

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
IN THE MATTER OF THE APPLICATION FOR
THE APPOINTMENT OF A GUARDIAN

BY: THOMAS DEPASQUALE and
BARBARA SUDUL,
Petitioners,

RECEIVED
APR 30 2010
HON. ROBERT M. CRESIA
ACTING SUPREME COURT JUSTICE

FOR: EVA DEPASQUALE,

A PERSON ALLEGED TO BE INCAPACITATED,
-----X

April 28, 2010

5:02 p.m.

CONFIDENTIAL VIDEOTAPED EXAMINATION UNDER
OATH of EVA DEPASQUALE, the Respondent
herein, and held at the Westchester Center
for Rehabilitation and Nursing, 10 Claremont
Avenue, Mount Vernon, New York 10550, before
Michele Ambrosino, a Court Reporter and
Notary Public of the State of New York.



1 A P P E A R A N C E S :

2

3 LAW OFFICES OF FENG LI

4 Attorneys for Respondent

5 EVA DEPASQUALE

6 35 Grassy Sprain Road

7 Yonkers, New York 10710

8 BY: KENNETH ELLMAN, Assistant

9

10

11

12 ALSO PRESENT:

13 KEVIN MARTH (VIDEOGRAPHER)

14 RYAN STOKES

15 ANDRE STOKES

16 CONNOR STOKES

17 JOSEPH DEPASQUALE

18 KAREN DEPASQUALE

19

20

21

22

23

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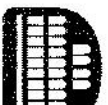
1 THE VIDEOGRAPHER: We are now on the
2 record. My name is Kevin Marth. I'm a legal
3 videographer representing DALCO Reporting.

4 This is the videotaped statement of Miss
5 Eva DePasquale in The Matter of DePasquale
6 versus DePasquale. The statement is being
7 taken at the Westchester Center for Nursing
8 and Rehabilitation located in Mount Vernon,
9 New York. The date is April 28, 2010. The
10 time is 5:02 p.m. The court reporter is
11 Michele Ambrosino, also representing DALCO
12 Reporting.

13 Counsel, would you please introduce
14 yourself for the record, and the court
15 reporter will swear in the witness.

16 MR. ELLMAN: My name is Kenneth Ellman.
17 I'm an assistant in the law office of Feng
18 Li. Feng Li is the attorney for Miss Eva
19 DePasquale.

20
21 EVA DEPASQUALE,
22 having first been duly sworn by the Notary Public
23 (Michele Ambrosino), and stating her address as
24 36 Linden Street, Yonkers, New York 10701 and



1 Westchester Center for Rehabilitation and Nursing,
2 10 Claremont Avenue, Mount Vernon, New York 10550,
3 was examined and testified as follows:
4

5 EXAMINATION BY

6 MR. ELLMAN:

7 Q. Mrs. DePasquale, do you know where you
8 are?

9 A. Where I am?

10 Q. Yes.

11 A. Yes, I do.

12 Q. Could you please tell us where you are.

13 A. Westchester Nursing Home, 10 Claremont
14 Avenue, Mount Vernon, New York 10550.

15 Q. And what is your full name?

16 A. Mrs. Eva DePasquale.

17 Q. I'm going to ask you some questions. And
18 while I'm discussing this with you and asking you
19 questionings, it's very important that you feel
20 comfortable and only say what you believe is
21 right. Nobody is going to judge you. Your
22 answers should be the answer that you want to say,
23 not anybody else.

24 A. Yes.



1 Q. If I say something and you don't
2 understand it, you just tell me to repeat it. And
3 if I say something that makes no sense, you tell
4 me it makes no sense to you. If you have any
5 questions to clarify anything, feel free to ask
6 anything you want. I'm going to show you some
7 documents, and I'm going to ask you some questions
8 about them.

9
10 (Respondent's Exhibit 1,
11 DURABLE POWER OF ATTORNEY
12 DOCUMENT, was marked for
13 identification.)
14

15 BY MR. ELLMAN:

16 Q. I'm showing you here what's been marked
17 as Respondent Exhibit number 1. And perhaps you
18 can take a look at it, and if you want to you can
19 ask me any questions. Have you ever seen it
20 before? Does it have your signature at the bottom
21 of the page?

22 A. Yeah.

23 Q. And at the top of the page, does the very
24 top, are you able to read what it says? The first



1 line at the very top? If you want to I can point
2 the line out to you.

3 A. You mean this part (indicating)?

4 Q. This top line.

5 A. Durable general power of attorney.

6 Q. And do you remember signing such a thing?

7 A. Yes.

8 Q. Now, I ask you to turn to the last page
9 of the document. One more page. It's a little
10 hard sometimes. And does that last page have your
11 signature on it?

12 A. Yes, it does.

13 Q. Are you able to see if there's a date on
14 there?

15 A. May -- May the 30th, 2007, at Mount
16 Vernon, New York.

17 Q. And did you sign that document then?

18 A. Yes, I did.

19 Q. And was that a power of attorney to Tom,
20 your son, and Karen, your daughter?

21 A. Yes.

22 Q. Did there come a time that you changed
23 your power of attorney?

24 A. Yes, I did.



1 Q. Okay. May I have that back, please?
2 Thank you. I'll leave it right here if you need
3 to look at it.

4
5 (Respondent's Exhibit 2,
6 STATE OF NEW YORK COUNTY
7 OF WESTCHESTER DOCUMENT, was
8 marked for identification.)

9
10 BY MR. ELLMAN:

11 Q. I'm going to show you what's been marked
12 by the reporter as Respondent's Exhibit number 2.
13 Please take a look at it, and I'll ask you a
14 question. Have you ever seen that exhibit,
15 Respondent's Exhibit number 2 before?

16 A. Yes, I did.

17 Q. And does it have your signature on it?

18 A. Yes.

19 Q. And can you tell me what your
20 understanding is, what your -- what that did, that
21 sheet of paper?

22 A. Well, he wants me to declare that I'm
23 incompetent. And he wants to have the ability to
24 do whatever he wants to do with me and for me.



1 Q. Who you talking about?

2 A. Tom.

3 Q. And so did you then sign something
4 relating to the previous power of attorney?

5 A. Yes.

6 Q. And can you tell me what this is then, to
7 your understanding?

8 A. Well, I said I don't want him as durable
9 power of attorney. And besides that, he got in
10 touch with my daughter, Barbara, the two of them
11 got together, and they have the same lawyer. And
12 they're trying do these things by not consulting
13 me without understanding, and I know longer trust
14 him.

15 Q. Now, when you signed that document you're
16 holding, Exhibit number 2, did anyone tell you you
17 had to sign it?

18 A. No.

19 Q. Is this something you did because you
20 thought it was the right thing to do?

21 A. Yes, I did.

22 Q. Did there come a time that you became
23 aware that Tom had taken money out of a checking
24 account?



1 A. Yes, I do.

2 Q. Can you tell me whose checking account
3 that was?

4 A. It was from my father -- my husband.

5 Q. Your husband's checking account. Would
6 that be then Tom's father?

7 A. Also, yes.

8 Q. And when he took that money out of the
9 checking account, had he asked your permission?

10 A. No.

11 Q. Do you remember how much he took out?

12 A. I think \$30,000. That was to buy his
13 own home, and he's done more than that. Up until
14 today, he bought another home on across the street
15 on Valley Avenue in Yonkers, New York.

16 Q. So your memory is that he took a lot of
17 money out of that account?

18 A. He continues to do it too.

19 Q. You think he still might be doing it?

20 A. Yes.

21 Q. But you do know he was doing it at one
22 time?

23 A. Yeah.

24 Q. And you don't think he had your



1 permission or your husband's permission to take
2 that?

3 A. No, I don't think that. He just went
4 ahead.

5 Q. Now, did you -- did he ever explain to
6 you why he took the money?

7 A. He said he was -- he had -- he needed
8 money to make repairs on the house that he bought
9 down the street from his.

10 Q. And did he explain to you why he wanted
11 to make those repairs?

12 A. Well, he figured they were going to move
13 into it.

14 Q. When you say "they," who do you think he
15 wanted to move into the house?

16 A. My daughter and her four sons.

17 Q. Your daughter, meaning which daughter?

18 A. Karen.

19 Q. Karen, and her four sons. And did -- was
20 there any discussion as to where Joseph would
21 live?

22 A. Joseph lives upstate.

23 Q. No, I mean your --

24 A. Or you mean my husband?



1 Q. Your husband, yes.

2 A. No, I guess he figured that he was going
3 with him and maybe me too. I don't know.

4 Q. In this house he was getting?

5 A. Yeah.

6 Q. And did he get your permission to have
7 this house for you and the family to live in?

8 A. No, he bought this house without me
9 knowing it, and then when I heard that he was --
10 had to be buying -- taking money out of the bank
11 to make repairs on that house, because it's an old
12 house and it's needs a lot of repairs. It needs
13 electricity put in, and besides what work he could
14 do, he had to hire all these people to come in and
15 repair it. And they're still not done after two
16 years.

17 Q. And this you're talking about some house
18 he bought that you don't own?

19 A. Yes.

20 Q. Did you ever tell him that you wanted the
21 money back?

22 A. He doesn't have the money to give me
23 back.

24 Q. So you did discuss this with him?



1 A. Yes, he said he was just borrowing it.

2 Q. To your knowledge, did he ever pay it
3 back?

4 A. No, he never did.

5 Q. Did there come a time that you became
6 aware Tom had brought a court action against you?

7 A. Yes.

8 Q. And may I see that exhibit you're
9 holding, please? After you signed this exhibit,
10 Respondent's Exhibit number 2, which you just
11 looked at, am I correct? That's the one I just --
12 you handed me just now. After you signed that,
13 did you then sign a new power of attorney for your
14 daughter Karen?

15 A. Yes, to the --

16

17 (Respondent's Exhibit 3,

18 DURABLE GENERAL POWER

19 OF ATTORNEY DOCUMENT,

20 was marked for identification.)

21

22 BY MR. ELLMAN:

23 Q. And if I show you this here. Please take
24 a look at it. It's marked Exhibit number 3,



1 Respondent's Exhibit number 3. And you can take a
2 look at that and if you have any questions, maybe
3 you can ask me, or explain to us what you think
4 you're looking at.

5 A. It allows Karen to do everything.

6 Q. Is this a power of attorney, this one?

7 A. I think so, yes.

8 Q. And could you look at the bottom of the
9 page, does it have your signature?

10 A. Yes, it does.

11 Q. Could you look at the last page and tell
12 me if it has your signature?

13 A. Yes, it does.

14 Q. Do you remember signing it?

15 A. Yes.

16 Q. And did this power of attorney take the
17 place of the old one?

18 A. No, it's the same thing.

19 Q. Is there any difference between the one
20 you're holding, and the one you looked at number
21 1?

22 A. That one doesn't have -- this one
23 (indicating) doesn't have Tom's name on it. It
24 just has Karen's name.



1 Q. The new one?

2 A. Yes.

3 Q. Is that the one, if you look at the front
4 page of the new one, is there an exhibit number on
5 that? You can turn to the front page of the
6 document you're holding.

7 A. Yes.

8 Q. And is that number 3? It has the tag on
9 it --

10 A. Yeah.

11 Q. -- the bottom?

12 A. Uh-huh.

13 Q. Is that the new one then?

14 A. I guess so.

15 Q. Is that your understanding?

16 A. Yep.

17 Q. And when you signed that new one, it did
18 not have Tom's name on it?

19 A. It says Thomas was revoked.

20 Q. I'm sorry. What did you say?

21 A. They revoked Thomas.

22 Q. And is this what wanted to do?

23 A. Yes, I wanted Karen to have full
24 authority to do whatever she wanted to. To take



1 money out of the bank if she needed it. Life
2 insurance or whatever.

3 Q. You wanted Karen to have that power?

4 A. Yes.

5 Q. Did you want Tom to continue to have it?

6 A. No.

7 Q. So when you made this change, you
8 understood what you were doing?

9 A. Yes.

10 Q. Do you have any questions today about
11 whether this was the right thing to do or not?

12 A. Well, it still stands the same as far as
13 I go. It's still on Karen.

14 Q. Did there come a time that a -- you can
15 hand that back to me, these documents if you wish.
16 And anything you need to look at, you can just ask
17 for. Is that all right?

18 A. Uh-huh.

19 Q. Did there come a time that you met a
20 doctor who gave you certain tests here in this
21 nursing room?

22 A. Yep.

23 Q. Do you remember --

24 A. Dr. Sharma.



1 Q. A Dr. Sharma, you said?

2 A. Yes.

3 Q. And you remember him giving you some
4 tests?

5 A. Yes.

6
7 (Respondent's Exhibit 4,
8 COMPREHENSIVE REPORT,
9 was marked for identification.)

10

11 BY MR. ELLMAN:

12 Q. All right. I now hand you Respondent's
13 Exhibit number 4. Now, what I'm asking you is:
14 Why did Dr. Sharma give you this test; if you
15 know?

16 A. I guess everything about me. If I knew
17 who I was. Where I was. About my son, Thomas,
18 and my daughter's, Barbara. And he gave me
19 extensive -- he was there about an
20 hour-and-a-half, asking me all kinds of questions
21 that I answered for him truthfully.

22 Q. And the document you're holding then,
23 could you turn to the last page. And the page in
24 front of that if you could look at. Does that at



1 the bottom of that page, does it have a signature
2 of someone?

3 A. Ravil Sharma, PSYD.

4 Q. Is that the doctor who gave you the test?

5 A. Yeah, licensed psychologist.

6 Q. And you do remember that then?

7 A. Yes, I do.

8 Q. Do you have any questions about that
9 test?

10 A. I was just looking over some of the
11 things he asked me that day.

12 Q. If you look on the front page, I'd like
13 to call your attention to a line there. And if
14 you notice there's a line there that's
15 highlighted. Could you please read that?

16 A. You mean the present of evaluation? Is
17 that what you want?

18 Q. What did you say?

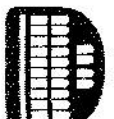
19 A. I said present evaluation?

20 Q. Yeah, there's a highlighted line.

21 A. Yes. The resident showed average
22 functioning of most cognitive domains examined.

23 Q. Very good.

24 A. She performed in the average range for a



1 semantic working memory task that required recall
2 of four unrelated words. Her attentional
3 abilities were in the average range. She was
4 oriented to person, place and time.

5 Q. Thank you very much. Thank you.

6 A. You're welcome.

7
8 (Respondent's Exhibit 5,
9 NOTICE OF ARTICLE 6974/10,
10 was marked for identification.)
11

12 BY MR. ELLMAN:

13 Q. I show you what's been marked as
14 Respondent's Exhibit number 5. And I ask you, if
15 you've ever seen it before?

16 MR. ELLMAN: We're just going to take a
17 one minute break off the record.

18 THE VIDEOGRAPHER: We're going off the
19 record at 5:21 p.m.
20

21 (An off-the-record discussion was
22 held.)
23

24 THE VIDEOGRAPHER: We are going back on



1 the record at 5:34 p.m.

2

3 BY MR. ELLMAN:

4 Q. Mrs. DePasquale, you're holding -- you
5 have in front of you what's been marked -- you can
6 see the number on the bottom of the make?

7 A. Yes.

8 Q. And what exhibit is it?

9 A. 5.

10 Q. Have you ever seen that before?

11 A. Yes.

12 Q. What do you think it is?

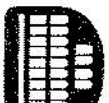
13 A. Barbara and Thomas want to take my --
14 want to make me sound like I'm incapacitated. I
15 don't know who I am. I don't know what to talk
16 about. They just want to take me over for money,
17 I guess. I don't know.

18 Q. Have you ever heard the expression that
19 they would like to be your guardian?

20 A. Yes, and I don't want them to be my
21 guardian.

22 Q. Are you able to make decisions for
23 yourself?

24 A. Yes, I am.



1 Q. And you just previously discussed the
2 psychologist who came in, did a testing of you;
3 right?

4 A. Yes, Dr. Sharma.

5 Q. And is it your understanding that Dr.
6 Sharma said you can make your own decisions?

7 A. Yes, I do.

8 Q. Now, this the a big document, and I'm not
9 going to go over the whole thing with you, but I
10 ask you -- I'm going to turn it to a page here and
11 ask you some questions. And if you're able to,
12 you'll answer them, and you'll say whatever you
13 wish. So if look at the bottom of the page that's
14 open to you, does it have a number?

15 A. 4.

16 Q. And you're looking at page 4 then?

17 A. Yes.

18 Q. And I go back to the cover page, and I
19 ask you, if see where it has a number here and a
20 word before it?

21 A. Yes.

22 Q. Can you tell me what that word is?

23 A. Index.

24 Q. And does it have an index number?



1 A. Yes.

2 Q. What is that index number?

3 A. 6974 and, dash, 10.

4 Q. Okay. Could you please say that again,
5 what's the first number?

6 A. 6.

7 Q. And then go ahead.

8 A. 974 and, dash, and 10.

9 Q. Okay. And if we turn back to that page 4
10 of that document, have you ever seen this before?
11 Would it be okay if I asked you a question about
12 something on page 4?

13 A. Uh-huh.

14 Q. Now, if we look at page 4, the top of it,
15 do you see the top line, it starts with on or
16 about? Would you be able to read that if I asked
17 you to?

18 A. Yes.

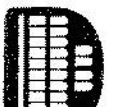
19 Q. Could you tell me starting with the word,
20 on or about, at the top of page --

21 A. Yes.

22 Q. -- would you be able to read it now?

23 A. Yes.

24 Q. Please read it, if you can.



EVA DEPASQUALE

1 A. On or about April 24th, 2009, Karen
2 DePasquale executed a deed transferring ownership
3 of the home owned by Eva and Joseph DePasquale
4 located at 36 Linden Street, Yonkers, New York.
5 She transferred ownership of the home over to her
6 son, Connor Stokes. The deed was executed by
7 Karen DePasquale as attorney in fact for Eva
8 DePasquale and as attorney in fact for Joseph
9 DePasquale. The actions of Karen DePasquale were
10 unilateral and inappropriate. Despite the fact
11 that she and her brother Thomas DePasquale were
12 named jointly on the durable general powers of
13 attorney, she did not consult with Thomas or seek
14 to have him join the -- join in these conveyances.

15 Q. Okay. You read -- you read quite a bit,
16 and do you feel you understood what you just read?

17 A. Yes.

18 Q. So I have some questions for you. Did
19 you know that Karen executed a deed transferring
20 the house?

21 A. Yes.

22 Q. And did you know who she transferred it
23 to?

24 A. She transferred it to her son, Connor.



1 Q. And did you know about this and
2 understand what was going on?

3 A. Yes, I do.

4 Q. And did Karen have your permission to do
5 this?

6 A. Yes, she did.

7 Q. Did you tell Karen to do it?

8 A. Yes.

9 Q. And is this what you and your husband,
10 Joseph, wanted?

11 A. Yes.

12 Q. And you read further in there where it
13 has some other comments that you would --
14 something that you would like done. I believe if
15 I point it out to you, maybe you can see that
16 there starting with Eva (indicating). What does
17 that say?

18 A. Eva DePasquale also was not consulted
19 and did not authorize this conveyance. She wishes
20 her ownership interest in her home to be returned
21 to her.

22 Q. Now, let me ask you if I can: Is that
23 true what that sentence says?

24 A. I don't want her to transfer it to me.



1 Q. Was -- you knew about this transfer?

2 A. Yes.

3 Q. And do you want it to stay in the name of
4 Connor?

5 A. Yes.

6 Q. Does Connor help take care of your
7 husband?

8 A. Yes, he does.

9 Q. And how do know that?

10 A. I know that, because I know he was
11 living with him.

12 Q. Did you want Connor to help take care of
13 your husband?

14 A. Yes, I did.

15 Q. Does Karen, your daughter, help take care
16 of your husband?

17 A. Yes, she does.

18 Q. Is this what you wanted?

19 A. Yes.

20 Q. Is that why you put the house in Connor's
21 name?

22 A. Yes.

23 Q. Is it because you wanted to help Connor
24 and Karen?



1 A. Yes.

2 Q. To help take of your husband?

3 A. Yes.

4 Q. If you came to court, and you were asked
5 what you want done with that house, what would you
6 tell the court?

7 A. To keep it there, so my husband could
8 use it.

9 Q. Keep it in whose name?

10 A. Connor's name.

11 Q. And you wouldn't want to change that?

12 A. No.

13 Q. So is the statement in those papers on
14 page 4 that you just read, is that true or untrue
15 what they wrote there?

16 A. No, it wasn't.

17 Q. It's not true?

18 A. Not true.

19 Q. You would tell the judge then what, about
20 what's written on page 4?

21 A. That Barbara Sudul and my son, Thomas,
22 had the idea that they could take over my
23 guardianship. Take all my rights, and I don't
24 want that. I don't want them.



1 Q. Thank you very much. May I have that
2 document? I want to ask you: You know that
3 there's a proceeding against you in the court
4 which you just looked at; am I correct? Did you
5 know they also brought one against your husband,
6 Joseph?

7 A. Yeah.

8
9 (Respondent's Exhibit 6,
10 NOTICE OF ARTICLE 6975/10,
11 was marked for identification.)
12

13 BY MR. ELLMAN:

14 Q. I show you what's been marked as
15 Respondent Exhibit 6. Ask you, if you've ever
16 seen it before, the document?

17 A. Yes, I've seen this before.

18 Q. What do think it is?

19 A. Barbara and Thomas want to more or less
20 control my actions and where I live and what I do.

21 Q. And is this document here relate to your
22 husband also?

23 A. Yes, it does.

24 Q. Now, I'm going -- this is a big document,



1 I'm not going to ask you questions about every
2 page. I'm turning to a particular page. There's
3 a page open now before you. At the bottom of the
4 page, do you see a number?

5 A. 3.

6 Q. Page 3. And what -- I forgot to ask you
7 on the -- on the front of the page, do you see
8 over here a number (indicating)?

9 A. Yes.

10 Q. Can you read what that says?

11 A. It says index number 697510, that means
12 this year.

13 Q. And the name of this document relates to
14 which, you or your husband?

15 A. Joseph DePasquale.

16 Q. Okay. So now, we can turn to page 3. If
17 you'd like I'll help you with that. Actually --

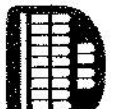
18 A. 4.

19 Q. 4, yes. Looks like there's multiple --
20 there's two different documents here, so I'm glad
21 -- okay. Now, are we on page 3?

22 A. Yes.

23 Q. And do you see a paragraph 13?

24 A. Uh-huh.



1 Q. Could you read that paragraph 13, please?

2 A. Plan: Joseph DePasquale is presently
3 receiving inadequate care. He requires the
4 services a professional caregiver to assist him
5 with all activities of daily living.

6 Q. Can I ask you a question now?

7 A. Yes.

8 Q. Do you believe -- do you understand that
9 sentence?

10 A. Yes.

11 Q. Do you believe your husband, Joseph, is
12 getting inadequate care?

13 A. I don't believe that. He's getting
14 adequate care.

15 Q. Very good. Thank you for that. And I
16 ask you if could look at this here (indicating).
17 Starting with on page 3, the word, however.

18 A. However, Joseph was not receiving --
19 receiving adequate care, and was not being
20 inadequately supervised given that he suffers from
21 dementia. Joseph was not receiving proper
22 nutrition and hygiene. He was often left alone
23 because Connor was either home -- either not home
24 or was sleeping or in another part of the house.



1 As a result of a complaint being filed with Adult
2 Protective Services, Joseph has been moved to the
3 residence of his daughter, Karen DePasquale,
4 located at 28 Chestnut Street, Yonkers, New York.

5 Q. All right. You can stop. Let me ask
6 you: Did you understand what you just read?

7 A. Yes.

8 Q. Now, do you believe your husband, Joseph,
9 is not getting proper nutrition?

10 A. Yes, he is.

11 Q. He is getting proper nutrition?

12 A. Yes.

13 Q. Do you believe he's getting -- not
14 getting proper hygiene?

15 A. Yes, he is.

16 Q. He is getting proper --

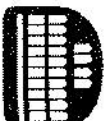
17 A. Yes.

18 Q. Do you see any problem with the care
19 being given to your husband, Joseph?

20 A. No, I think it's perfect.

21 Q. Now, you read something about the
22 Department of Social Services in there; am I
23 correct?

24 A. Yes.



1 Q. Do you remember where someone made a
2 complaint to the Department of Social Services
3 that your husband, Joseph, was being poorly cared
4 for?

5 A. Yes.

6
7 (Respondent's Exhibit 7,
8 LETTER DATED 1/27/10,
9 was marked for identification.)
10

11 BY MR. ELLMAN:

12 Q. I'm going to take this document move it
13 over here, the exhibit number -- Respondent's
14 Exhibit 6, and I'm going to hand you what's been
15 marked Respondent Exhibit 7. And I ask you to
16 take a look at it for a moment. Can you tell me
17 is that a letter?

18 A. Yes.

19 Q. And if you look at the top of the page --
20 of that letter, does it have the name of who wrote
21 that letter, the very top of the page?

22 A. Westchester Government.

23 Q. Westchester Government?

24 A. C-O-M. I don't know what that is.



1 Q. Okay. Yeah, that's -- C-O-M, that's the
2 way they contact them on the Internet. Now, does
3 that make sense to you, you may have heard of the
4 Internet; right?

5 A. Yes.

6 Q. If you look over here (indicating), if
7 you could read -- that letter, by the way, does it
8 have a date on it?

9 A. January the 27th, 2010.

10 Q. And can you tell me, if you don't mind,
11 read the letter. I would ask you if you could
12 read the letter. Starting whose it's addressed to
13 and go down.

14 A. The letter's addressed to Joseph
15 DePasquale, 36 Linden Street, Yonkers, New York
16 10703. A request for Adult Protective Services
17 has been reviewed by this office. In accordance
18 with Social Services Law 473, we find that you are
19 -- you are currently eligible to receive
20 Protective Services for Adults. Not eligible to
21 receive Protective Services for Adults.

22 Q. Now, I ask you: You just read two
23 sentences; am I correct?

24 A. Yes.



1 Q. One of them has a check mark in front of
2 it, and one does not?

3 A. Yes.

4 Q. The one that has the check mark in front
5 of it, could you read that?

6 A. Check mark: Not eligible to receive
7 Protective Services and -- Services for Adults due
8 to the fact that: You have another system or a
9 person willing and able to assist in the
10 responsible manner. Information collected during
11 our assessment which identifies you or your family
12 is confidential. If you are not satisfied with
13 this decision, you have a right to ask for a fair
14 hearing, if you -- if you wish to have a hearing
15 -- fair hearing you or a representative must make
16 your request within 60 days. You may do so by
17 telephoning 1-518-474-8781 or by writing to: New
18 York State Department of Social Services, Post
19 Office Box 1930, Albany, New York 12201. Or you
20 may fax a request for a hearing to 518-473-6735,
21 or you may access the computer website at
22 www.otda.state.ny.

23 Q. Okay.

24 A. United States.



1 Q. So now you understand this letter -- do
2 you understand it? Let me ask you that. Do you
3 feel you understand the letter?

4 A. Yes.

5 Q. And do you think the Department of Social
6 Services said there was a problem with your
7 husband, Joseph, or there was not a problem?

8 A. It was not a problem.

9 Q. All right. May I have that. Thank you
10 very much.

11
12 (Respondent's Exhibit 8,
13 DEED, was marked for
14 identification.)
15

16 BY MR. ELLMAN:

17 Q. I'm going show you a document marked
18 Respondent number 8. And I'm going to ask you
19 now, it's a legal document, might be a little
20 complicated, but if you can read the top of it.
21 If you have any questions at the top of the
22 document, feel free to ask.

23 A. This indentures is made the 24th, day of
24 April 2009, between by Karen DePasquale, attorney



1 in fact, and Joseph DePasquale and Eva DePasquale,
2 residing at 36 Linden Street, Yonkers, New York
3 10701. By Karen DePasquale, attorney in fact,
4 resident at 28 Chestnut Street, Yonkers, New York
5 10701.

6 Q. Okay. Let me ask you a question now
7 about this: Do you understand what a deed is? A
8 deed to a house?

9 A. Yes.

10 Q. Now, you testified earlier here today
11 that you knew the house was transferred to someone
12 else, and that you and your husband knew about
13 this?

14 A. Yes.

15 Q. And could you answer that? I don't think
16 we heard your answer.

17 A. Yes.

18 Q. Yes, you did know. And is that the deed
19 that you understand was the transfer?

20 A. Yes.

21 Q. And does it have the name of who the
22 house was transferred to?

23 A. Yes.

24 Q. Okay. Do you see name on the top here?



1 A. Connor Stokes, residing at 28 Chestnut
2 Street, Yonkers, New York.

3 Q. And is that who you wanted the house to
4 go to?

5 A. Yes.

6 Q. Thank you very much.

7 MR. ELLMAN: We're going to go off the
8 record for a moment.

9 THE VIDEOGRAPHER: We're going off the
10 record at 5:53 p.m.

11
12 (An off-the-record discussion was
13 held.)

14
15 THE VIDEOGRAPHER: We are going back on
16 the record at 5:54 p.m.

17
18 BY MR. ELLMAN:

19 Q. Mrs. DePasquale, I'm going to -- some
20 people are going to sit next to you, and I'm going
21 to ask you if you know who they are. Mrs.
22 DePasquale, there's a man sitting next to you?

23 A. Yes.

24 Q. Do you know who that man is?



1 A. That's Andre Stokes, my grandson.

2 MR. ELLMAN: I ask the stenographer to
3 now swear the person identified by the
4 witness.

5
6 (ANDRE STOKES, having duly been
7 sworn in by the Notary Public,
8 Michele Ambrosino.)

9
10 MR. ELLMAN: I direct a question to Mr.
11 -- the person identified as Mr. Andre Stokes
12 by the witness. Please, state your true
13 name.

14 MR. ANDRE STOKES: Andre Stokes.

15 MR. ELLMAN: And where do you reside.

16 MR. ANDRE STOKES: 28 Chestnut Street,
17 Yonkers, New York.

18 MR. ELLMAN: And what is your
19 relationship to the witness, Mrs. Eva
20 DePasquale?

21 MR. ANDRE STOKES: That's my
22 grandmother.

23

24



1 BY MR. ELLMAN:

2 Q. Mrs. DePasquale, do you see your grandson
3 often?

4 A. Yes.

5 Q. And you know something about his life?

6 A. Yeah.

7 Q. And how would characterize -- how would
8 you explain your relationship with your grandson
9 if someone asked you this?

10 A. Well, I could go visit them at her house
11 -- with their house, or they come visit me here.

12 Q. And do you feel you have a good
13 relationship or not a good relationship?

14 A. No, it's good a relationship. I love
15 them all.

16 Q. Thank you. Now, Mrs. DePasquale, there's
17 a gentleman sat next to you; am I correct?

18 A. Yes.

19 Q. Do you know who that gentleman is?

20 A. Yes, that's my grandson, Connor Stokes.

21 MR. ELLMAN: I ask that the reporter
22 swear in the person identified by the
23 witness.

24



1 (CONNOR STOKES, having been duly
2 sworn in by the Notary Public,
3 Michele Ambrosino.)
4

5 MR. ELLMAN: You've just been identified
6 by the witness. Could you please state your
7 true name.

8 MR. CONNOR STOKES: Connor Stokes.

9 MR. ELLMAN: And where do you reside?

10 MR. CONNOR STOKES: 28 Chestnut Street.

11 MR. ELLMAN: What is your relationship
12 to this witness, Mr. Stokes?

13 MR. CONNOR STOKES: She's my
14 grandmother.
15

16 BY MR. ELLMAN:

17 Q. Mrs. DePasquale, could you please explain
18 your relationship with this witness -- this person
19 sitting next to you in the chair?

20 A. It's Connor Stokes, my grandson.

21 Q. Do you see him much?

22 A. Yes.

23 Q. How would you explain your relationship
24 with him: good, bad?



1 A. Very good. Very good. Very good.

2 Q. Now, is the person who you had your house
3 transferred to?

4 A. Yes.

5 Q. And you wanted your house transferred to
6 him?

7 A. Yes.

8 Q. To your knowledge, this is what your
9 husband also wanted, your husband, Joseph?

10 A. Yes.

11 Q. You had discussed this with your husband,
12 Joseph, before he got sick?

13 A. Pardon?

14 Q. You had discussed with your husband,
15 Joseph --

16 A. Yes.

17 Q. -- what would happen with the house
18 before he got sick?

19 A. Yes.

20 Q. To your knowledge, did your husband,
21 Joseph, have a close relationship with Connor?

22 A. Yes, he did. He lived with his
23 grandfather.

24 Q. And are you happy with the way Connor



1 takes care of your husband, Joseph?

2 A. Yes.

3 Q. Mrs. DePasquale, a man just sat down next
4 to you, do you know who he is?

5 A. It's Ryan Stokes, my grandfather -- my
6 grandson.

7 Q. I ask the person who just sat down next
8 to Mrs. DePasquale to be sworn.

9

10 (RYAN STOKES, having been duly
11 sworn in by the Notary Public,
12 Michele Ambrosino.)

13

14 MR. ELLMAN: I ask you to please
15 identify yourself, sir.

16 MR. RYAN STOKES: I'm Ryan Stokes.

17 MR. ELLMAN: And what is your
18 relationship with Mrs. DePasquale?

19 MR. RYAN STOKES: I'm her grandson.

20

21 BY MR. ELLMAN:

22 Q. Mrs. DePasquale, what is -- how would
23 you explain your relationship with the gentleman
24 sitting next to you?



1 A. My grandson, Ryan. He lives at 28
2 Chestnut Street, and I can go visit them at her
3 house -- his house -- well, my daughter's house
4 and them, or he comes up here to visit me.

5 Q. And do feel you have a relationship with
6 him?

7 A. Yes.

8 Q. Do you feel that he's close to you?

9 A. Yes.

10 Q. And are you aware that he also has a
11 relationship with your husband, Joseph?

12 A. Yes.

13 Q. And do you know if he helps take care of
14 Joseph or not?

15 A. Yes, he does. Very nice care of him.

16 Q. Thank you.

17 MR. DEPASQUALE: Hello Ma.

18 MS. DEPASQUALE: Hello.

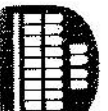
19 MR. DEPASQUALE: How are you?

20 MS. DEPASQUALE: I'm fine. How are you?

21 MR. DEPASQUALE: Doing pretty good.

22 MS. DEPASQUALE: Sit down.

23 MR. DEPASQUALE: Okay. Okay. I feel
24 like going, Mama.



EVA DEPASQUALE

1 MS. DEPASQUALE: Give me a kiss.

2 MR. DEPASQUALE: Yeah, I have to go.

3 What goes on? So -

4 MS. DEPASQUALE: Give me a kiss. You
5 don't love me.

6 MR. DEPASQUALE: Huh?

7 MS. DEPASQUALE: Give me a kiss.

8 MR. DEPASQUALE: Yeah.

9 MS. DEPASQUALE: Give me a kiss.

10 MR. DEPASQUALE: He doesn't?

11 MS. DEPASQUALE: You.

12 MR. DEPASQUALE: All right. We'll have
13 to find out, see who the heck --

14

15 BY MR. ELLMAN:

16 Q. Mrs. DePasquale, is that your husband?

17 A. Yes.

18 MR. DEPASQUALE: That's me.

19 Q. Your husband suffers a medical disease?

20 A. Yes.

21 MR. DEPASQUALE: Yeah.

22 Q. Do you know what the diagnosis might have
23 been?

24 MR. DEPASQUALE: Yeah, that's it.



1 Q. Would the word Alzheimer's disease
2 refresh your recollection?

3 A. Well, it has a shorter name, dementia.

4 Q. Dementia.

5 A. Dementia.

6 Q. Is this the gentleman who's being taken
7 care of by your daughter, Karen?

8 A. Yes, it is.

9 Q. Is this the gentleman who's also being
10 taken care of by your grandsons?

11 A. Yes.

12 Q. And he's your husband. And does your
13 husband visit you sometimes?

14 A. Yes.

15 MR. DEPASQUALE: Well, certainly I do.
16 It's all right.

17 MR. ELLMAN: Mr. DePasquale, do you see
18 your wife? Sometimes you visit her?

19 MR. DEPASQUALE: Well, I don't think I
20 would see her until later. That's a fact.
21 That's the way it is. She rarely goes away
22 with somebody, and she'll do it, yes. We'll
23 see her there today.

24 MR. ELLMAN: We're going to have your



1 daughter -- another person sit in that chair;
2 is that okay?

3 MR. DEPASQUALE: I think is it. How did
4 you know.

5 MR. ELLMAN: All right. Mr. DePasquale.

6 MR. DEPASQUALE: Thank you.

7 MR. ELLMAN: Thank you.

8 MR. DEPASQUALE: Thank you.

9
10 BY MR. ELLMAN:

11 Q. A person has just sat in the chair next
12 to you Mrs. DePasquale; am I correct?

13 A. Pardon?

14 Q. I say, a person has just sat next to you
15 in a chair?

16 A. Yes.

17 Q. Do you know who that person is?

18 A. My daughter, Karen.

19 MR. ELLMAN: I ask the reporter to
20 please swear in the person who's sitting next
21 to this witness, Mrs. DePasquale.

22
23 (KAREN DEPASQUALE, having been duly
24 sworn in by the Notary Public,



1 Michele Ambrosino.)

2
3 MR. ELLMAN: I ask you Miss, to please
4 identify yourself.

5 MS. KAREN DEPASQUALE: Karen DePasquale.

6 MR. ELLMAN: And what is your
7 relationship with Mrs. Eva DePasquale?

8 MS. KAREN DEPASQUALE: She's my mother.

9
10 BY MR. ELLMAN:

11 Q. Mrs. Eva DePasquale, you're aware that
12 your daughter, Karen, has the power attorney?

13 A. Yes.

14 Q. And you're aware that she transferred the
15 house to your grandson, Connor?

16 A. Yes.

17 Q. Yes? I didn't hear that. Say that
18 again.

19 A. Yes.

20 Q. And is that what you wanted done?

21 A. That's what I wanted done.

22 MR. ELLMAN: I ask Mrs. Karen, are you
23 using the name Stokes or DePasquale?

24 MS. KAREN DEPASQUALE: DePasquale.



1 MR. ELLMAN: I ask Mrs. Karen
2 DePasquale, are you taking of Joseph
3 DePasquale?

4 MS. KAREN DEPASQUALE: Yes, I am.

5 MR. ELLMAN: And are doing this because
6 it's what you want to do?

7 MS. KAREN DEPASQUALE: I'm doing it
8 because it's what I want to do, and what my
9 parents want me to do.

10 MR. ELLMAN: And you had discussed this
11 with your mother?

12 MS. KAREN DEPASQUALE: Yes.

13 MR. ELLMAN: And that is your mother
14 sitting next to you now?

15 MS. KAREN DEPASQUALE: Yes, it is.

16

17 BY MR. ELLMAN:

18 Q. And do you agree, Mrs. Eva DePasquale,
19 with what your daughter, Karen, has just said?

20 A. Yes, I do.

21 Q. Okay. Mrs. DePasquale -- Mrs. Eva
22 DePasquale, do you have anything you'd like to say
23 before we end this questioning?

24 A. So far so good. I'm happy that Karen



1 and Connor are taking my husband to live at her
2 house, her apartment. And they give him showers
3 every day in the week, and he gets three meals a
4 day, plus snacks in between breakfast lunch, a
5 banana or something. And then between lunch and
6 dinner he gets another snack. And if he wets,
7 they change him. And they take good care of him.
8 They let him come in and watch television with the
9 boys. And they're very happy together.

10 Q. And is it okay with you then that they
11 also stay at your house that you gave Connor?

12 A. Yes.

13 Q. And they stay also -- does your husband
14 also stay there with them, your husband Joseph?

15 A. Yes.

16 Q. Does Joseph then go back and forth
17 between your house on Linden Street and Karen,
18 your daughter's home?

19 A. 28 Chestnut. Right around the corner.

20 Q. Any he's able to stay one night at one
21 house or another?

22 A. Uh-huh.

23 Q. Is that what you like?

24 A. Yes.



1
2 (Respondent's Exhibit 9,
3 NEWSPAPER, was marked for
4 identification.)
5

6 BY MR. ELLMAN:

7 Q. I ask you, there's a document in front of
8 you, a paper, can you tell us what that is?

9 A. The Journal News.

10 Q. Is there a date on it?

11 A. Wednesday, 28th of April.

12 Q. Can you read me the headline under the
13 Journal News?

14 A. Man admits abusing girl nine years of
15 age.

16 Q. Is there a headline underneath that?

17 A. Gas price is up. May not rise much.

18 Q. Do you sometimes read the newspaper?

19 A. Sometimes.

20 MR. ELLMAN: I think we're going to end
21 this session today.

22 Q. And I -- is there anything further you
23 would like to say again, I'm asking you?

24 A. No.



1 Q. I thank you very much for being here, and
2 I think it's wonderful you were able to be heard
3 like this.

4 A. Thank you.

5 MR. ELLMAN: We're going to end the
6 deposition now. I did have one thing before
7 we end it.

8 Q. You understand that your attorney is Mr.
9 Feng Li?

10 A. Yes, I do.

11 Q. You understand that I work for him. I'm
12 not your attorney?

13 A. No, you're my -- you're his assistant.

14 MR. ELLMAN: Thank you very much.

15 THE WITNESS: Thank you.

16 THE VIDEOGRAPHER: We are going off the
17 record at 6:07 p.m.

18

19

20 (Time noted: 6:07 p.m.)

21

22

23

24



1 STATE OF NEW YORK)

2) SS:

3 COUNTY OF)

4

5

6 I, EVA DEPASQUALE, hereby certify that
7 I have read the pages of the foregoing testimony
8 of this deposition and hereby certify it to be
9 a true and correct record.

10

11

12

13

Eva De Pasquale

14

EVA DEPASQUALE

15

16

17

18

19 Sworn to before me this

20 29 day of April, 2010.

21

ADRIAN M. HESS
Notary Public State of New York
No. 01HE495387
Qualified in Westchester County
Term Expires Aug. 28, 2013

22

Adrian M. Hess

23

24

Notary Public



I N D E X

1			
2			
3	EXAMINATION BY	4	5
4	MR. ELLMAN:		
5			
6			
7	(Respondent's Exhibit 1,	5	10
8	DURABLE POWER OF ATTORNEY		
9	DOCUMENT, was marked for		
10	identification.)		
11			
12	(Respondent's Exhibit 2,	7	5
13	STATE OF NEW YORK COUNTY		
14	OF WESTCHESTER DOCUMENT, was		
15	marked for identification.)		
16			
17	(Respondent's Exhibit 3,	12	17
18	DURABLE GENERAL POWER		
19	OF ATTORNEY DOCUMENT,		
20	was marked for identification.)		
21			
22	(Respondent's Exhibit 4,	16	7
23	COMPREHENSIVE REPORT,		
24	was marked for identification.)		



1			
2	(Respondent's Exhibit 5,	18	8
3	NOTICE OF ARTICLE 6974/10,		
4	was marked for identification.)		
5			
6	(Respondent's Exhibit 6,	26	9
7	NOTICE OF ARTICLE 6975/10,		
8	was marked for identification.)		
9			
10	(Respondent's Exhibit 7,	30	7
11	LETTER DATED 1/27/10,		
12	was marked for identification.)		
13			
14	(Respondent's Exhibit 8,	33	12
15	DEED, was marked for		
16	identification.)		
17			
18	(Respondent's Exhibit 9,	48	2
19	NEWSPAPER, was marked for		
20	identification.)		
21			
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C E R T I F I C A T I O N

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STATE OF NEW YORK)
)
COUNTY OF FULTON)

ss.

I MICHELE AMBROSINO, Court Reporter
and Notary Public within and for the County of
FULTON, State of New York, do hereby certify:

That I reported the proceedings that
are hereinbefore set forth, and that such
transcript is a true and accurate record of said
proceedings.

AND, I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



MICHELE AMBROSINO
Court Reporter

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**IN THE MATTER OF THE APPLICATION FOR
THE APPOINTMENT OF A GUARDIAN**

**EVA DEPASQUALE
April 28, 2010**

	21: 9,12,14;25:14,20; 27:18,19	5:24;6:13;19:22; 20:11;21:16,22;32: 9; 47:20;49: 2	47:19 ARTICLE (2) 18: 9;26:10 assessment (1) 32:11 assist (2) 28: 4;32: 9 assistant (2) 3:17;49:13 attention (1) 17:13 attentional (1) 18: 2 attorney (19) 3:18;5:11;6: 5,19,23; 8: 4, 9;12:13,19;13: 6, 16;22: 7, 8,13;33:24; 34: 3;45:12;49: 8,12	9:14;10: 8;11: 8,18 Box (1) 32:19 boys (1) 47: 9 break (1) 18:17 breakfast (1) 47: 4 brother (1) 22:11 brought (2) 12: 6;26: 5 buy (1) 9:12 buying (1) 11:10
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