

35th Annual Colorado Bar Association
**THE OFFICIAL COLORADO
CASE PROBLEM**



IN RE THE ESTATE OF GAYLE GERGICH



WRITTEN BY

Colorado Bar Association
High School Mock Trial Committee



coloradohighschoolmocktrial.com

Case Summary

When Gayle Gergich passed away, one of her two children, Terry Gergich, sought the formal probate of a will under which Gayle Gergich left her prized Corgi, Pepper, to her dog walker, left half a million dollars to the dog walker to take care of Pepper, left the remainder of \$15 million dollars Gayle had won in the lottery to Terry, and left nothing to Gayle's other child Jerry Gergich.

Jerry contests the will, asserting claims of lack of testamentary intent, lack of testamentary capacity, and undue influence.

AVAILABLE WITNESSES

Contestant:

- 1 Jerry Gergich
- 2 Ronnie Swanson (expert witness)
- 3 Andi Dwyer

Proponent

- 1 Terry Gergich
- 2 Taylor Walken
- 3 Dr. Chris Traeger (expert witness)

EXHIBITS

- Exhibit 1 - Last Will and Testament of Gayle Gergich, executed June 20, 2018
- Exhibit 2 - Photograph of Gayle Gergich
- Exhibit 3 - Photograph of Pepper Marie Clementine
- Exhibit 4 - Photograph of Kitchen
- Exhibit 5 - Photograph of Living Room
- Exhibit 6 - Map of Westland Bank Lobby
- Exhibit 7 - Partially completed New York Times crossword puzzle
- Exhibit 8 - Medical notes, June 20, 2018
- Exhibit 9 - CV of Chris Traeger, M.D.

STIPULATIONS

1. The signatures on the witness statements and all other documents are authentic.
2. Chain of custody for evidence is not in dispute.
3. Both parties agree that Gayle Gergich previously had a will in which she left exactly one half of her estate to Jerry Gergich and one half of her estate to Terry Gergich.
4. The court has found, as a matter of law, that the will, which is Exhibit 1, is a self-proved will.
5. Because the court has found the will at issue to be a self-proved will, the contestant has the burden of proof to establish any objections to the will. Accordingly, Jerry Gergich will present the contestant's case in chief first, followed by Terry Gergich's presentation of the proponent's case in chief. Additionally, the contestant's opening statement will be presented first, followed by the proponent's opening statement, and the contestant's closing argument will be presented first, followed by the proponent's closing argument, followed by the contestant's rebuttal closing.
6. Stipulations cannot be contradicted or challenged.

Jury Instructions

Instruction No. 1

The Court will now instruct you as to the claims of each party to the case and the law governing the case. Please pay close attention to these instructions. You must all agree on your verdict. You must apply the law to the facts.

The parties to the case are: the Proponent, Terry Gergich, who is the party offering the will for probate, and the Contestant, Jerry Gergich, who is the party objecting to the admission of the will to probate.

The Proponent claims the offered will was properly signed by Gayle Gergich as her self-proved will.

The Contestant claims that the will should not be admitted to probate because: Gayle Gergich lacked testamentary intent, she lacked testamentary capacity, and Terry Gergich exercised undue influence over her.

These are the issues you are to determine but are not to be considered by you as evidence in the case.

Instruction No. 2

A will or any provision in it may be valid even if a person who signed the will as a witness is also a beneficiary under the will.

Instruction No. 3

Exhibit 1 is what is known as a “self-proved” will. It has been offered by the Proponent, Terry Gergich, as the will of Gayle Gergich.

If you find that the Contestant has proven any one or more of the claims that (1) Gayle Gergich lacked testamentary intent because, although she may have intended to leave money to

Taylor Walken to care for her Corgi, she did not intend to leave all of the remainder of her estate to Terry Gergich; (2) Gayle was not of sound mind when she signed the will and, therefore, lacked testamentary capacity; or (3) Terry Gergich persuaded Gayle to sign the will by exercising undue influence, by a preponderance of the evidence, your verdict must be for the Contestant, Jerry Gergich.

On the other hand, if you find that the Contestant has not proven any one or more of the claims of lack of testamentary intent, lack of testamentary capacity, or undue influence, your verdict must be for the Proponent.

Instruction No. 4

Testamentary intent means the intent to direct how some or all of one's property is to be disposed of after one's death. A person need not express that intent by stating that a writing is his or her will. The intent may be shown by other words or acts.

Instruction No. 5

A will that was signed when the person making the will did not have testamentary capacity is not valid and may not be admitted to probate. Gayle Gergich did not have testamentary capacity if she was not of sound mind when the will was signed.

A person is not of sound mind if, when signing a will, she did not understand all of the following:

1. That she is making a will;
2. The nature and extent of the property she owns;
3. How that property will be distributed under the will;
4. That the will distributes the property as she wishes; and
5. Those persons who would normally receive her property.

Instruction No. 6

Undue influence means words or conduct, or both, which, at the time of the making of a will:

1. Deprived the person making the will of her free choice; and
2. Caused the person making the will to make it or part of it differently than she otherwise would have.

Instruction No. 7

Undue influence cannot be inferred solely because one or more persons may have had a motive or an opportunity to influence Gayle Gergich in the making of her will.

Influence gained by reason of love, affection or kindness, or by appeals to such feelings, is not undue influence.

You may consider the provisions in the will in determining whether or not Gayle Gergich was acting under undue influence at the time she made the will. However, in considering any particular provisions in the will, you must consider them along with all the other provisions in the will and along with all other evidence relating to the making of the will.

A person of sound mind and not acting under undue influence may will her property to whomever she desires. The fact that a will may contain provisions that differ from your idea of what would be proper is not enough to invalidate the will for undue influence.

Instruction No. 8

You may, but are not required to, draw an inference that the will was signed under undue influence if you find by a preponderance of the evidence that Terry Gergich:

1. Was a beneficiary under the will, and

2. Was in a confidential relationship with Gayle Gergich at the time of the preparation or execution of the will, and
3. Was in some way actively involved with the preparation or signing of the will.

If you draw this inference, you may consider it together with all other evidence in the case in determining whether or not Gayle Gergich signed the will under undue influence.

You should not draw an inference, however, that a person exercised undue influence over another person solely because they were in a confidential relationship.

Instruction No. 9

A confidential relationship exists whenever one person gains the trust and confidence of the other person by acting or pretending to act for the benefit of or in the interest of the other and, as a result, is put in a position to exercise influence and control over the other.

1 **JERRY GERGICH – WITNESS STATEMENT – CONTESTANT**

2 My name is Jerry Gergich, and I am contesting the will that my sibling Terry use undue
3 influence or tricked my Mother into signing. This is not about the money! I don't need more
4 money—I have always been self-sufficient—but I cannot sit back and let my ne'er-do-well sibling
5 steal everything from our Mother's estate. I guess it's a matter of principle.

6 Of course, I don't hate Terry, we're family! I just know my Mother would never have
7 written me out of the will. She was always proud of my accomplishments. Sure, she always phrased
8 her praise so that Terry would not feel slighted, but she was still proud.

9 In hindsight, I never should have acquiesced to Terry moving in and leaching off our
10 Mother in the first place. I let it go because I thought Terry was at least taking care of Mother, that
11 and the fact that Terry would have ended up living under a bridge somewhere otherwise. Maybe I
12 should give you a little context.

13 My Mother is Gayle Gergich. That's a picture of her at Christmas few years back in Exhibit
14 2. Mother got divorced from our Father when Terry and I were little kids. I don't know what
15 happened to our Dad, and I don't care, but I learned a valuable lesson: you can't count on anyone
16 else in the world. That sounds like I'm bitter, but I'm not. Mother had to work two jobs early on,
17 so Terry and I had to basically raise ourselves. I learned that while you need family and you need
18 someone to love in your life, they aren't responsible for your success—only you are. I loved my
19 Mother with all my heart, and I still love Terry despite this probate mess, but, unlike Terry, I was
20 always driven to make something of myself.

21 Growing up, Terry was always jealous of me. Whatever I did well, Terry would try to be
22 better at. Of course, that never worked, so Terry would then belittle what I did, as if it wasn't worth
23 doing. Always subtly condescending—that was Terry. In fact, if you've met Terry, you have seen

24 that Terry calls me “Jer.” I have never called Terry “Ter.” Never. You give little kids cutesy
25 nicknames, not adults. The informality is a way of suggesting you are superior to someone—it’s
26 like if you met Steve Jobs back in the day and started calling him Steve-O.

27 In high school, I got A’s and B’s and took AP courses, while Terry got C’s and D’s and
28 took easy electives like theater. Then I got partial scholarship to the University of Wisconsin,
29 where I got a degree in engineering. Terry went to UCD but dropped out after a couple of years.
30 About six months after Terry dropped out, Mother got hit by a drunk driver. She got a settlement
31 in a lawsuit, and she said she wasn’t able to work. Terry was already living at home, and taking
32 care of Mother became an excuse for not going back to school. Terry’s version of that story
33 changed over time, by the way. A few years after the accident, Terry started claiming to have
34 dropped out to take care of Mother, but that’s not how that happened.

35 After college, I got a job with a company in California that made medical devices. It did
36 not take me long to realize that I did not want somebody else to get all the credit for my work, and
37 that I wanted to be my own boss. So, I started my own company. Building a company is incredibly
38 hard work. In the beginning, I was working 12 to 18-hour days, seven days a week. But it paid off,
39 and now I’m the CEO of a highly profitable company that makes specialized surgical instruments.
40 We aren’t nearly as large as the big companies, but surgeons love the quality of our products, and
41 it won’t be long until we leave the large suppliers in our dust.

42 Unfortunately, with the time I had to devote to building my company, I couldn’t get back
43 home as much as I would have liked, but I called Mother every week. She understood why I was
44 not able to visit. Whenever I was able to visit, her first question was always: “When are you going
45 to come visit again?” I would tell her that maintaining a laser microsurgical tool development lab

46 takes a lot of time and effort, and she would tell me how proud she was with what I had done with
47 my life.

48 Terry, on the other hand, has never accomplished anything in life. I think Terry set the
49 record at UCD for the most majors in a two-year period. Terry was a criminal justice major, then
50 a hotel hospitality major, then a sports and fitness major, then I stopped paying attention. Terry
51 told me every time there was a new major, but I just didn't care. Then after dropping out of school
52 Terry tried to start some internet business. The problem was that Terry wanted to be rich and
53 successful without having to work hard. What Terry never understood is that you cannot succeed
54 in any pursuit unless you dedicate all your efforts to it. And the whole time, Terry was living off
55 Mother's settlement from the accident. In hindsight, I should have put an end to that, but I agreed
56 that, due to Mother's decline in health, it made more sense for Terry to keep living at home and
57 assume the responsibility for Mother's day-to-day care.

58 Then everything changed. Mother hit a Powerball jackpot. She won \$25 million! From that
59 point on, there was NO chance of getting Terry out of the house. When Mother hit the jackpot,
60 Terry's life really took an astronomical leap. New cars, expensive clothes—I'm sure you can
61 imagine. At least I was successful in preventing Terry from using the money to fund Terry's
62 "dream" of starring in a movie written by and starring Terry Gergich. What a crock. Did you ever
63 see the movie *The Disaster Artist*? It would have been just like that! Luckily, I talked Mother out
64 of it, especially when Terry did not even have a screenplay, script, outline, plot or "treatment"
65 written. What a loser. And then there was the time Terry was setting up some deal at the bank
66 where Mother's money would be transferred to an account owned by Terry but with the income
67 going to Mother as a life trust or something. I don't quite remember the details, but the end result
68 would have been that when Mother died, the money would have already belonged to Terry. Mother

69 called me because she felt uncomfortable about it. I called the bank and screamed at the manager
70 until it got straightened out. That's also when I found out that Terry had already spent 40% of the
71 lottery jackpot! I should have called the police, but, instead, I was able to work with Mother to
72 protect the money by putting it into a trust so Terry would not squander the rest of it. However,
73 since Mother really favored Terry, she insisted that Terry be compensated for her care. The
74 problem was that Terry did not really take care of Mother. Eventually, I had to talk Mother into
75 hiring a part-time nurse to step in and ensure that she lived a pain-free and comfortable life. The
76 arrangement just did not incentivize Terry to stop mooching off her wealth.

77 I don't know how Terry failed to develop a work ethic. Terry was just so used to being able
78 to skate by, even in high school. When teachers would request more effort, Terry was able to do
79 just enough to get by. Terry was always so charismatic, that people gave in and became enablers.
80 Terry never had to work for anything worthwhile. Worse, Mother always ran interference for
81 Terry. More than anything else, I think that is why Terry is the way Terry is. Mother would always
82 rescue Terry. The term "helicopter Mom" really fit her well. Of course, she was proud of my
83 achievements, but she made sure Terry did not feel the comparison. Still, we talked about what
84 was going to happen when she wasn't here to bail Terry out. She would just say that Terry would
85 be fine, but she made it clear that she would not have rewarded Terry at my expense. In fact, the
86 one time we talked about her will, which was shortly after the living trust fiasco at the bank, Mother
87 told me that she split the money between us. She never told me about any other wills.

88 It is my understanding that Terry acknowledges the first will—the one that divided
89 everything 50/50—but claims there were two wills after that. Terry says the second will was
90 burned, which just tells me Terry did not bother to consult with a lawyer in making up this scheme.
91 My lawyer explained that, under Colorado law, burning a will revokes it. So, even if there was a

92 second will, which there wasn't, Terry's story makes it invalid no matter what. That means
93 everything in this case comes down to whether Terry used undue influence to get Mother to sign
94 the will and whether Mother was of unsound mind when she signed it. If either is true, we are back
95 to the 50/50 will.

96 A little while before Mother died, I bought her a dog as a gift to keep her company. Mother
97 always loved the Queen of England's Corgis, so I found someone in Colorado who had a litter of
98 Corgi puppies. I flew out, picked the cutest pup of the litter, and then drove over and surprised
99 Mother. Mother fell in love with that little dog. Terry was furious. Terry doesn't like dogs—but I
100 didn't care. Exhibit 3? That's Pepper. Wow, that captures how Mother treated that dog. Terry and
101 I also had another fight that trip. Because Terry didn't know I was coming, the house was a mess.
102 The whole justification for Terry living there free of charge was to take care of Mother. It looked
103 like Terry had been partying. Exhibits 4 and 5 are pictures of Mother's house. I don't think they
104 are from the time I am talking about—in fact, I am sure Exhibit 5 is not from when I was there—
105 but they both pretty accurately portray the kind of mess I am talking about. Well, there was no
106 money strewn around, so that part of Exhibit 5 is not what I saw, but I can imagine Terry throwing
107 money around like that to show off to somebody.

108 Anyway, Mother named the Corgi Pepper Marie Clementine. What a name! But she truly
109 loved that little dog. She would tell me about something Pepper did every time we talked on the
110 phone. So, I get that she would leave a reasonable sum for Pepper's care, but Terry overstepped
111 by tricking Mother into leaving all her money to Terry and Taylor. Oh, I didn't mention Taylor.
112 Taylor is some dog walker that Terry found. Terry couldn't even be bothered to help Mother with
113 the dog! I never met Taylor, but from my conversations with Mother, I think Taylor is a slacker.
114 However, it did sound like Taylor took good care of Pepper. So, I don't really care that some

115 money got left for Taylor to take care of Pepper—I just can't stomach Terry swindling the rest of
116 Mother's money.

117 Over the last few months of her life, Terry really blocked all my attempts to talk to Mother.
118 How could she always be resting, or in therapy, and unable to return my calls? I bet Terry never
119 even told her that I was calling. I am claiming Terry carried that spirit to the next level and applied
120 undue pressure to have Mother re-write her will. Why should Terry receive a windfall for a life
121 spent producing nothing? Taking care of our Mother meant Terry got to live a great lifestyle for
122 free already. It is not like Terry sacrificed anything or that time with Mother worked to Terry's
123 detriment. I will fight this new will just on principle!

124 I knew our Mother to be equitable and rational in all matters; she had to be in order to
125 survive raising us two kids alone. I also know that Terry milked that maternal tenderness for all it
126 was worth. This last reach though, that crossed the line. Terry cannot be allowed to make these our
127 Mother's final words. Terry cannot turn this life we all share a piece of, her life, into one of Terry's
128 poorly devised and written melodramas.

129 I have carefully reviewed this statement. It is true and accurate, and it includes everything
130 I know of that could be relevant to the events I discussed. I understand that I can and must update
131 this statement if anything new occurs to me before the trial.

132 By: *Jerry Gergich*
133 Jerry Gergich

1 **RONNIE SWANSON – WITNESS STATEMENT – CONTESTANT**

2 Hi, good morning. You just want me to tell you a bit about myself first? Ok, my name is
3 Ronnie Swanson. I am a hospice nurse. I specialize in geriatric psychiatry—that just means I have
4 extra training to assist patients with diagnosed mental health disorders. I have cared for more than
5 80 patients over my career. My daily routine consists of visiting patients in their homes and taking
6 care of any medical needs they may have. Mainly, I just sit with them and make them comfortable.
7 Some days, I may take vitals for each patient, other days may include wound care, still other days
8 may involve communicating with a patient’s family about providing proper care. It’s my purpose
9 to create a peaceful environment for my patients’ last days, but often those last days are harder on
10 the family than the patient. I can become a bit of a therapist for everyone, especially in cases where
11 the patient does suffer from a mental health disorder such as dementia or undiagnosed Alzheimer’s
12 disease. I say undiagnosed just because it is so hard to determine until post-mortem.

13 Unfortunately, in this line of work we have high patient caseloads, so I’m not able to spend
14 a huge amount of time with each person. But when I am in their home, I am fully present and
15 dialed in to that particular patient’s needs. I do remember working for Gayle Gergich a few years
16 back. I was not working for her when she passed; in fact, I think it had been at least six months
17 since I’d seen her. Gayle was a sweetheart. Exhibit 2 is a picture of Gayle. It really captures her
18 essence, I think. She became my patient shortly after being diagnosed with dementia; I was part of
19 her treatment team. I am not sure if a specific type of dementia was ever diagnosed, but I would
20 assume it was vascular related because when I took her blood pressure it was always high. She
21 also was taking the medication Lisinopril, which lowers high blood pressure. I would go into her
22 home to care for her at least three times a week. This was actually more than I would visit some
23 of my other patients because the family had the financial means to take care of the extra costs. Her

24 primary doctor was Dr. Traeger, but Gayle would only go for a medical office visit if she was
25 severely sick or injured. Although I saw Gayle three times a week, I think she only saw Dr. Traeger
26 about three times ever while I cared for her.

27 Dementia is a group of conditions characterized by impairment of at least two brain
28 functions such as disorientation, disorganization, language impairment and memory loss. To be
29 called dementia, the disorder must be severe enough to interfere with the patient's daily life.
30 Symptoms vary depending on the severity and day. Some of my patients are simply forgetful,
31 misplacing keys, jewelry, wallets, that sort of thing. Sometimes the patients do not recognize me
32 or even their own families. It is quite sad to see the effect on those families. I do my best to counsel
33 the families and keep my patients calm, as I found increasing their anxiety only exacerbates
34 symptoms. Some patients get angry and violent as their symptoms progress, but not Gayle, she
35 was the consummate people pleaser and would always acquiesce to what the other person said.

36 As I said, I visited Gayle about three times a week. When I began, Gayle's symptoms were
37 mild, and they slowly progressed. The first thing I do with new patients is talk to them about basic
38 end of life issues. I asked Gayle if she had any healthcare directives in place. For example, if she
39 had a DNR or do not resuscitate order and had a heart attack, I would not attempt CPR. She had
40 no clear healthcare directives in place. I asked if she had a will, and she told me that she had one
41 that divided her money evenly between her two children. Finally, I asked if she had designated
42 anyone as her power of attorney or medical power of attorney. She had not, but I understand Gayle
43 designated her child Terry in a medical POA after I stopped caring for her.

44 I also ask all new patients about their family and support system. It's important for me to
45 gather that information so I know who I may need to rely on to continue the care for my patients
46 when I am not there. Gayle had two children: Terry and Jerry. Terry lived with Gayle. Jerry did

47 not. I don't think I ever met Jerry to be honest. I would only hear about Jerry from Gayle. She'd
48 tell me if Jerry called or came for a visit, but I never seemed to be there when that happened. Gayle
49 appeared to care for her children equally and spoke about them with pride. Taylor Walken was the
50 only other "support" person Gayle had. Taylor started off as the dog walker, walking Gayle's
51 beloved dog Pepper. Exhibit 3 is a picture of Pepper. Gayle doted on that dog. I think Taylor ended
52 up moving in at some point, because Taylor was clearly taking more care of Gayle than Terry was.
53 I only saw Terry once a week – if that. Taylor, on the other hand, was always at the home when I
54 came for appointments with Gayle.

55 Gayle also told me about how she came into some money. Turns out, she won the lottery,
56 lucky lady! She mentioned the proceeds had been put into some sort of trust. One day she blurted
57 out that she was glad it was in a trust because "Terry would have frittered it all away by now" if it
58 wasn't.

59 I often felt like I was Gayle's confidant. She would tell me she was disappointed because
60 it didn't seem like Terry had big business aspirations like Jerry did. Sometimes it didn't seem like
61 she wanted Terry to live with her, but she also worried that Terry would end up homeless if she
62 did not allow Terry to live there. I think she just wanted Terry to be successful like Jerry.

63 Gayle really liked Taylor though. I'd come over for my visits and would see the two of
64 them chatting and giggling like school kids. I think Taylor made Gayle feel younger and I know
65 Gayle appreciated how well Taylor cared for Gayle's dog Pepper. From my perspective, Taylor
66 always appeared to treat Gayle well.

67 Over a few months, Gayle's symptoms got progressively worse. Sadly, her physical health
68 declined just as quickly. I also started to notice a few bruises on her upper arms and swelling in

69 her feet. I've had some patients who forget to eat and have to have family members remind them.
70 I don't know if Terry or Taylor did that for Gayle though.

71 Not every day was a bad day though. There were some bright spots. Gayle would tell me
72 stories about when Terry and Jerry were younger and their crazy antics. Then, there were other
73 times when she'd tell me a story of something that happened the week before and Terry would
74 jump in and "correct" Gayle's memory. Gayle would seem confused and would simply agree that
75 Terry's version of the story was accurate, but I often wondered if Terry was toying with Gayle.

76 I don't want to speak out of turn, but I did not like Terry or Taylor. One or both of them
77 always seemed to hover when I was visiting with Gayle. Maybe they wanted to make sure they
78 could be close to help Gayle, but when Terry hovered, I got the feeling it was so Gayle couldn't
79 tell me how she was treated in my absence. Supposedly, Terry was Gayle's caretaker, but Terry
80 was anything but that. The house was usually messy. One time it was terrible, and I took a picture
81 of the kitchen to show how bad it was. Exhibit 4 is a picture I took with my phone. I commented
82 about the situation to Terry, and the house was never that bad again. I got the impression that, after
83 that, Terry made Taylor Walken pick up the house whenever I was scheduled to be there. From
84 then on, it was picked up, but it was not really clean. Once or twice, I got the impression that Gayle
85 had not been bathed or adequately fed in between my appointments with her. When I would check
86 vitals, her weight would fluctuate. Neither Terry nor Taylor appeared to have any career goals or
87 interests outside of spending Gayle's money and partying. I didn't see evidence of parties, but
88 Gayle would sometimes mention it during our visit. There was a time when I walked in and
89 somebody had thrown money all over the room. Maybe that was from a party—I don't know—
90 but whatever it was from, I took a picture of it. Exhibit 5 is that picture. Crazy, right? I only saw
91 something like that one time ever.

92 About a month before I stopped seeing Gayle, she brought up the will again. By that time,
93 her symptoms had been progressively getting worse. She kept misplacing little figurines she had
94 in her home – those Precious Moments kids. I would find them in the weirdest spots, like tucked
95 away in her shoes. Oh anyway, about the will. Gayle told me that she and Terry had changed her
96 will so Pepper would go live with Taylor. Gayle was so relieved that someone would take care of
97 Pepper. She was truly worried about what would happen to her dog when she died. Gayle said
98 nothing else changed besides making sure Pepper was provided for. She never said a word about
99 any other variations of her will. At that point, however, if there were changes to the will, I would
100 assume they were invalid considering the dementia. Gayle could seem alright if you spoke with
101 her superficially, but I interacted with her multiple times a week and I was in a unique position to
102 judge her mental competence. In my opinion, based upon my years of nursing and caring for
103 elderly patients, Gayle’s ability to stay on task and to focus on complex material had diminished
104 to the point that she could not have read through and understood the full implications of a legal
105 document. To be more specific, if you showed Gayle a piece of paper and told her it would save
106 her dog if she signed it, she would have signed it. Even if she had wanted to make sure a new will
107 did not change anything other than providing for Pepper, she would have had to rely on other
108 people to confirm that. If one of the other people was Terry, well, I wouldn’t trust what Terry said.

109 Why did I stop seeing Gayle? Terry. It was all Terry. For some reason, Terry believed I
110 was stealing from Gayle. Me. Stealing. Can you imagine? Terry called my supervisor and said that
111 I had been stealing money from Gayle. First, Gayle never had cash. Second, I would never. But, I
112 was immediately reassigned. The timing was ironic because earlier in the day I had told Terry to
113 stop mooching off Gayle and to start taking better care of her.

1 **ANDI DWYER – WITNESS STATEMENT – CONTESTANT**

2 My name is Andi Dwyer. For most of my 26 years, I’ve run into obstacles others have put
3 in front of me, and I have pushed through to finish on top. But on June 20, 2018, an obstacle ran
4 into me for the second time—one that appears destined to take me out: Gayle Gergich. My life
5 was starting to shape back up, and I was looking forward to getting fully on track again. I’m not
6 sure that’s going to happen now though, at least not with the Gergich family looking for someone
7 to blame, looking outside of the obvious for a scapegoat. And if not them, then the Westland Bank
8 president is; and I’m an easy target.

9 On that day, I was, and still am for the moment, a "Teller II" at Westland Bank. Previously,
10 I was a “personal banker,” but due to a prior incident with Ms. Gergich, I was demoted—
11 technically just put on probation, but basically demoted.

12 I knew Gayle from business she and Terry Gergich conducted at the bank. Things started
13 sliding off course when Gayle and Terry came in a year before she signed her will there. She
14 wanted to add Terry to her savings account as an “owner,” and Terry also asked if there was a way
15 to provide her with an investment income stream that could ultimately pass outside of a will. I was
16 newish to personal banking, but I had recently finished an online course on annuities. A Westland
17 VP just closed a deal with an investment bank and so she wanted us to promote annuity products.

18 I explained to Gayle the income annuity and payout options with our products. Terry left
19 it up to Gayle to choose, and she chose a life annuity with a period certain, which also let her name
20 a beneficiary if she passed away before the payout date. Later though, another of Gayle’s kids—I
21 think it was Jerry or Larry or Mary, something like that—protested with my manager that their
22 Mother did not understand how annuities work, she was too old for one, etc. Anyway, the other

23 kid, I think the name was Jerry, made such a stink, Westland agreed to eat the early cancelation
24 fees and closed the annuity.

25 I was promptly put on probation—demoted and advised our branch president thought I was
26 not ready for the responsibility of personal banking. I pushed back a bit, and finally was told the
27 bank execs had all along considered it a risk to hire me because I was fired from a previous job,
28 and that might affect Westland’s compliance rating.

29 Not to go off on a tangent, but that was a hoax—why I left the other job. My boss at the
30 time found my medical marijuana card. The entire staff had to do drug testing. Now it is no big
31 deal since it’s all legal now. But I am telling you, they had it out for me. That same guy also said
32 he saw me at a tattoo parlor on Colfax. So what? Everyone has a tat! I was just making the final
33 payment anyway on ink I had done the summer before, after visiting Asheville with old friends
34 from summer camp.

35 Anyway, I thought all that was water under the bridge. I mean, the med card is a non-issue
36 these days, even if I did get it before I was eighteen, and like I said, who doesn’t love a tasteful
37 skin-art souvenir. I explained all this to Westland’s HR director when I was hired; I thought we all
38 moved on.

39 I digress. That had nothing to do with my encounter with Gayle and her will that one day,
40 except that I was familiar with her and Terry. Despite the annuity catastrophe, Gayle never seemed
41 to have a negative vibe toward me. I actually saw Terry more often though. I saw Terry arrive in
42 at least two different fancy cars. In fact, Terry would come in once a month to deposit a check
43 issued from the Gayle Gergich Trust, written to and endorsed by Gayle. Terry put the money in
44 the shared savings account, and promptly transferred funds to an account in Terry’s name. Terry
45 was often decked out—designer clothes and sunglasses—and never struck me as a savvy money

46 manager. I mean, the account where Terry deposited funds every few weeks was either overdrawn
47 or empty within a month and Terry often looked a bit destitute behind the fancy glasses. It takes
48 work to spend that many Benjamins in that amount of time and still act like you're broke.
49 Sometimes, people with family money are eccentric though.

50 As time went on, Gayle's check endorsements became less readable, and if I had not known
51 her writing and Terry before, I would not have accepted the signatures. Her handwriting was nearly
52 illegible when Terry made a deposit the week before Gayle signed her will.

53 The day she came in, Gayle was with Terry and someone else that was attending to the
54 dog—maybe a dog-walker. The dog was being pushed in a baby stroller though. I mean, really?
55 But I guess this is the stuff rich people spend their money on. April Ludgate worked with Gayle
56 as a notary that day. I watched them from the bank counter, and when it was time for Gayle to
57 sign, April called me over to be a witness. I signed and so did the person who came in with Gayle
58 and Terry—Taylor Walken. I recognize Exhibit 1 as the will I signed. Actually, I recognize the
59 signature page. I didn't read the rest of it. But, that's my signature, April's signature, Taylor
60 Walken's signature, oh, and, of course, Gayle's signature. I know it's kind of hard to make out
61 Gayle's signature, but that is definitely it. Her signature didn't always look like that, but toward
62 the end of her life, her signatures on the checks she deposited every month steadily got harder to
63 read.

64 I would not ordinarily have left the counter to be a witness, but I was the only teller free at
65 that time and I knew Gayle. We rarely leave our counters during business except for scheduled
66 breaks, and I follow all the rules to the letter now. I need to keep this job.

67 Since I knew her, it was easy to identify Gayle as the one signing the will. I know I signed
68 that Gayle was of sound mind, but how would I actually know that? She seemed fine, but it's not

69 like I ran some kind of psychological test or something. I also signed that she wasn't acting under
70 duress. I think that's technically true, but I did overhear Terry say something like "You want to
71 take care of Pepper don't you? Then you have to sign this." It seemed a little tense, but that's not
72 really the same as duress. It's not like somebody was threatening her. But I was kind of worried,
73 so even though it was not my place to interfere, I hung around afterward and tried to talk with
74 Terry. Terry said sometimes Gayle needed time for info to trickle all the way down. I thought it
75 was an odd phrase, and it made me wonder if Gayle might be a little incontinent, and Terry sort of
76 let it slip; Freudian, you know?

77 Terry quickly changed the subject and asked if I had ever been to the Riviera. I was not
78 sure if that was an off joke, but it made me I feel uncomfortable, so I said "No, but someday I'd
79 love to". And that's all I know about that day.

80 I bet the bank is going to let me go for sure this time. This is the second time something
81 off has gone on with this family at the bank. And both times, yours-truly was involved. My Dad's
82 not going to let me bring my dog if I have to move back to his place now. He's lectured me for
83 years about how getting a dog and a tattoo were going to take me down a twisted path. Either way,
84 my Yorkie-poo is pretty awesome, and so are the smoky bacon hills and donut sunset of Ashville
85 on my shoulder.

86 Exhibit 6 is a fair and accurate diagram of the Westland Bank Lobby. The second teller
87 station from the top is mine. The office in the bottom right-hand corner is April's office. That's
88 where Gayle, Terry, Taylor Walken, and April went. Terry and Gayle were just outside the door
89 to April's office when I overheard Terry ask Gayle if she wanted to take care of Pepper. That was
90 before I was called over to sign the will.

91 I have carefully reviewed this statement. It is true and accurate, and it includes everything
92 I know of that could be relevant to the events I discussed. I understand that I can and must update
93 this statement if anything new occurs to me before the trial.

94
95

By: *Andi Dwyer*
Andi Dwyer

1 **TERRY GERGICH– WITNESS STATEMENT – PROPONENT**

2 My name is Terry Gergich. I am defending my Mother’s will in this case because my
3 sibling, Jerry, is greedy. Jerry doesn’t need our Mother’s money. Jer has plenty of money.

4 I always had a much closer relationship with our Mother than Jer did. Our Dad left early
5 on. I know he was around for a while, but I don’t really remember him. After he left, it was just
6 me, Jer, and Mom. But even when we were kids, Jer was always out of the house. After school, I
7 would come home, and Jer would go hang out with friends. Mom worked really hard and usually
8 got home late. So, I kind of ran the house as I got older. After I would get my homework done, I
9 would cook dinner for all of us. Jer would usually get home just in time to eat. Most nights after
10 dinner, Jer would use homework as an excuse to head upstairs and close the door to our bedroom,
11 while Mom and I would stay downstairs and watch TV. Later, when we went to college, I went to
12 UCD so that I could live at home and keep taking care of Mom. Jer only applied to out-of-state
13 schools that were as far from Colorado as possible. In the end, Jer went off to the University of
14 Wisconsin. Go Badgers! End sarcasm. The first year, Jer came home over the summer, but that
15 was the last time.

16 You want to know the truth? I think Jerry was embarrassed by me and Mom and couldn’t
17 wait to move on to a bigger, better, more glorious life. The way Jer acts now, I bet most people
18 would think that Jer was born into money. That couldn’t be further from the truth. Mom worked
19 hard, but she was a single parent, with only a high school education, raising two kids. She barely
20 made enough money to cover the essentials. For most of our lives, we were extremely poor, but
21 Mom and I were happy. Only Jer wasn’t, because Jer always wanted more money. It wasn’t that
22 Jer wanted to buy things—Jer just wanted to have money. It was all about status. People with

23 money were better than people without it in Jer's mind. It's kind of what makes that Powerball
24 jackpot so ironic, but I'm getting ahead of myself.

25 During my second year of college, Mom got hurt in a car accident caused by a drunk driver.
26 She went to one of those lawyers that you see on TV and got what looked like a pretty good
27 settlement at first. But after you took out the medical bills, expert witness fees, and the lawyer's
28 cut, there wasn't actually that much left. In fact, the lawyer's cut came out first. The medical bills
29 and the payments to the experts all came out of my Mom's share after the lawyer took his huge
30 chunk off the top. That still steams me. Anyway, Mom tried, but she couldn't work after that, and
31 the settlement money was not going to last forever. So, I dropped out of school and got a full-time
32 job. Of course, you don't have quite the same opportunities when you don't have a degree. I
33 worked some really terrible jobs back then. Also, Mom couldn't really move around all that well
34 because she was in pain for years after the car accident. On top of working full time, I was taking
35 care of her and doing all the cooking and cleaning. I told Jer that we really needed some help. You
36 know what the response was? "Come on Ter, you've always been the caretaker! I'm glad you can
37 take time off from school, and I hope you go back some day, but I've got to finish now. I'm sorry,
38 but I'm not going to derail my life because Mom doesn't want to work." Yeah, Jer's excuse was
39 that Mom didn't "want" to work. That's B.S. Mom couldn't work.

40 I never did get back to college. I kept taking care of Mom while Jer graduated then moved
41 out to California. Even then, there was always some excuse for never seeing us. First it was that
42 Jer was starting a new business, then Jer was working night and day to build it up, then the business
43 was at a growth stage that needed constant oversight. Whenever the business got past one critical
44 stage, another one started, but the result was always the same: Jer was just too busy to give a damn
45 about me or Mom. Mom was heartbroken when he didn't even visit on Thanksgiving or Christmas.

46 Things changed a little when Mom won that jackpot. Before she won it, Mom had two
47 guilty pleasures: watching murder mystery shows on the Hallmark channel and her weekly
48 Powerball ticket. Each week I would set aside ten bucks so that she could buy a ticket, then the
49 two of us would watch the Saturday night drawing together. It was kind of a special little ritual. I
50 always thought it was a fantasy, but Mom was sure she was going to win someday. She'd tell me
51 "Terry, when I win, I won't forget how you've taken care of me." That wasn't just aimed at me,
52 by the way. Mom was hurt by the way Jer abandoned her. She still loved Jer, but it was painful for
53 her that Jer had nothing to do with us.

54 Then one weekend everything changed. I remember asking her, like I'd asked a million
55 times before, "so did we win?" Suddenly, she started screaming "oh, my god, oh, my god!" I was
56 sure she had to have a number wrong, but the second pick matched all six numbers. After we
57 checked it like ten times, she said "Terry, we won, we won, we're rich!" I said "no Mom, you
58 bought the ticket, you're rich!" She looked at me with this really sincere expression, and said
59 "Terry, you took care of me in my darkest hours, I'm going to take you of you now."

60 The jackpot wasn't one of those huge ones, but it was still a crazy amount of money. Mom
61 took the cash option and she got \$25 million dollars. We moved into a new house, I quit both jobs
62 I was working at the time, and Mom even bought me a new car. Oh, and guess who suddenly
63 started showing up? Right. Jer. I guess business stops taking up all your free time when your Mom
64 wins the lottery. Mom tolerated Jerry's visits—I mean, Jer was still her kid—but she didn't forgive
65 Jer for abandoning us, and Jer wasn't getting any of that money. Sure, Mom would pay for dinner
66 when the three of us went out together during Jer's visits, but she sure didn't buy Jer a new car.

67 Jer actually went to Mom at one point and said I was just leeching off her and it was time
68 to push me out of the nest. Can you believe it? Yeah, I had stopped working, but I was still taking

69 care of Mom, and she wanted me there. After I found out, I mailed Jer a copy of “The Little Red
70 Hen.” It’s a children’s book Mom used to read to us when we were little. The hen asks all the other
71 farm animals to help her plant and harvest some wheat, but they refuse, and she has to rely on her
72 chicks to help. When she uses the wheat to make bread, all the other animals volunteer to help eat
73 it, and she says that only her chicks helped her with the hard work, so only they will get to eat the
74 bread with her. I thought Jer needed to be reminded of the moral of that story.

75 After it became clear that Jer was not going to get any of the money, Jer talked Mom into
76 getting it put into a trust. Jer said it was so that there would always be money available, but I knew
77 what was really going on. Jer wanted Mom to live on the interest so that the principle would be
78 there when she died. I admit, we had spent the money down a ways—there was about \$15 million
79 left at the time—but you’re supposed to do that a little right? You know, celebrate and get it out
80 of your blood? By the time Jer got the trust in place, we had stabilized and were really just living
81 off the interest anyway. So, sorry Jer, I couldn’t have cared less about the trust. It’s not like it
82 actually changed anything.

83 I guess it’s a good point to talk about the dementia. Even before Mom won the Powerball
84 jackpot, she had started getting more and more forgetful. Now that the money was there, I could
85 arrange for better medical care. She would forget things and she could have difficulty
86 concentrating, but she could still make informed decisions. She came to me shortly after the
87 diagnosis and told me that she wanted to leave all the money to me because Jer had more than
88 enough money and I had sacrificed my own life and career to care for her. She said she wanted to
89 do that before her dementia took over, so I downloaded a blank form from the internet, we filled
90 it out together, and she signed it. That will left all of my Mom’s estate to me. I never told Jer about
91 it, because it would have just started a fight.

92 As Mom’s dementia got worse, I arranged for a private hospice worker to help take care of
93 her. I still cooked and cleaned, and took care of the house, but Mom needed someone with
94 specialized medical training, too. That’s when Ronnie Swanson came into our lives. Ronnie came
95 to our house three times a week to take care of Mom. I took care of everything in between. Ronnie
96 seemed okay at first, but Ronnie was fake. Ronnie would be nice to my face, then complain about
97 me to Mom. Have you ever known someone who is a natural con-artist? All friendly and
98 ingratiating but insincere and two-faced? Well, I came to realize that was Ronnie. Still, I wasn’t
99 going to fire Ronnie for being smarmy—but theft is a different matter. I’ll get to that in a minute.

100 Around this same time, I bought Mom a dog to keep her company. The cutest little Corgi,
101 just like the Queen of England has. Mom named her Pepper Marie Clementine. Exhibit 3 is a
102 picture of Pepper. Mom loved Pepper more than anything in the world. Maybe even more than me,
103 and certainly way more than Jerry. But Mom wasn’t exactly mobile, and dogs need exercise. I
104 hired a dog walking service. I mean, we had the money, and Pepper was Mom’s most important
105 possession, so why not. Anyway, the dog walker was Taylor. Taylor Walken. Kind of an
106 appropriate last name for a dog “walker,” now that I think about it. Taylor is a super friendly person
107 and kind of a free spirit. Taylor and Mom hit it off famously. In some ways, Taylor could be as
108 spacey as Mom. The two of them were a perfect fit, and they could talk for hours after Taylor
109 brought Pepper home from walks. It’s no surprise that Taylor was not much of a business person,
110 and Taylor’s dog walking business did not succeed. One day Taylor came to me and Mom and
111 told us a sob story about not having enough money to pay rent, and how Taylor was about to get
112 evicted and was going to have to quit the dog walking business. Mom got very upset and started
113 saying “no, no, no, you can’t quit.” Then she perked up and added: “I know! You can live here!
114 Then you can walk Pepper every day. Terry, please, let’s let Taylor stay here! Please!” I couldn’t

115 say no. We just got back from church service...I felt like caring. It was a big house and we had the
116 room. I did tell Mom it was only temporary until Taylor could find a new job, but I kind of knew
117 that wasn't going to happen. So, Taylor moved in with us.

118 Taylor took care of Pepper, but Pepper was still Mom's dog. She loved that dog. Around
119 this time, her dementia was getting worse. She sometimes couldn't remember who people were,
120 but she always remembered who Pepper was. I'm not saying she always forgot who people were.
121 She had good days and bad days. Sometimes she was clear as a bell, and other times, well, not so
122 much. On one of her good days, she told me that she wanted to leave some of her money to Pepper,
123 and she wanted to do it while she was still clear minded. I did a little research on the internet and
124 I learned that you cannot leave money to a pet in Colorado, however, you can leave the pet to
125 someone and leave that person money to take care of the pet.

126 At first, I didn't do anything about adding Pepper to the will—I kind of figured Mom would
127 forget about it, and it seemed kind silly—but she kept bringing it back up on her clear days. I
128 helped Mom instead look into investments she could leave someone for Pepper's care, but that fell
129 through when Jer butted in. One day, shortly after that, when I took her for a visit with her doctor,
130 Dr. Traeger, she was particularly clear minded. Dr. Traeger actually commented on how lucid she
131 was. I didn't bring it up; Dr. Traeger did. Anyway, when we got in the car after the doctor visit,
132 she started pleading with me about adding Pepper to her will and saying we had to do it while she
133 was still clear minded. I told her I would take care of Pepper, but she started to cry and say that
134 she had to know Pepper would always be cared for. So, I told her there was a way to do it, and that
135 we could leave Pepper to someone and leave them a certain amount of money to take care of her.
136 I was thinking that person would be me, but Mom said "yes, I can leave her to Taylor; Taylor loves
137 Pepper!" I was a little hurt by that—I mean, I love Pepper, too—but it did kind of make sense

138 because, next to Mom, Pepper spent more time with Taylor than anyone else. I said: “Okay, we’ll
139 do it today. I’ll put together a new will for you that gives Pepper to Taylor and gives Taylor enough
140 money to look after Pepper for the rest of her life.” Mom said “let’s give Taylor a million dollars,”
141 and I said “let’s say half a million.” As I say that, it makes it sound like I was being greedy and
142 wanted the money for myself. I just figured if she gave Taylor too much money, it would increase
143 the odds of Taylor doing something stupid with it and blowing through it. So, that same afternoon,
144 I prepared a new will, we burned the old one, and I took Taylor, Pepper, and Mom down to the
145 bank to get the new one witnessed.

146 Exhibit 1 is the will we got signed that day. Other than giving Pepper and \$500,000 to
147 Taylor, the new will was exactly the same as the one before. By that, I don’t mean it was the same
148 as Mom’s will from before she won the Powerball jackpot. That first will was from way back, right
149 after my Dad left us. That’s the one that said everything was to be split evenly between me and
150 Jerry, but I know from what she told me later that she was just making clear she didn’t want my
151 Dad or his family to get anything if she died—not that she actually had anything for them to get at
152 the time—and it was written before Jer took a page from dear old Dad’s playbook and abandoned
153 me and Mom. I’m talking about her second will, which I wrote for her after Jer got all of the money
154 put in a trust. There’s no question she was of sound mind when she signed that second one. She
155 was still doing the New York Times crossword puzzle each day for goodness sake!

156 In fact, Exhibit 7 is a New York Times crossword puzzle that Mom was doing a couple of
157 weeks before we got the new will signed. That’s her handwriting—I know it well. Besides, I
158 remember her doing the puzzle. She usually finished them, but sometimes she would set them
159 aside to work on them later. I found this one in her personal effects after she died. She must never

160 have gotten around to finishing it. Look at that puzzle! If she could do that, she could certainly
161 understand the changes to her will.

162 I think that covers everything. Wait, no it doesn't. I never got back to what happened with
163 Ronnie. A little after Mom's final will was signed, I fired Ronnie. I had begun to notice small
164 things missing, like little pieces of jewelry. At first, I didn't suspect Ronnie of anything, I just
165 assumed Mom misplaced it somewhere. But when I would ask if Ronnie had seen something that
166 was missing, Ronnie would immediately get defensive—too defensive. It was like: "Your Mom
167 has dementia, she probably lost it somewhere! I don't know why you're even asking me. If you're
168 worried something got stolen, maybe you should be talking to that pothead who walks the dog!" I
169 never had enough proof to call the police, but I did call the nursing company. The woman I talked
170 to did not seem very surprised. It made me think it wasn't the first time Ronnie got fired for
171 something like that. I understand that Ronnie is going to be a witness for Jerry. I don't know what
172 Ronnie is going to say, but I'm sure it's not true. Ronnie is just innately dishonest, plus I'm sure
173 Ronnie is looking to get back at me for getting fired.

174 Exhibit 2 is a picture of Mom. Exhibits 4 and 5? Who took those? Yeah, that's clearly our
175 house, but it never looked like that! I kept a clean house. The only way it would ever have looked
176 like that is if Taylor made a huge mess when I was gone. It's not like I lived with Mom 365 days
177 a year. I took a couple of weekend vacations. I don't know, if that wasn't Taylor, I have no
178 explanation for those pictures.

179 I have carefully reviewed this statement. It is true and accurate, and it includes everything
180 I know of that could be relevant to the events I discussed. I understand that I can and must update
181 this statement if anything new occurs to me before the trial.

182 By: Terry Gergich
183 Terry Gergich

1 **TAYLOR WALKEN – WITNESS STATEMENT – PROPONENT**

2 I am Taylor Walken. Dogs are my life. They don't judge. They don't complain. And they
3 are always up for adventure. Did you know humans first domesticated dogs 14,000 years ago? It's
4 true...at least that's what Wikipedia says. Because I love dogs, I've dedicated my professional and
5 personal life to them. I am a professional canine companion, and it is my privilege in life to be
6 entrusted with the care of the world's most perfect best friends. Dogs are the most amazing
7 creatures because their souls are true windows to a world where everything is beautiful and
8 peaceful. I do not control the dogs whom I have cared for; no, I simply read their souls to know
9 what they need in this lifetime and provide the nourishment to help them enhance our human
10 existence.

11 I have made a business out of canine companionship. I used to work at a place called
12 Dagney's Doggy Daycare, which the dog parents all called Triple D. Dagney's was great, and I
13 probably would have spent my whole life working there, except that the ownership changed. Mrs.
14 Dagney, the woman who started the daycare, was really laid back. You could get in late and she
15 wouldn't scream and yell—or dock your pay. When she was the boss, I got to spend most of my
16 time playing with the dogs or hanging out at the check-in chatting up the dog parents. But, Mrs.
17 Dagney sold the business to some big, cookie-cutter, national corporation. I hated the corporate
18 mentality. You had to clock in and out, and everybody had to wear these really stupid polo shirts
19 with the company logo on them. It felt like the emphasis was all on making money and not taking
20 care of the dogs, so I quit and started my own dog walking business.

21 The sad truth is that I would love to care for all dogs and do it for free, but I must pay my
22 own bills. I have found that only people who really, really love their dogs are willing to put forth
23 the type of comforts that a dog must have to nourish its soul. Comforts such as organic, cooked

24 fresh meals, CBD oil, spa teeth cleaning, full body massages, and freshly laundered cotton sheets
25 are necessary and it's best if their canine companion receives the same comforts in order to fully
26 understand what the dog has experienced. It might seem, to an un-enlightened person, that dogs
27 do not need these comforts. Some people might even call these comforts "extravagances", but
28 those people only say that because they cannot provide these comforts to their own dogs. Dogs
29 like to be pampered, which allows each dog to be more fully in tune with their souls and, in turn,
30 it helps the dog shepherd the human's soul to a better place.

31 Gayle Gergich was an enlightened dog person. That's her in Exhibit 2. I do not call her a
32 "dog owner" because dogs do not like to be owned. Gayle cared very deeply for her precious dog,
33 Pepper. That's Pepper in Exhibit 3. Gayle cared so much that she sought out my services and was
34 willing to do what was necessary to ensure Peppers' soul was in a positive place. First, she paid
35 me to walk Pepper according to my enlightened walking system. I would walk Pepper every day,
36 sometimes three times a day. Sometimes Pepper didn't like to walk that many times in one day
37 and sometimes she did. I could always sense exactly what Pepper needed. Gayle could see the
38 benefits Pepper was reaping from my walking system. By then, Terry and I were like best friends.
39 Terry asked me to move into the guest house on the property. That way we could all be together—
40 of course, including Pepper. I could supervise my recommended canine program for Pepper
41 throughout the day, such as specific meals, dental care, massages and stretching, and daily
42 grooming. It also allowed me to focus on my own soul's health, because I had at least four hours
43 a day to be still and reflect on my inner thoughts. To others it might seem like I was taking a nap,
44 but I was really putting in the work I needed to do to be the best dog companion I could be.

45 I first started companioning Pepper about four years ago and moved into the guest house
46 within two months. I've lived on the property ever since and I've had opportunity to observe Gayle

47 and her family. Most of my observations were for Pepper's sake. I wanted to know what kind of
48 personal life Pepper's humans were dealing with, so that I could properly work with Pepper's soul.
49 Gayle had two kids: Jerry, who lived out of state, and Terry, who lived in the main house. Terry
50 took Gayle to doctor's appointments and helped manage the property, including employees. Gayle
51 was my employer, but I dealt many times with Terry, when I needed a new dog toy, grooming
52 tool, or even when I needed new dog-walking clothes and shoes for myself. Terry was kind to me
53 and to Pepper. I thought it was lucky that Gayle had a child who was so devoted. I never saw Jerry.
54 Jerry came for a few holidays, such as Christmas, and I remember Pepper having a very negative
55 reaction to Jerry. Pepper was uncomfortable and would hide quite a bit. Jerry did not seem very
56 soulful and I recommended to Gayle that Pepper have restricted time around Jerry. It was just too
57 upsetting for sensitive Pepper Marie.

58 I know that Gayle wanted to make sure Pepper's soul stays on the right track. She once
59 asked me about the best way to care for Pepper after her death. I suggested to her that she put a pet
60 trust into her estate plans. In my previous experience, dogs are better cared for with a consistent
61 presence, so it would be best for Pepper to stay under my care and the only way to ensure that
62 Gayle's children would pay for my services was to have Gayle create a pet trust and put the trust
63 in writing. Gayle was grateful for my suggestion, as it eased the burden of worry that she was
64 carrying. She was so concerned about Pepper and I had just provided her a way to deal with the
65 burden. She assured me that I would be Pepper's companion until her death and I was happy to
66 accept that duty—no matter the date.

67 I am upset to know that there is a dispute over Gayle's wishes. She clearly wanted me to
68 continue caring for Pepper in the manner to which she was accustomed. A dispute like this is very
69 bad for Pepper's soul and it's been hard to watch her go through this stress. She would like to have

70 her future settled according to the terms that Gayle wanted. I'm not sure what Jerry is hoping to
71 accomplish with this lawsuit. I know two other pet caretakers who are the beneficiaries of pet trusts
72 and they all agree that a pet trust that pays for someone to continue caring for their dog is the best
73 way to care for their loved one's beloved dog. Now, I will keep being Pepper's companion, if there
74 is money in the trust to allow me to care for her properly, but I cannot continue to be Pepper's
75 companion on a sub-standard budget that doesn't allow for me to take care of her properly. She
76 deserves the best and her soul is too important for that.

77 Exhibit 1 is Gayle's will. I remember the day it was signed. Gayle had a doctor's
78 appointment that morning, and when it was done, Gayle and Terry picked me and Pepper up to go
79 to the bank. From the date on the will, apparently that was June 20, 2018. I signed the will along
80 with a couple of people at the bank. I am sure that Gayle was of sound mind when she signed it.
81 Sure, she had her good days and her bad days, but that was a good day. I am completely sure that
82 Gayle knew what she was doing, because she had been the one to tell me about her idea for giving
83 Pepper and some money to me when she died. She told me: "I was going to give all my money to
84 Terry, but you understand Pepper's soul, so I want you to have Pepper, and I'm going to give you
85 enough money so that you can take care of her." I told her that I don't believe in ownership over
86 another living being, but that I would be honored to be Pepper's companion and continue to care
87 for her for the rest of her life. It definitely was not Terry's idea to use Pepper to get Gayle to sign
88 a new will.

89 Exhibits 4 and 5 look like the kitchen and living room in Gayle and Terry's house, but
90 I don't ever remember them being that messy. Wow, and I really don't remember ever seeing
91 money thrown all around the living room like that. Those pictures must be from before I moved
92 in.

93 I have carefully reviewed this statement. It is true and accurate, and it includes everything
94 I know of that could be relevant to the events I discussed. I understand that I can and must update
95 this statement if anything new occurs to me before the trial.

96 By: Taylor Walken
97 Taylor Walken

1 **CHRIS TRAEGER, M.D.—WITNESS STATEMENT – PROPONENT**

2 My name is Dr. Chris Traeger. I am a medical doctor living in Denver, Colorado; and I
3 have been practicing medicine in the Denver Metropolitan Area for the better part of forty years.
4 Exhibit 9 is a copy of my CV.

5 This case deals with a neurological assessment. My medical specialty is gerontological
6 neurology. I was board certified in the field of neurology in 1984.

7 My God, has it really been that long ago? (You’re just going to have to bear with me if I
8 meander occasionally. I’m a big believer in the notion that we never get where we need to go by
9 following a straight line. In that vein, I NEVER prepare a medical report of any kind—whether we
10 are talking about a clinical note or an expert witness report—by using any kind of formatted set
11 up. LIFE HAS NO TEMPLATES!!)

12 In other words, what you are going to get in this report is straight off the top of my head.
13 This does NOT mean that my thoughts and words come without a lot of reflection. Quite the
14 contrary, it means that I am utilizing a LIFETIME’S worth of reflection. Importantly, I am also
15 using the patient’s medical records, reflecting the period of time in which she was in my care,
16 which I reviewed earlier today.

17 There is always a benefit in keeping an open mind—in maintaining the capacity for “free
18 association.” First of all, the only real certainty is that everything is in a process of changing. Take
19 the field of Neurology. Looking back today and comparing our knowledge and capacities in the
20 field of neurology with those of 1984, it seems almost like the comparing of the computer age with
21 the era of the horse-and-buggy. Diagnoses made in 1984 frequently would not hold up in the light
22 of today’s knowledge. Worse yet, interventions that we might have prescribed back then
23 sometimes look frustratingly off the mark today—and sometimes they even look a little medieval.

24 Any passage of time can render a previous medical opinion suspect, right? Ten years from
25 now, someone is liable to look at this report and say, “My heavens, if only Dr. Traeger knew then
26 what we know now, that testimony would have been completely different.” Or they might say,
27 “That Dr. Traeger. Smarter than the average bear! That was really a doctor with a finger on the
28 pulse of the case.”

29 I never know where to put my felony in these damned witness statements. I might as well
30 get to it here.

31 Yes, I was convicted of a felony. In addition, it was “a federal case,” and I spent two years
32 in federal prison. Are you interested in the details, or do you think you’ll have me “on the ropes”
33 with this admission?

34 Here’s the good, the bad, and ugly of my felony: It was the first day of February 1968. I
35 was eighteen at the time. The Vietnam War was raging then. I was dead set against it. As with lots
36 of kids, I was conflicted because there were no easy conclusions or personal solutions. My favorite
37 brother was actually serving in the Marines in that war; and I was so proud of him and his bravery.
38 The two of us just couldn’t see eye to eye on that issue. As opposed to lots of families who were
39 torn apart by that war, my brother and I are still very close; and I still look upon him with great
40 pride.

41 Anyway, on that fateful February day, I went down to the federal courthouse in Denver. I
42 knew—because I had announced my intentions the day before, in an attempt to get as much
43 publicity as possible—that I would be standing in front of several reporters and camera people. I
44 bumbled nervously through the first speech of my life.

45 I can still see now what I did next: I held up my draft card; I held up a Zippo; and I burned
46 the card. Two days later, I was arrested by an agent of the FBI. Three weeks after that, I pleaded

47 guilty to the felony of unlawfully evading the draft. I then served two years in a federal prison in
48 Safford Arizona. I was released in the spring of 1970, and I got about the rest of my life.

49 As to my decision, friends and family had told me everything from “move to Canada” to
50 “find a doctor who can get you a medical deferment.” Arguably, I might have been better off if I
51 had gone to Canada. After all, every one of the kids who fled to Canada were given a full amnesty
52 in 1979. No such luck, though, for those who chose to flee by staying home. It’s weird, isn’t it?
53 To this day, I can’t vote. It’s illegal for me. To this day, I would do the same thing again. So, you
54 go ahead and ask me all about my felony, if you want.

55 And, this brings us, at long last, to the case of Gayle Gergich. Exhibit 2 is a picture of Ms.
56 Gergich. Ms. Gergich died in hospice care at the age of eighty, in July of 2019. She was born on
57 March 12, 1939. By family-history reporting at the time of my first clinical meeting with her and
58 one of her children in 2011, Gayle had begun showing some signs of age-related or disease-related
59 dementia within the previous two years. By report, she had been repeating certain stories to the
60 same audience with growing frequency, forgetting where she put her keys, forgetting how to
61 operate the remote for her TV, sleeping erratically, walking and pacing around her home at night.

62 As part of my initial assessments in 2011, I gave Gayle a series of mental status
63 examinations. The mental status examinations, given on four separate occasions in 2011, were
64 consistent with and highly suggestive of a progressive form of dementia. In addition, during my
65 first interaction with Gayle, I ordered certain DNA testing, specifically looking for presence of the
66 APOE4 gene, which is highly correlated to the development of Alzheimer’s disease.

67 Gayle’s case is complicated. You see, she was an extraordinarily bright and articulate
68 woman. She was obviously a voracious reader, with a special fondness for British novelists,
69 especially Dickens. Significantly, she told me that she loved to do the New York Times Daily

70 Crossword, and she would often have a copy of the crossword puzzle she was working on with her
71 during her office visits with me.

72 I had regular in-office appointments with her, but I never saw her outside of my office.
73 Candidly, when evaluating a patient’s mental status, an assessment made in a home’s distraction-
74 free environment would give me a more reliable snapshot of the patient’s mental status—but I
75 don’t make house calls. It is the 21st century. I do not know any physician who makes house calls.

76 I referred to Gayle’s innate intelligence as a “complication” for this reason: the most
77 difficult people to diagnose credibly are those who entered their period of dementia with a lot of
78 intellectual firepower. Typically, the less “gifted” patient will find it much harder to adapt to their
79 steadily shrinking vocabulary. After all, there isn’t as much pre-existing room to give. If such a
80 person loses the capacity during a discussion to retrieve words that will fit her mental construct—
81 let’s use the term “police officer” as an example—the patient is likely to simply stop talking.

82 I use the words “police-officer,” because those words would come to illustrate my
83 difficulty in understanding Ms. Gergich’s true condition. At one point, she was referring to an old
84 traffic ticket she had received, and she used the following words at various points: “officer of the
85 law”; “constable”; “cop”; and “flatfoot.” Each time, I could see a momentary pause—perhaps as
86 she searched for the most precise phrase, which was “police officer”—and then, in the blink of an
87 eye, she would substitute one of the synonyms I mentioned above. I have little doubt that these
88 were on-the-spot adaptations.

89 The totality of facts presented in the medical records, including the mental status
90 examinations, the family reporting, the DNA testing, and my personal interactions, provided a
91 compelling picture of a lady who was experiencing a progressive form of dementia. Her disease
92 process fit well into the classic dementia/Alzheimer’s mold. With the passage of time, during my

93 work with her, she struggled more and more with new and recent events. She seemed rarely to
94 have any difficulty with old events.

95 To the day she died in 2019, Gayle could vividly recall seeing her Mother clutching a
96 telegram and weeping with joy at the news within—this was in September of 1945,—that “the war
97 was over,” and that her Father would be coming home alive from the South Pacific. By the same
98 token, there were numerous occasions where she was confused about events which had taken place
99 that week or even that same day.

100 Was it Alzheimer’s Disease? To within a reasonable degree of medical probability I will
101 say “yes.” That is why I changed my diagnosis in 2012 from “Dementia/rule out Alzheimer’s
102 disease” to “Alzheimer’s disease/rule out other forms of dementia.” Pathologically speaking, the
103 only information I had was the DNA work-up that I had ordered. Gayle did indeed have one copy
104 of the APOE4 gene. That’s not a definitive piece of information. Certainly, with two copies of the
105 gene, it is pretty much a foregone conclusion that the patient will develop Alzheimer’s. One copy
106 means that the patient has a significantly higher likelihood of developing Alzheimer’s during his
107 or her eighties. Even without that gene, by the way, the odds of developing Alzheimer’s during
108 one’s eighties are still fairly significant—in the order of 25%.

109 I don’t claim perfect knowledge here. People just love it when someone pretends to know
110 the answers, and always speaks with perfect rectitude. But that ain’t me. Trust me, anyone who
111 says “it’s all so simple,” or “I’ve got THE answer” is pretending.

112 So, could Gayle’s disease process have a different etiology than Alzheimer’s? Sure.

113 In fact, one of Gayle’s adult children, Terry, believed quite strongly that Ms. Gergich did
114 NOT have Alzheimer’s disease. Terry had a medical durable power of attorney for Gayle and used

115 to get my medical records and then pore over them. So, when I changed my diagnosis to a
116 probability of Alzheimer's, guess who got in my face a couple of times.

117 Terry had apparently done some Google research; and, as with so many issues, you can
118 always find material which both (1) confirms your existing bias, and (2) looks authentic. So, Terry
119 used to raise this with me during clinical examinations of Gayle. I'd be "confronted" with "studies"
120 reported on some goofball internet crank/crazy/conspiracy site, and I would be re-asked the
121 question: "How can you look at this and say that my Mother has Alzheimer's?"

122 What do you say at that point? Do you say: I spent four years in a ten-hour-per-day
123 residency program so I could get Board Certified to treat people like your Mom; and you find some
124 cockamamie article on the internet and conclude: "sounds like a tossup to me?" How could I win
125 that kind of discussion? More importantly, who wants to?

126 My job isn't to dignify pseudo-science by disproving it. My job is to diagnose and attempt
127 to treat desperately ill human beings. So, I listened, and I nodded and I ignored. I kept telling Terry
128 what I had concluded, based on the available evidence. Terry kept pushing back.

129 Sometimes I'd be asked to go into a different room; and, sometimes Terry was so insistent
130 on discussing the matter that we ended up doing so in front of Gayle. That kind of stuff makes me
131 uncomfortable. I'm not doubting Terry's sincerity. I mean Gayle was not MY Mom; and it's not
132 irrational that one of your children will seek to find something to hang on to against the bitter
133 winds of a diagnoses like: "your Mother has Alzheimer's disease, which is an utterly incurable,
134 relentless, mind numbing and soul numbing, both to the point of simply fading away, disease."

135 Can you blame Terry? I gotta say, though, that I was surprised that Terry came back into
136 our office on the day that Gayle ostensibly changed her will or whatever these folks are fighting

137 about. Terry was given a copy of that day's medical reports. I understand that the will signing took
138 place later that afternoon. It was strangely coincidental either way.

139 Technically, it is impossible to make a definitive Alzheimer's determination while the
140 patient is still alive. This is because the plaques and other physical deformations of the brain are
141 only visible and measurable during post-mortem examinations. As you know, no post-mortem
142 examination was performed in this case. In hindsight, that's unfortunate. Left to my own devices,
143 I would certainly have recommended one. Actually, what happened was that one of Gayle's
144 children called my office by phone on the morning Gayle had died. I was tending to a patient, so
145 our receptionist wrote out a phone message. That is our standard practice when a patient calls and
146 I am not able to come to the phone. The caller said that Gayle had died at 5:55 a.m.

147 The message indicated it was a call from Gayle's child "Barry." I am aware from Gayle's
148 family history that she had two children: Terry and Jerry. Obviously, the receptionist misheard the
149 name, and I suspect it was Terry who called, but it could have been Jerry. The message that "Barry"
150 left was that there was to be no autopsy for religious reasons.

151 While I am a big believer in getting the pathology information which can only be obtained
152 through an autopsy, this was not technically a "questioned death," such as one which results from
153 trauma of uncertain etiology. Therefore, the issue of whether or not to obtain a post-mortem
154 examination was one which is based entirely on scientific curiosity. For example, while my
155 diagnosis here was one of Alzheimer's disease, the case was complicated enough that there was
156 some possibility that another kind of progressive dementia was taking place. This would have been
157 determined with certainty after a post-mortem.

158 In any event, I contacted the pathologist and the coroner, and told them of the strong
159 objection. Clearly, the coroner decided to accede to “family wishes,” and so, no autopsy was
160 performed.

161 Now, I’m not a dullard. I’ve got my opinions just like the next person. I mean, if you forced
162 me to guess as to whether it was Terry or Jerry who left the message on the phone, well, I’d answer
163 pretty quickly that it was most likely Terry.

164 Moving On. You have raised some questions in your interrogatories to me:

165 “If she had Alzheimer’s disease at the time of her will modification, would this have
166 rendered her will modification ineffectual?”

167 I don’t think so. As I understand it, Gayle signed the modifications to her will on the same
168 day as our June office visit. As I have previously indicated, she did have a seriously-deteriorating
169 condition of Alzheimer’s disease at that time, but this would not necessarily have rendered any of
170 her words or actions as “disease-driven,” or less than the process of a free-thinking and cognitively-
171 engaged mind. My records suggest that Gayle was doing reasonably well, cognitively, on that day.
172 So, there’s that.

173 My records also indicate the following:

174 (1) at the June 2018 office visit, she was accompanied by her child, Terry Gergich. Terry
175 was actually present at most of my interactions with Gayle. They seemed to have a close and loving
176 relationship. I don’t have present recall of the full meeting on that day, however, aside from my
177 general observations about the progress of her condition and then-present level of cognition.

178 (2) The office notes for that day were filled in by my physician’s assistant, Anthony
179 Burgess. Exhibit 8 is a copy of the notes made by Anthony. It’s our standard practice that my
180 physician’s assistant accompanies me during an office visit and records my observations and

181 comments, as well as any pertinent information received from the patient. We then keep those
182 records as part of the patient file. Anthony made the following entry about Gayle, with regard to
183 that day’s visit: “having a particularly lucid day.” Based on our routine practice, Anthony would
184 write down any relevant observations I made. I cannot unequivocally rule out that Terry or Gayle
185 said that and Anthony wrote it down because I simply do not have an independent recollection of
186 the discussion. I also do not have any recollection to the contrary, however. The truth is, Gayle
187 had good days and bad days. It was pretty much a fifty-fifty proposition, if you ask me. As I said
188 earlier, her innate mental skills made for very difficult diagnoses. On a day where Gayle might
189 have filled out the New York Times crossword, she well may have forgotten whether she had eaten
190 lunch, or she might have forgotten how to get to the dining room in the senior center. While I do
191 not have full recall of the June 2018 visit, I don’t have any specific reason to challenge the
192 conclusions recorded by Mr. Burgess, and I sure as hell am not about to throw another medical
193 professional under the bus simply because a bunch of lawyers are looking over my shoulders
194 concerning my diagnoses and treatment of Ms. Gergich.

195 (3) Was she capable of acting in her own best interests at the time she modified her will? I
196 have to say “yes” here. Certainly, none of us has divine knowledge, and none of us could see inside
197 her mind at any particular moment of any particular day. Generally, on her good days, Gayle could
198 perceive her own best interests and indicate what they were—either by saying something, or by
199 signing something. I strongly doubt that any of the legalese in the will documents would have
200 thrown her. Even in her last days—even when she was unable to recognize her own children—
201 Gayle’s command of the English language was something to behold.

202 I hope this has been helpful.

203 I have carefully reviewed this statement. It is true and accurate, and it includes everything
204 I know of that could be relevant to the events I discussed. I understand that I can and must update
205 this statement if anything new occurs to me before the trial.

206 By: Dr. Chris Traeger, M.D.
207 Chris Traeger, M.D.

EXHIBITS

LAST WILL & TESTAMENT OF GAYLE GERGICH

I, GAYLE EUGENIA GERGICH, formerly known as Gayle Eugenia Smith, reside in Jefferson County, Colorado and am of lawful age and sound mind. I was born on March 12, 1939. I know the nature and extent of my property and the persons to whom I wish to leave my property. I understand that, with this document, I designate to whom my property, both real and personal, will go after my death. Therefore, realizing the uncertainty of human life, and not acting under any duress, menace, fraud, or undue influence, **I hereby revoke all my former Wills and Codicils and declare that this is my Last Will and Testament.**

ARTICLE I – FAMILY

1.1 Marital Status. I am not currently married. I was previously married to Jim O’Heir Gergich.

1.2 Children. I have two adult children: Jerry Gergich and Terry Gergich. My children are both now living and I have no deceased children. I have no living or deceased grandchildren.

Except as provided below, I make no provisions in this, my Last Will and Testament, for any of my children, natural, adopted or otherwise, hereafter born to or adopted by me who survive me, nor for the issue of any child who does not survive me.

ARTICLE II – PERSONAL REPRESENTATIVE

2.1 Appointment. I hereby nominate and appoint my child, Terry Gergich, to serve as Personal Representative of this, my Last Will and Testament and to faithfully carry out my wishes expressed herein.

2.2 Powers. My Personal Representative shall act without bond and shall have all the powers granted and fiduciary duties imposed under the Uniform Probate Code, as adopted by Colorado in C.R.S. §§ 15-10-101 *et seq.*

1 of 4

Date: June 20, 2018
Last Will & Testament of Gayle Gergich

Testatrix Initials:



Witness Initials: W1



W2



- (a) No Personal Representative hereunder shall ever be liable for involuntary or casualty losses or for any loss or damage to estate or trust property except as such is caused by his, her or its own individual willful breach of fiduciary obligations.

ARTICLE III – TAXES & ADMINISTRATIVE EXPENSES

3.1 Payment of Taxes and Administrative Expenses. I hereby direct that all debts, administrative expenses, taxes (including any interest and penalties thereon) imposed by reason of my death, including but not limited to estate, inheritance, and generation skipping taxes, be paid from my residual estate as an expense of the administration thereof. Deductions, allowances, and credits to which my estate or any beneficiary may be entitled under Colorado law shall be calculated.

ARTICLE IV – PRE-RESIDUARY GIFTS

4.1 I give my Pembroke Welsh Corgi, Pepper Marie Clementine, which I may own at the time of my death, to Taylor Walken, with the request that Pepper be treated as a companion animal.

4.1 I further give \$500,000.00 from my estate to Taylor Walken, and I request that these funds be used for the care Pepper Marie Clementine.

ARTICLE V – RESIDUE

5.1 Devise of Residuary Estate. I hereby give, devise and bequeath all the rest, residue, and remainder of my estate unto my child, Terry Gergich, less all expenses, taxes, and duties charged as a result of my death.

ARTICLE VI – MISCELLANEOUS PROVISIONS

6.1 Survivorship. If any beneficiary, heir, or devisee named in this Last Will & Testament and I die simultaneously or if such beneficiary, heir or devisee survives me for less than one hundred twenty (120) hours, then all property in which I have an interest, whether passing under or outside this will, shall pass as though that named beneficiary, heir, or devisee predeceased me.

6.2 Predeceased Child. In the event that a child or issue of mine may predecease me or dies before he or she has received all distributions of property intended to be distributed to that child, and such child or issue is survived by his/her own children or issue, then I direct that such

2 of 4

Date: June 20, 2018
Last Will & Testament of Gayle Gergich

Testatrix Initials:



Witness Initials: W1:



W2:



deceased child's children or issue shall receive the share or distribution, or property intended for such deceased child or issue, by right of representation. If a child of mine predeceases me and is not survived by any children, then I direct that such deceased child's share shall pass to the surviving sibling.

6.3 Severability. If a court of competent jurisdiction rules invalid or unenforceable any of the provisions of this, my Last Will and Testament, the remaining provisions of this Will shall remain in full force and effect.

6.4 Governing Law. The interpretation and construction of any provisions of this, my Last Will and Testament, shall be governed by the laws of the State of Colorado as of my date of death. My Last Will and Testament shall be valid in all jurisdictions.

IN WITNESS WHEREOF, I, Gayle Eugenia Gergich, the Testatrix, sign my name to this instrument this 20th day of June, 2018, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament.

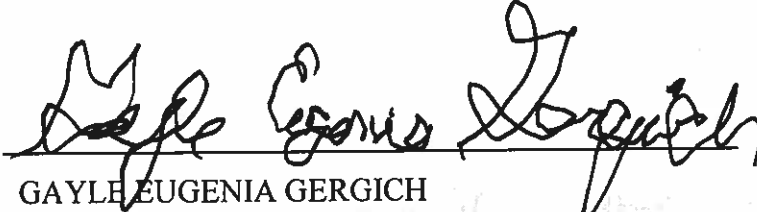

GAYLE EUGENIA GERGICH







Exhibit 2



Exhibit 3



Exhibit 4



Exhibit 5





BNK-2941-A

2,941 Sq. Ft.

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(303) 237-9376 Fax
info@rechtechgroup.com

Crossword

Edited by Will Shortz

PUZZLE BY RYAN MULLIGAN

ACROSS

- 1 Twosome in the news
- 5 ___ California
- 9 "No drama" president
- 14 Simba's mate in "The Lion King"
- 18 Play to ___
- 16 Half of the Dynamic Duo
- 17 Serious injury for a firefighter
- 20 Part of a golf cup
- 21 Letter after kay
- 22 Gerund ender
- 23 Sri Lanka export
- 24 ___ roll
- 25 Mary's boss on "The Mary Tyler Moore Show"
- 26 Santa ___ (some winds)
- 28 "Pale" or "prairie" plant of the central U.S.
- 34 Fine distinction
- 35 Saze with financial advice
- 36 Good pace, informally
- 38 One of the Wayans brothers

DOWN

- 2 Farmhand's material
- 4 Fancy neckwear
- 6 Indication that "That's how things are"
- 8 Collagist's supply
- 10 Bard's contraction
- 12 Do-over call
- 13 Temple University athlete
- 15 Figures at raves
- 19 Lill doubled
- 27 Outburst from Scrooge
- 29 Question answered by this puzzle's circled letters
- 32 French-speaking African land
- 33 Skeptic's reply
- 37 Tolerate
- 39 Conductors' announcements
- 41 Canadian fill-up choice
- 43 English Channel feeder
- 45 Part of many

1	T	3	4	5	B	A	J	A	9	10	11	12	13		
14	N	A	L	A	15	A	T	I	E	16	R	O	B	I	N
17	H	18	19	G	R	20	21	22	23	24	25	26	27	28	29
30	I	31	E	L	L	32	I	33	34	35	T	E	A	36	37
38	N	39	L	O	U	40	A	41	42	43	44	45	46	47	48
49	I	N	D	I	A	N	P	L	A	N	T	A	I	N	50
51	N	52	U	A	N	C	E	53	54	55	O	R	M	A	N
56	C	57	58	59	60	61	62	63	64	65	66	67	68	69	70
71	D	72	73	M	74	75	C	R	A	V	A	T	76	77	78
79	S	80	81	O	82	83	E	84	85	86	87	88	89	90	91
92	93	94	G	L	U	E	95	T	I	S	96	97	E	98	99
100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115
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132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147
148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163
164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179
180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195
196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211
212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227

7/8/13

- 2 Falafel sauce
- 3 2012 Super Bowl M.V.P. who hosted "S.N.L."
- 4 Deface
- 6 Banking problems
- 7 Had a midday
- 13 Actress Kendrick of "Pitch Perfect"
- 16 Novelist Ephron
- 19 Sicilian province
- 27 Shakespeare's Avon, for one
- 29 Fooling
- 30 Pastel shade
- 43 Rots slowly
- 45 Call on
- 47 It's big in Japan
- 48 Singer O'Shea who shared the stage with the Beatles on the 2/9/64 "Ed"

Exhibit 8

June 20, 2018.

10:44 a.m.

Pt: Gayle Gergich

accomp: Terry Gergich

BP 122/75 Pulse 67 Height 65" Weight 127lbs

- Dr. Traeger

Observations

Appears to be having a particularly lucid day

No significant disturbance noted. Patient oriented X4. Responses to questions show reasonably linear and logical expressions of thought. No evidence of rapid flight of ideas. Bit of circumferential expression—some use of extraneous detail combined with a modest difficulty in circling back to the topic at hand

Level of circumferential thinking not clinically significant today

No evidence of frank delusions. No suicidal or homicidal ideations. No evidence of obsessions, phobias, or distracting preoccupations.

Pt discusses dog "Pepper"

Going to bank later today to sign new will to take care of Pepper

Pt discusses doing NYT crossword

No labs ordered. No office EKG. Reviewed prescriptions.

A. Burgess

Curriculum Vitae
Chris Traeger, M.D.

Education:

University of Colorado School of Medicine, MD, *summa cum laude*, 1978
Metropolitan State University (MSU), BA (Journalism, *magna cum laude*), 1974
Medical Internship, 1978-79, Roger Williams Hospital, Providence, RI
Medical Residency, 1979-83, Neurology, Johns Hopkins University, Baltimore, MD

Academic Honors:

Undergraduate:

President's Award (Outstanding Graduate), MSU, 1974
Editor-in-Chief, "*The Paper*," (MSU Campus Newspaper), 1972-73

Medical School:

Recipient: Alpha Epsilon Delta award for service to the community.
Smithson Award for excellence in Geriatric Scholarship
Bain Memorial Award (for highest scholastic standing in biochemistry).

Neurological Residency:

Chief Resident of Neurology (1982-83)
William H. Preston Award for Outstanding Dementia Research (1983)
Newberry Award for Clinical Treatment of At-Risk Geriatric Women (1982)
National Football League Players' Ass'n Award for CTE Research (1982)

Publications:

"Big Pharma's Big Fail: \$4Billion in Alzheimer Drug Testing Comes up With Literally Nothing," *AMA Journal*, May 2017.
"Diet and Lifestyle Versus Genetic Predisposition: A Longitudinal Study of Certain Populations with the APOE4 Gene," *Neurology*, 2016.
"Prions In The Stew While Britain Slept: How Mad Cow Disease Made It Past British Food Inspections," *Nature*, August, 1994
"Now What's Bothering Mom?: The Effects on Aging Parents of Sibling Rivalries Among Adult Children", *Parade Magazine*, July 2002

Community Activities and Service:

Coach and Mentor: St. Cecilia High School, Olympics of the Mind Team, 2004-2019
(Small school, yes; but they've gone "to Nationals" twice!)

Board Member, Nordby Elementary School, 1992-2001
Host Family, AFS Foreign Exchange Students: 1995-2001

Miscellaneous:

Song Writer and Producer:
. Four Albums (all on I-Tunes)
. *Recipient: Two Hank Williams Memorial National Songwriting Awards (1995, 2014)*
. *First Place Award Winner: Grand Old Opry Songwriting Competition, 2008*