16 Q. Where was that? In Los Angeles? In El Cerrito
17 or where are --

18 A. No. Right there. Right on the property.

19 Q. Did James stay there with you?

20 A. No. He didn't go down with me.

21 Q. Did he ever come down to visit you there?

22 A. So, no. The routine is on the weekend for sure
23 I would come back home because he's home alone.

24 Sometimes I would -- sometimes I would go in the morning
25 and return back the same day, evening or else he's home

1 alone and he would be constantly asking, "When are you
2 coming back? When are you coming back?" At the very
3 least he needs his meals. He needs to eat.

4 Q. After the renovations were done, who found
5 tenants?

6 A. I rested a little bit after the renovations.
7 My daughter did. But my daughter resided in one of the
8 units. They were one of the tenants, paid rent.

9 Q. Okay. So the renovation work, there was no
10 tenant at the property during that work. Correct?

11 A. No.

12 Q. Okay. So --

13 A. Hold on. No.

14 Q. Where did the money for the construction cost
15 come from?

16 A. From me and also line of credit -- refinance
17 from the home because, again, we purchased the house
18 already. So we can refinance. So, again, in summary,
19 those costs came out from me and then later on from the
20 rent, rental income.

21 Q. So who served as the property manager after the
22 initial tenants were in place?

23 A. After we had tenants, my daughter.

24 Q. Was she paid by you or James to do that?

25 A. All these years almost 20 years not -- okay --

1 18 years, nothing. Maybe except the two months at the
2 very beginning, the two months of free rent.

3 Q. How long did she live at McCollum? How long
4 did Judy live at the McCollum property?

5 A. She lived there for a bit and then moved out.
6 So then she moved back in. So I don't know the exact --
7 all the way to 2020. That's when they moved away.

8 Q. Did you ever discount her rent?

9 A. No, never.

10 Q. At least through April of 2006, how did you
11 determine how much to charge Judy?

12 A. I can't calculate that now. If you want the
13 answer, I need to go back and calculate it. I need to
14 ask some questions like how long they have been living
15 there and when they moved out and so forth. Again, all
16 they received was just the two months free.

17 Q. Did you think Judy was paying fair market rent
18 or more or less than fair market rent?

19 A. So I can say this for sure. Judy is like me.
20 We do not want to take advantage of anyone. So whatever
21 the market rent is, that's the rent that they paid.

22 MR. BAER: Can you get this for her, please?

23 I want to show you what's been marked as
24 Exhibit 145. Kysen will get that for you.

25 THE COURT: Is it all right if I open up the

1 door? It's getting stuffy.

2 MR. BAER: Yeah. That would be great.

3 MR. BIORN: That's fine.

4 BY MR. BAER:

5 Q. Do you recognize the document?

6 A. Yes. Supposedly so, yes.

7 Q. What is it? What's your understanding of what
8 it is?

9 A. The grant deed when I made the purchase of the
10 house.

11 Q. Okay. Take a closer look but it says: For no
12 consideration, transferors, James Ho and Debby Chang,
13 hereby transfer to transferee Debby Chang as trustee of
14 Debby Chang 2003 Revocable Trust.

15 A. Yes. I see it.

16 Q. Okay. Is this your signature on the deed?

17 A. Yes. It should be so, yes.

18 Q. Is that James' signature on the deed above
19 yours at the bottom of the page?

20 A. Supposedly, yes.

21 Q. Okay. Do you remember where you -- was he with
22 you when you signed?

23 A. Together, yes, but that doesn't mean that I saw
24 him sign it with my own eyes because it's handled by the
25 title company. It could be that, you know, I signed

1 first and then him.

2 Q. Okay. At the top of the page it says recording
3 requested by Paul R. Malone, Esq.

4 Do you know a Paul R. Malone, Esq.?

5 A. Yes.

6 Q. Who is he?

7 A. He's the one that helped with the trust.

8 Q. Can you explain what Mr. Malone did for you?

9 A. So this is a referral from a friend because,
10 again, James reminded me now that you have a second
11 home, living there, you should make changes in your
12 living trust and that's when this friend recommended
13 this attorney, Mr. Malone, to set up the -- to make
14 changes of the living trust for me.

15 Q. Did you ever have any discussions with James
16 about the idea of transferring his share of the McCollum
17 property into your living trust?

18 A. No. Because James is the one that suggested
19 that I make some changes to the living trust, but I had
20 no concept what to do. But, again, according to his
21 suggestion and I said, Okay. That's it.

22 Q. Did you ever go to Mr. Malone's office?

23 A. James and I went to his office.

24 Q. How many times?

25 A. Once.

1 Q. Do you remember anything Mr. -- do you remember
2 anything that James said there?

3 A. First of all, Mr. Malone, I had made the
4 appointment with Mr. Malone, first of all. And so he
5 spoke with me first. But after our talking and he said
6 did you know that -- did you have another property in LA
7 that has other people's name on it? And I said, "Yes.
8 I had purchased together with someone else." And that's
9 when he asked who is that person?

10 And I introduced him and I said this guy right
11 here, Mr. James Ho, and that's when he called him in and
12 started talking to whether put his name in my trust or
13 not.

14 So he had agreed -- that you guys both agreed
15 to take your names off -- his name off. So again he
16 reiterated, "So you guys both agreed to take his name
17 off? Yes?" And James, the first word that came out of
18 his mouth is, "Oh, yeah. I don't need her money. I
19 have enough money to spend."

20 That I remember very vividly because I had no
21 concept of this concept. The reason I remember it so
22 vividly is because I never heard anybody say anything
23 like that before. He said, "I have enough money to
24 spend." So I was very shocked upon hearing it and
25 that's why I remember it vividly.

1 Q. Before James transferred his interest in the
2 McCollum property to your trust, did either one of you
3 try to figure out how much his share was worth?

4 A. No. But I want to say James basically doesn't
5 want any part of it, and for me, I am so concentrated
6 for the purchase and renovation, trying to find tenants
7 and so forth.

8 Q. Did he ever say anything to you to the effect
9 that he thought it would be a good idea to figure out
10 how much his share's worth before transferring it to
11 your trust?

12 A. No. We never discussed this topic at all.

13 Q. Did he ask you to pay him anything for his
14 share of the McCollum property?

15 A. No.

16 Q. Did he say he thought that you should do that?

17 A. No. We did not discuss anything like that.

18 Q. Did you offer to pay James anything for his
19 interest in the McCollum property?

20 A. Did not talk about that. Did not discuss
21 anything like that.

22 Q. Did you pressure him in any way to get him to
23 give you his share of the McCollum property?

24 A. I want to say, first of all, no. But I wanted
25 to add that James is a very smart person and he knows

1 how to conduct business, profitability. And he's a
2 person that's -- with a personality that if you force
3 him to do anything, give him pressure to do anything, it
4 will never be done. He doesn't like and he doesn't want
5 anyone to force him to do anything.

6 For instance, once right in front of my face he
7 told me that I am a person that is very naive and
8 because of that trait I can get along with you. At that
9 time I didn't understand what he meant. So, frankly,
10 because being with him together with him, I know his
11 personality. So I let him gradually, slowly in taking
12 his pace to do things.

13 Q. In April of 2006 were you living with James?

14 A. After I retired we were spending almost every
15 day together.

16 Q. As of April 2006, did you know whether James
17 had any significant medical problems?

18 A. I know that he told me about it after he came
19 back from Taiwan. But if you were to ask me whether
20 there were any changes or difference that I sense, no.
21 Not at all, no difference because he himself is pretty
22 shocked.

23 Q. What did he tell you was wrong with him when he
24 came back from Taiwan?

25 A. So he wasn't going in for that exam with the

1 head, but then just by chance they found out as he was
2 doing a physical exam and they discovered this.

3 MR. BIORN: Sorry. Can I get that last one
4 said again? I have a hard time with the mask.

5 THE INTERPRETER: The physical exam and that's
6 how he found out.

7 BY MR. BAER:

8 Q. When did he come back from Taiwan?

9 A. 2007, approximately around that time. And he
10 returned and said, well, there's this issue but he said
11 that the doctors over there said not to worry. We are
12 still observing it.

13 Q. What exactly did he say, if he explained, they
14 had found or was wrong with him?

15 A. Well, he said that there's a mass in his head.

16 Q. Where in his head?

17 A. At the top of the head.

18 Q. Did he say to you whether he thought this mass
19 at the top of his head was affecting him in any way?

20 A. No. Because the doctor just told him that we
21 are still observing this and nothing else.

22 Q. Okay. But did James himself say what he
23 thought, whether he thought it was affecting him
24 physically or mentally?

25 A. No. He did not. No. He did not because you

1 can't even see it. Anybody, any of the friends, you
2 can't see it. He's still carrying on his normal routine
3 playing tennis.

4 Q. What were you doing to help James at that point
5 in time?

6 A. Not a lot of changes except maybe in the meal
7 preparation. I did not have him have any more Coke or
8 anything sweet because I know that the sweet stuff is
9 not good for his health and now especially a person with
10 cancer that it would only worsen it. So I began giving
11 him organic food.

12 Q. Did James tell you that the growth was
13 cancerous?

14 A. No. No one knew.

15 Q. I believe your prior testimony has been that
16 you had been cooking for James and shopping at the
17 market.

18 At that point in time were you washing his
19 laundry?

20 A. Cooking, shopping at the market, yes. I had
21 been doing that from the get-go. Laundry he can do
22 himself.

23 Q. Okay. And who was cleaning his house in San
24 Mateo at that point in time, if you knew?

25 A. His home over there, I think they seldom clean

1 that home. There's just one time that I brought my
2 cleaners there, just the one time.

3 Q. How about his room in El Cerrito? Who cleaned
4 that?

5 A. I am a very clean freak, very picky about
6 cleanliness. And I have cleaners that help with my home
7 and of course he's residing there. So my cleaners, they
8 would help. But the maids that help me clean, they only
9 come once a month. Of course the other times I have to
10 clean myself. Therefore, his room included in my
11 cleaning jurisdiction. He -- of course he cleans it
12 himself sometimes.

13 Q. Through 2007 did you ever help James get
14 dressed?

15 A. No.

16 Q. Did you ever do that? Did you ever help James
17 get dressed?

18 A. He really didn't need it. Even after I offered
19 it to him, he thought I was crazy.

20 Q. Okay. Is that true for his entire life?

21 A. All the way till 2017, early '18 June. Around
22 June, that's when I needed to offer some assistance in
23 bathing and dressing.

24 Q. Had you ever assisted James in bathing before
25 then?

1 A. No.

2 Q. Did you ever assist James with his medications?

3 A. He was only taking hypertension medication and
4 some vitamins. So he managed it himself.

5 Q. So I'm talking about his entire life. Did you
6 ever assist him with his medications in his entire life?

7 A. Not until he found out he's got the cancer and
8 at that time I took care of him very, very cautiously.

9 Q. When was that?

10 A. So when they found out -- I'm not sure whether
11 it was 2016, but for sure 2017 when he began chemo, then
12 he began taking a lot of medications.

13 Q. And did you assist him doing that?

14 A. I helped him very thorough and meticulously. I
15 had lined up the medications by chronological order by
16 the time. I don't want him to be taking a lot of
17 medication at one time. So I am separating it different
18 times. It was also concerning the harmful side effects
19 the medication might have on his stomach. So I helped
20 with getting him some yogurt, some papaya before the
21 medications.

22 Q. Before James started his chemotherapy
23 treatment, had you ever helped him with his medicine?

24 A. Well, after he needed to take the multiple
25 medications, that's when I started helping, but

1 previously he was just taking vitamins and hypertension
2 medication.

3 Q. Did you ever feed James?

4 A. Just once.

5 Q. When was that?

6 A. I think that was a common cold. That's when I
7 fed him.

8 Q. Do you remember what year that was?

9 A. I think this is before he went back to Taiwan.

10 Q. In what year?

11 A. I don't recall. Just that one time.

12 Q. Did you ever help James get to the bathroom?

13 A. Only after he started chemotherapy.

14 Q. Over how many months were you helping him go to
15 the bathroom?

16 A. Maybe only about a month or so.

17 Q. Do you remember which month that was?

18 A. Close to the time he went over -- close to the
19 time when the son took him away.

20 Q. Did you ever help James with transfers, like
21 getting out of bed or getting out of a chair and going
22 to the next place?

23 A. Many, many times. Many, countless amount of
24 times. Very difficult because he's pretty heavy and I
25 had to lift him up, transfer him to wheelchair.

1 Sometimes there was no wheelchairs. Then I have to walk
2 him to the bathroom, for example.

3 Q. When was the first time you did that?

4 A. Don't know the specific date but after we moved
5 in. I think it's 2017, whether it's February or March.

6 Q. How much do you think he weighed then?

7 A. I don't recall.

8 Q. Okay.

9 A. I was very fatigued caretaking him, caring for
10 him 24/7 for almost two years -- more than a year.

11 Q. As of April -- let's just go through 2010. As
12 of 2010 did James ever -- did you ever see James say
13 anything or do anything that indicated he had some sort
14 of problem with his memory?

15 A. I feel that his memory is very, very good,
16 especially in the areas of numbers and finance, money.
17 Very clear.

18 Q. Through, again, 2010, had you ever seen James
19 appear to be confused?

20 A. No.

21 Q. Through 2010 when you were talking to James,
22 did he ever appear to be confused by what you were
23 saying?

24 A. No.

25 Q. Through 2010 did he ever have any difficulty

1 expressing himself to you clearly?

2 A. No.

3 Q. Through 2010 had you ever seen James
4 disoriented?

5 A. No.

6 Q. Through 2010 did you think of James who was
7 someone -- who was what I would call a pushover, that it
8 was easy for other people to get him to do something if
9 he didn't want to do it or did he resist?

10 A. He's not person that's a pushover. Nobody can
11 push him over easily, but he's not one that's wanting to
12 embarrass others. He will think it through very
13 thoroughly.

14 Q. Did that ever change?

15 A. No change. And, hence, he called me naive and
16 foolish.

17 Q. In your own relationship with James, was it
18 easy for you to manipulate him?

19 A. Impossible.

20 Q. Did you think of James as somebody who was
21 smart or unintelligent or somewhere in the middle?

22 A. I think he's right in the middle but I think
23 that he -- one of his traits is that he would think for
24 a long period of time before making a decision.

25 Q. Can you give any examples of decisions like

1 that that he needed to mull over before he made them or
2 get information or something like that?

3 A. If I give you those examples, you might get a
4 good laugh at it. Yesterday I mentioned once that he
5 was helping me with a window installer asking about
6 pricing, rates in my home. He asked this person from
7 morning, nine o'clock, to 9 p.m. at night.

8 Q. Did James ever stop driving?

9 A. 2017.

10 Q. When you were with --

11 A. 2016. Sorry.

12 Q. Why did he stop driving?

13 A. At that time he was doing radiation therapy.

14 Q. Okay. And after the radiation therapy, did he
15 resume driving or not?

16 A. No. He did not.

17 Q. So up until the time he started his radiation
18 therapy, when the two of you were going somewhere in a
19 car, who usually drove? You or him or was it equal?

20 A. If it's just the two of us, it would be me.

21 Q. What were James' main interests?

22 A. He's a mechanical engineer. So he likes to fix
23 things. His interest is playing tennis and also
24 gymnastics. And he likes matters related to politics,
25 history, geography. He's got a lot of interests. Also

1 likes to travel.

2 Q. Did he have any interest in the arts?

3 A. He does like classical music, light classical
4 music but he's not fond of just art and music. A little
5 further away from that, not too much into art. For
6 example, if I go to a concert or if I attend -- go to a
7 museum, he would walk off, like, outside by himself.

8 Q. Did he read?

9 A. Yes. His favorite is Chinese newspaper.

10 Q. How often did he read the Chinese newspaper?

11 A. Every day.

12 Q. Did that ever stop?

13 A. No. When he was sick that stopped.

14 Q. And when was that? How long before he passed
15 away?

16 A. When he began radiation therapy.

17 Q. Did you talk -- after the McCollum property was
18 transferred to you or to your trust, did you talk to
19 James about how the two of you would report the
20 property's income and expenses on tax returns?

21 A. I didn't mention it but he brought it up first
22 that he wanted to use -- utilize the expenses.

23 Q. Did he tell you why he wanted to do that?

24 A. To help with his personal income taxes.

25 Q. To help in what way?

1 A. Well, he's got income. So the expenses he
2 used, those expenses to help decrease his tax liability.
3 And of course I do have rental income, but I gave him
4 half of that for him to claim that, but whether he
5 utilized it I'm not sure.

6 Q. Are you saying you gave him half of the money
7 or he could report half of the income on his tax
8 returns?

9 A. Not -- not money but basically a report saying,
10 well, the income is this much and the expenses is this
11 much.

12 Q. Did you agree that James could do that?

13 A. I did not like it.

14 Q. Why -- did you agree though?

15 A. I couldn't do anything else. Well, because my
16 hands are tied because while -- he helped me. So I
17 needed to let him do what he would like to do.

18 Q. Did you ever have any joint bank accounts with
19 James?

20 A. Just once. From my recollection, just once.
21 If there were more than one, it would be very short
22 periods of time. I do not remember those.

23 Q. Okay. Do you --

24 THE COURT: We are getting close to
25 six o'clock. I don't know if you wanted to --

1 MR. BAER: It's a good time to break because I
2 will have to get some documents for these joint
3 accounts.

4 THE COURT: Sure.

5 THE REPORTER: And, Mr. Biorn, you would like a
6 rough and a final of today's transcript?

7 MR. BIORN: At least a rough of today.

8 THE REPORTER: The final comes with the rough.

9 MR. BIORN: Okay. Great. Thank you.

10 (Time noted: 5:58 p.m.)

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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:

3 That the foregoing proceedings were taken
4 before me at the time and place herein set forth; that
5 any witnesses in the foregoing proceedings; prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand which
8 was thereafter transcribed under my direction; that the
9 foregoing transcript is a true record of the testimony
10 given.

11 Further, that if the foregoing pertains to the
12 original transcript of a deposition in a Federal Case,
13 before completion of the proceedings, review of the
14 transcript [] was [] was not requested.

15 I further certify I am neither financially
16 interested in the action nor a relative or employee of
17 any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed
19 my name.

20
21 Dated: January 4, 2024



22
23 GINA MINNIS
24 CSR NO. 11996
25