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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-000963-MR

STEVE CHANDLER — APPELLANT

v.

APPEAL FROM CRITTENDEN CIRCUIT COURT
HONORABLE RENÉ WILLIAMS, JUDGE
ACTION NO. 11-CI-00150

WILLIAM ROBINSON, EXECUTOR OF THE ESTATE OF HAROLD KEITH CHANDLER; RANDY FISH; and PAYETON FISH — APPELLEES

OPINION
AFFIRMING

** ** ** ** **

BEFORE: KRAMER, CHIEF JUDGE; D. LAMBERT AND J. LAMBERT, JUDGES.

KRAMER, CHIEF JUDGE: Keith Chandler worked at a factory with William Robinson and Randy Fish for several years, and Robinson and Fish testified they were Keith's friends. They occasionally hunted together on Keith's 238 acres of farmland situated in Crittenden County, Kentucky, and Randy's minor son, Payeton, would occasionally join them. On October 23, 2006, Keith executed a last will and testament. His will named Robinson as the executor of his estate; it designated Payeton the beneficiary of Keith's estate; and Keith's estate included the 238 acres of farmland.

Keith subsequently passed away in mid-July 2011. Thereafter, Keith's elder brother, Steve

Chandler, filed suit in Crittenden Circuit Court to challenge the validity of the will. Steve's challenge was based upon his claim that Keith either lacked the requisite capacity to execute a will, or that Keith's will was the product of undue influence. On May 15, 2014, following a period of litigation. [was prematurely and prejudicially constricted to a two-year time frame surrounding execution of the will, which was the time frame the Defendants maintained control over Keith] and a three-day trial, a jury found in favor of the appellees and the circuit court accordingly entered judgment in conformity with the jury's verdict, dismissing Steve's will contest. Steve now appeals. Finding no error, we affirm.

Steve's first argument on appeal asserts the circuit court erred by striking "60%" of the allegations in his 10-page complaint on the ground of relevance. As to why, Steve contends in his brief: "Kentucky Rules of Civil Procedure Rule 12.06, provides that 'the court may order stricken from any pleading any insufficient defense or any sham, redundant, immaterial, impertinent, or scandalous matter.' Unlike the federal counterpart, relevancy is not amongst the list."

[Please See Appellant's Brief on pages.6-9;
The Order **falsely** sets out that the Movant's **sole reason** for asserting that the Court erred by striking from his complaint was because Ky. Civil Rule 12.06, does not include relevancy as a reason.

First and foremost, the Movant's Brief thoroughly addressed the issue concerning a Motion to Strike, including controlling KY Supreme Court Case *Roman Catholic Archdioceses of Lexington v. Noble. Ky.*, 92 S.W.3d 724, 733-34 (2002), along with the following: Phillips, Kentucky Practice, Vol. 6 Rule 12.06, Author's Comm. Section 2 (5th Ed. 1996); and Green v. Ingram, 269 Va. 281, 608 S.E.2d 917 (2005).

The exact same arguments were repeatedly presented to the Circuit Court, in addition to the fact that Judge Williams based her premature evidentiary strike order entirely upon appeals from summary judgement rulings, JNOV Orders, or a directed verdict appeals.
RELEVANCE BEING
All Of The Case Law Cited By Attorney Brucie Moore to Support Her Unfounded Unprecedented Motion to Strike Occur Only After Adequate Time To Conduct Discovery And Fully Litigate Your Case On Its Merits Has Passed.
→Steve Chandler asserted the exact same sentiment from the very beginning. In fact the above argument was presented before the illogical Strike Order was even issued.

PLEASE NOTE: Not one single case was ever provided by defendants, their counsel, Judge Williams, or even the appellate court that would justify and support Judge Williams' premature evidentiary strike order which ultimately denied Steve Chandler his Constitutional Right to a fair and just trial.

The Court of Appeals simply declined to review the relevancy of the matter stricken, on a "matter of

right" appeal. Steve's entire brief was premised solely around being unfairly denied his Constitutional Rights to a fair and just trial in front of an actual neutral gatekeeper.
MOREOVER, the CoA opinion repeatedly sites to the limine orders granted days before trial, but fails to address the fact that the same information was excluded before litigation even had a change of starting.

It is the Court of Appeal's job to determine whether a ruling was arbitrary, unjust, unfair, and not supported by sound legal principles. Refusing to review the relevancy of paragraphs contained in Steve's Complaint and the preposterous Strike Order is yet another Constitutional Violation by the Kentucky Judicial system against Steven Chandler and his family.

Furthermore, Judge Williams completely disregarded Steve Chandler's equity claim in the personal property of the family homestead. Thereafter, she improperly affirmed the District Court's ruling which determined that the equity defense of laches barred Steve Chandler from reopening his mother's estate to preserve his legal vested interest in the personal property of the Chandler family homestead.
Payeton Fish had no more than a potential contingency interest in household content.

Equity Defense of laches can never be utilized against a party with a legal vested interest in property, when the other party has a far less claim to such. In other words, Judge Williams rulings which disregarded Steve's equity claim entirely, and her later affirmation to re-affirm a ruling that she was being appealed on, amounts to a taking by the State.

Steve is incorrect. Kentucky Rule of Civil Procedure (CR) 12.06 authorized the circuit court to strike irrelevant allegations from his complaint. *See City of Ludlow v. Union Light, Heat & Power Co.*, 299 Ky. 621, 186 S.W.2d 640, 641 (1945). "Immaterial" and "impertinent," ,"

[The words "immaterial" and impertinent, are not even asserted within in case cited above, but more importantly, neither was CR 12.06, since it wasn't even adopted until July 1, 1953.]

as used in the rule, are synonymous with "irrelevant." To the extent Steve's contention could also be considered an invitation to review the relevance of the "60%" of his stricken allegations, "**we decline.**"

"To the extent Steve's contention could be an invitation to review…."
I am not sure what purpose it served the CoA to consistently downplay the merits of Steve Chandler's brief. In any event, to disregard the true actual content and merits of the arguments set out in Steve Chandler's brief is form of obstructing justice.

[Steve's entire brief (his matter-of-right appeal) (the whole thing) was based upon Judge Williams denying his Constitutional Due Process Rights to a Fair and Just and Impartial Trial at the onset due to the completely unfounded illogical strike order. The Strike Order was the most unconstitutional and unsupported ruling of them all. Justice demands that the Appellate Court review the content of the Complaint that was stricken in the beginning, and later re-affirmed by Judge Williams less than a week before trial.

With the exception of Paragraph 37 of his complaint, Steve does not explain why any specific

allegations were relevant, nor does he cite any legal authority to that effect. Thus, Steve has offered no argument for our review in that vein. *See Cherry v. Augustus*, 245 S.W.3d 766, 781 (Ky. App. 2006).

Complete false assertion - Steve's entire brief explains why the information was relevant.
Cherry v. Augustus is distinguishable for several reasons, this case involved the filing of a civil action by a deputy sheriff seeking to enforce an Order issued by the County's Sherriff Merit Board, and later appealed the circuit court for failing to issue an Order requiring the Sherriff to expurgate, "remove" document from his personal file that states that he was discharged for misconduct. "The circuit court did not address this issue at all in any of the orders on appeal. We must assume that the court's failure to address the issue wherein was conclusive of the Courts intent to deny Cherry the relieve he sought." The Court of Appeals cited to CR 76.12(4)(c)(v), stating that Cherry's brief lacks any citations of authority pertinent to each issue of law.." In short the CoA set out that Cherry's entire argument on this point of appeal is as follows: "There is really nothing more to say about this error. Without doubt, Sheriff Frank Augustus should be ordered to straighten out Steve Cherry's deputy sheriff personnel file so that anyone reviewing it would not conclude that he had been discharged from employment for misconduct."
BUT AGAIN, to even be able to make such a ridiculous statement, the CoA opinion deliberately disregarded the case law provided concerning the premature strike order, and then falsely stated that Steve Chandler only cited to CR 12.06 as the only reason for appealing the Strike Order.
Pages 6-8 of Steve's headings sets out:
"THE OVERALL ENCOMPASSING ISSUE IS WHETHER THE PLAINTIFF HAD A FULL AND FAIR OPPORTUNITY TO CONDUCT DISCOVERY AND ADEQUUATELY PLEAD HIS CASE, AND DEFEND AGAINST FALSE ASSERTIONS."
I. The Trial Court Committed Prejudicial Error In Granting The April 17, 2012, Motion To Strike Order, As It Is Not Supported By Statute Or Controlling Case Law.
The Affirming Opinion entirely disregarded the content of the Appellant's brief and falsely states that Steve failed to explain why any specific allegations were relevant. The entire brief discusses the relevancy of the stricken information and how it resulted in an egregious miscarriage of justice. **[Brief pg. 9]**
Moreover, the KRE 103 filing discussed in the Order, thoroughly addressed the relevancy of each paragraph individually, along with the two responses submitted in opposition to the premature strike order, and the multiple responses submitted in opposition to the motion in limine filed by the defendant's, as well as the proffer submitted to the court after the trial. Wherein, Judge Williams allowed Steven Downey an unfounded double objection.
[Brief pg. 9; Movants entire brief specifically addresses the relevancy of the material stricken, as well as the unmistakable prejudicial effect that the Strike Order, (later the Limine Order), had on the Plaintiff's ability to fully and fairly litigate his claims.

With that said, Paragraph 37 of Steve's complaint stated:

> Keith a lifelong Crittenden County resident who previously worked with Rebecca Johnson, a Crittenden County attorney during the

probate process of his mother's will, instead went and had Brucie Moore, who has a private practice in Union County, Kentucky.

Steve argues this paragraph was relevant and should not have been stricken from his complaint because it demonstrates Keith hired attorney Brucie Moore to draft his will after appellee Randy Fish recommended her services.

[Brief pg. 9] Another false assertion within the CoA Opinion. Steve unequivocally does not argue that the paragraph was relevant because it demonstrated …. " Steve's argument pertaining to paragraph 37 has been taken entirely out of context and egregiously mischaracterized.

[Brief pg. 9] MOREOVER, The Order of the Court of Appeals deliberately and intentionally omitted the last sentence and disregarded the proper context in which the argument was raised.

→The paragraph listed above stated was presented as evidence concerning Judge Williams premature bias in this case. Her bias and strongly held opinion was obvious from her premature evidentiary strike order. Recall that not even an answer had been filed at this time. Clearly her assertion had nothing to do with what was already in the record.

THE Sentence intentionally omitted reveals strong evidence of a premature opinion and bias by the court even before litigation began.
"Keith had the right to use an attorney of his choice to prepare his will and it appears he did just that."]

******EVIDENCE OF TRYING TO PROTECT JUDGE WILLIAMS******

But even if Paragraph 37 could be read that way and was relevant, it is unclear why Steve believes the circuit court's decision to strike it qualified as more than harmless error.

[Brief pg. 9; Again, this argument was inaccurately stated and asserted by the Order in a complete false context from which it was presented.

During trial, Brucie Moore testified she drafted Keith's will, and Randy Fish testified that he recommended her services to Keith.

[Randy Fish testified that he made the appointment with Brucie Moore for Keith Chandler.] One of many things purposefully downplayed by the Court of Appeals Order.

In a related argument, Steve contends the circuit court did not permit him to question Brucie Moore at trial concerning "her continuous involvement in this case." However, in addition to what is stated above, the circuit court informed the jury during *voir dire* that William Robinson, Randy Fish, and Keith's estate were represented by an attorney from Brucie Moore's law firm.

→ An incomplete and inaccurate representation as to when the brief introduction took place. Judge Williams introduced all the parties, including the attorneys at the start of the first morning.
→ At which time there was not an empaneled jury, and voir dire was far from even beginning.
→ Judge Williams simply asked the entire jury poole if they knew Megan Randolph, and that she

was employed with Moore & Wallace over in Union County.

AT NO TIME did she ever say that the Estate of Harold Keith Chandler was represented by BRUCIE MOORE.

[Brief pg. 26-35;
REGARDLESS: the Order completely ignores that there was a lengthy bench conference concerning the ability to question Brucie Moore about her continuous involvement in the case, as well as the bogus counterclaim she filed against the Movant. Which was subsequently dismissed over Plaintiff's objection just days before trial. The mischaracterization and false filings of Ms. Moore throughout provided an extensive amount of bias and impeachment material that would have definitely shaken the strength of Ms. Moore credibility. Due to the CUT-OFF Date of October 23, 2006, I was limited to questioning Ms. Moore about the two short meetings she had with Keith Chandler.

NOTWITHSTANDING the improper exclusion, the Order of the CoA deliberately overlooks the fact that this ruling of the Court **later allowed Respondent's counsel to fraudulently assert to the jury during his closing argument that Ms. Moore is a complete uninterested witness who had no reason to lie.**

→I objected to the fraudulent assertion, and Judge Williams said, "I will note your objection for the record."

It is unclear from Steve's brief what he expected to elicit from Brucie Moore that would not have been cumulative of those facts.

[Brief pgs. 26-35; SEE ABOVE COMMENTS
Steve provided the Court with a lengthy list of information that could be used to call into question Attorney Moore's credibility. With special emphasis on the fact that she is an interested party who at the time claimed to be owed $76,000 from the Estate.]
Moreover, she demonstrated deplorable actions throughout litigation and repeatedly submitted false filings to the Court, which was never addressed by Judge Williams, despite the fact that it was brought to her attention on several occasions.

THE BOOKS BEING PROVIDED → WILL UNEQUIVOCALLY REVEAL THAT STEVE CHANDLER WAS MAKING THE EXACT SAME ARGUMENTS FROM START TO FINISH.

Steve also states, without citation to the record, that he asserted an "equity argument within his complaint for his legal interest in 50% of undistributed property of [their mother's estate]" that remained in Keith's house following Keith's passing; that the circuit court struck from his complaint the allegations that comprised his "equity argument"; and "[t]o make sure that regardless of the outcome of the case, Steve's interest in family heirlooms was preserved, immediately following trial, Steve filed a petition to reopen his mother's probate simply to preserve his claim in the personal property."

[Brief pgs. 28-30. Movant cited to ROA, as well as Exhibit 4 which contained the Complaint.

On pg., 4, of the Affirming Order falsely implies that because Movant filed motion to reopen estate, his interest in the personal property was not lost.

The CoA Opinion quotes from Steve Chandler's brief the last sentenced listed above. But then intentionally disregards the very next sentenced that followed on pg. 30

"In February 2015, District Judge bared Steve's interest for laches."

A notion that the Court of Appeals was well aware of. Nearly a year after trial, Judge Daniel Heady signed the Defendants tendered order denying Steve Chandler his legal interest in the content of the family home relying on the equity defense of laches. Steve appealed the District Court latches ruling to Circuit court, wherein Judge Rene Williams refused to recuse herself and instead took the opportunity to assist the defendants in cutting off Steve Chandler's legal vested interest in the personal content of the home, by affirming a decision to which she knew she was directly being appealed from.

Steve then submitted a motion for discretionary review with Kentucky Court of Appeals which was ultimately denied in June of 2016, by a three judge panel which including Judge Debra Lambert.

Judge Lambert has served on all previous motion rulings within this very appeal, and then later assisted defendants in cutting off Steve Chandler's interest in personal property of his family's home through this action and direct denial of discretionary review.
Furthermore, even before being assigned as member one of the 3-panel judges to hear Steve's discretionary motion to preserve his legal interest in Mary Katherine probate estate, Judge Debra Lambert had already gained a great deal of knowledge concerning the denial of equity claim as it had been included in several of Steve Chandler court of appeals filings.

Steve Chandler consistently informed the Court of Appeals that the Steven Downey fought against supplementing the record because he didn't want his misappropriation disclosed. Despite Steven Downey and Attorney Moore vehemently protesting the relevancy of the probate case to this appeal, Attorney Moore and her office attempted to use the two probate cases as a backdoor means to cut off any and all of Steve Chandler's legal interest in hopes of preventing the continuation of any cause of action.

INCLUDING THE CIVIL on filed against them individually.

Due to Judge Debra Lamberts previous involvement, and failure to ensure veracity of the record, when she denied every motion filed by Steve Chandler requesting permission to submit a reply in order to address the false information placed into record by Steven Downey, Steve Chandler filed Objection with the CoA, to prevent her from serving on the merits panel of this appeal.

CONSEQUENTLY, at the time that this affirming decision was rendered, at least one of the three merit panel judges was aware that Steve Chandlers legal vested interest in the personal household content had already been illegally extinguished by all the Courts, which included a previous ruling by Judge Debra Lambert.

THUS, making the Court of Appeal's intentional effort to give the impression that Steve Chandler has not been harmed by the Circuit Court completely disregarding his equity claim altogether, all the more insulting.

TO BE CLEAR: Latches is an equitable defense implemented only in extreme cases where someone would be prejudiced by a lengthy delay of an individual to invoke his claim or right to something. Equity defenses cannot be applied in favor of a potential contingent interest where the other party has an actual legal vested interest.

Furthermore, the CoA Order completely ignores Steve's brief on page 6→
[SEE PROBATE CLIP JULY 20, 2011 ON FLASH DRIVE]
Steve first raised the issue concerning personal property of the home within the District Probate Court proceedings, Judge Heady informed Steve during probate hearing that his claim to the personal property would have to be taken up within his Circuit Court action. → keep in mind that the after trial ruling of "latches" was made by this same court.

Thereafter, Steve submitted an Equity claim and asked for a Constructive trust to protect his legal interest in the content of the Chandler homestead. Steve desperately informed Judge Williams of the controlling case law governing disputes over personal property wherein the parties are deemed as joint owners. The only remedy available was to force a replevin action forcing a judicial sale of the items. The minor beneficiary had absolutely no connection with the Chandler family and memorabilia would only matter to Steve Chandler and his family.
→PLEASE NOTE THAT these arguments were all presented to Judge William's months prior to her issuing the unprecedented evidentiary Strike ORDER. → information can be found in Circuit Court book, Harold Keith Chandler's Probate book, and Court of Appeal's book, provided.

This appears to be a contention that the circuit court erred by striking a claim from Steve's complaint and effectively dismissing it without adjudicating its merits (*i.e.*, without prejudice). To that extent, it is Steve's burden to demonstrate the circuit court abused its discretion in doing so. *Sublett v. Hall*, 589 S.W.2d 888, 893 (Ky. 1979). Steve cites no authority in support of that proposition, nor does he explain how the circuit court's decision not to adjudicate the merits of his "equity argument" amounted to more than harmless error. *See* CR 61.01 Thus, it is unnecessary to discuss this point further.

The CoA Order further places false reliance upon Sublett v. Hall, listed above.
- → In that case, the Judge dismissed a claim for failure to comply with rules and regulations. The claim was dismissed as the results of the court issuing sanctions.
- → Completely distinguishable from present cause of action where the claim was completely disregarded at the onset.

Steve Chandler was entitled to present an equity claim for his legal vested interest in the household's personal content.
At no time was Judge Williams allowed to intentionally and deliberately ignore a claim altogether and consistently pretend as though it was never presented, and then later reaffirm herself as the reviewing court of district court decisions.

THESE RULINGS UNEQUIVOCALLY DENIED STEVE CHANDLER HIS CONSTITUTIONAL DUE PROCESS RIGHTS.
→ It all amounts to reversible error, and not simply harmless error as the CoA Order concludes.

Next, Steve argues the circuit court judge demonstrated "extreme bias" and should have recused.

[Movant's brief was very specific with respect to bias and unfair rulings of the Court. The CoA's Order wrongly portrays the Movant's brief as merely stating "broad assertions" pertaining to bias of the Court. Movant's brief addressed each motion

individually, under various arguments. Steve Chandler's brief in no way contained "generic broad statements" as it is mischaracterized and described within the CoA's Order.]

In support, Steve **broadly states** that the circuit court overruled several of his motions; "asserted many conclusory opinions on various aspects of the case";

[Brief pg.9; The quotation above has been taken out of context, and the argument was asserted in relation to Judge Williams premature Strike Order.
Please note, that this argument specifically preceded the inaccurately stated Paragraph 37 discussed above.]

excluded evidence he sought to introduce;

AGAIN, Steve's brief discussed each item of evidence and its relevancy to his case.
It is the Affirming Opinion that improperly contains broad assertions, in attempt to downplay the merits of Steve Chandler's brief.]

made legal conclusions that he believed were incorrect;

[Brief pg. 10; "The Court Erred in its interpretation of applicable case law applicable to the facts at hand and what evidence is admissible during a Will contest trial"]

→ **Steve's brief stated that the Strike Order contained "legal opinions" and it too was listed above. However, one can only assume that the CoA's Order was downplaying the heading contained on page (10) of Steve Chandler's brief.**

incorporated language and reasoning from some of the appellees' pleadings into several of its orders;

[Brief pg. 8; This is an inaccurate depiction of Movant's stmt., the specific statement reads:

"On April 17, 2012, the Court issued its order, which was verbatim from defendant's motion and memorandum, including quotes from case law which were taken out of context, and appeared to be completely one sided."

PLEASE NOTE this was specifically in connection to the premature Strike Order, and not just a general assertion throughout.]

A later argument was made in relation to the Court's nearly identical adoption of the Defendant's proposed avowal Order. But anyone can see that the CoA was downplaying and minimizing the merits of Steve's bias argument.

did not dismiss an abuse of process counterclaim asserted against him by the appellees until two years after it was filed;

The Opinion of the COA addresses this twice on page five and eight.

[Steve Chandler's Brief pg. 28-30 Yet another extreme mischaracterization by the CoA

"The Trial Court committed prejudicial error by allowing the Defendants to voluntarily

dismiss the counterclaim over Plaintiff objection less than a week before trial." Pgs. 28-30

The Order is completely void of the proper context that this argument was asserted. The quotation above fell under the following:

"The Trial Court Committed Prejudicial Error Throughout the Entire Litigation and During Trial Which Showed Extreme Bias Toward Defendants and/or Defense Counsel Within its Ruling and Conduct of the Court." Pg. 26

Steve Chandler filed a Motion to Dismiss counterclaim the moment it was filed because it contained fabricated information and failed to even set out the necessary element of damages. It was not an ancillary claim as falsely stated within Court of Appeals Order. No doubt it was a frivolous meritless complaint.

Judge Williams was directly placed on notice the Attorney Moore directly threatened Steve Chandler, stating that he had a farm of his own and a lot to lose if he chose to file a will contest complaint, because she would consider that to be an abuse of process. Both the pleadings and the filings pertaining thereto was riddled with lies and easily discredited false assertions pertaining to actions of Steve Chandler. Moreover, the defendants verified the content of the counterclaim within their sworn to interrogatory responses.
PLEASE SEE THE CIRCUIT COURT FILING BOOK

Steve Chandler objected to the last minute, verbal only, dismissal as the information contained within the counterclaim filings would have provided prime impeachment evidence as well as evidence pertaining to motive of the defendants and a great deal more.

Furthermore, Steven Downey falsely padded the record of an alleged agreed dismissal in exchange for not being able to question anyone concerning Mary Katharine's Estate and the undistributed personal property. **[SEE pages pg. 28-29] → completely disregarded by the Court of Appeal's Opinion.**

The Order ignores arguments pertaining to KY Civil Rule 41 Dismissal.
→ ignores the transcribed dialect contained in the Steve Chandler's brief of the April 11, 2014, hearing where counsel strenuously objected to the last minute dismal of the counterclaim.

The Order of the Court, completely and intentionally disregards the context in which the argument was asserted, but more importantly places its own mitigating spin on the matter.

"did not dismiss an abuse of process counterclaim asserted against him by the appellees until two years after it was filed."

Neither the Movant or the Appellees ever asserted that the grievance of the issue was because it took two years for the court to dismiss the counterclaim.
→to be clear … Judge Williams issued an ORDER DENYING Steve Chandler's Motion to Dismiss the counterclaim filed by the Defendants way back on August 9, 2012.

The Court of Appeals Order mischaracterizes the majority of Steve Chandler's Brief. I have been trying to figure out what aspect of Steve Chandler's brief is being misquoted within the Court of Appeals Order.

HOWEVER, one statement has puzzled me until now:
On page six (6) of the Court of Appeals Order states as follows:

"that Steve either disagreed with the circuit court's interpretation of the law, or took issue with the speed at which they were made."

Which would only make sense in this one instance since the Court of Appeal's Opinion completely ignored the proper context that this argument was presented under, and instead chose to rephrase, "mischaracterize" the argument entirely by simply asserting that Steve was simply upset because it took Judge Williams two years to dismiss the counterclaim.
The CoA opinion continuously takes arguments out of context in an obvious attempt mitigate the egregious prejudicial effect that Judge Williams bias rulings had on Steve Chandler's Constitutional Right to a fair impartial tribunal, and subsequent impartial reviewing panel.

and in one of its orders, referred to him as Keith's "estranged brother."

[Brief pg. 9 once again the Order has taken information out of context. This was made in reference to the premature bias demonstrated by Judge Williams with the initial Strike Order.

To be specific, Counsel was making the point that although she filed a motion to strike the use of the phrase "estranged brother" from Defendants pleadings, Judge Williams referenced him in the same manner within her Strike Order.] **PLEASE SEE CIRCUIT COURT BOOK**

Steve also adds that during the December 8, 2011 hearing regarding the appellees' motion to strike, the circuit court demonstrated it had prejudged the merits of his case because it asked him whether Keith had ever been adjudged mentally incompetent; and asked him to explain why he had indicated in his complaint that: (1) Keith had been appointed executor of their mother's estate through her will and had eventually served her estate in that capacity from 2007 until 2008; (2) Steve had not challenged Keith's appointment as their mother's executor; (3) Keith had been employed full time for several years before and after he executed his will; and (4) Keith had been capable of driving an automobile.[1],[2] Steve also argues that, due to this line of questioning, he "left

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[1] During the hearing, Steve acknowledged Keith had a valid driver's license.

[2] Steve asserts that during the December 8, 2011 hearing, the circuit court also told him Keith "made his will in 2006, but didn't pass away until 2011, so if he wanted to change his will he could have." The portion of the record Steve has cited in support of his assertion does not, however, demonstrate that the circuit court made any statement; he has cited a segment of the appellees' closing arguments on the last day of trial, April 21, 2014.

→**[SO NOT TRUE! Foot note 21 and 23 clearly cites Exhibit 5 [ROA Vol 1; p.31] December 8, 2011 Motion to Strike Hearing [Time 9:45:23-9:45:37; Clock 16:32-16:46] There was no dispute between the brothers; [Time:9:56:03-9:56:13; Clock: 27:12-27:22] All Conflicts between the brothers involved Randy Fish.**

[What can only be an attempt to ignore and conceal the premature bias of Judge Williams, the CoA Order is directly contradicted by Movant's Brief, page 8, footnote 21.

"SEE VIDEO DECEMBER 8, 2011 MOTION TO STRIKE HEARING [Time: 9:44:57 – 9:51:36; Clock: 16:06 – 19:22 and Time:9:51:24 – 9:52:08; CLOCK: 22:33 – 23: 17]" The same sentiment was improperly asserted by Respondents attorney during his closing argument, but the direct citation to that assertion was set out in footnote 20.]pg,8

that hearing in tears, feeling as if he was personally attacked and cross examined by the Court for his action or inactions taken on behalf of his brother or mother."

The legal standard for disqualifying a judge on the basis of bias is set forth in Kentucky Revised Statute (KRS) 26A.015(2).[3] What Steve has "**broadly asserted**" lends no support to the notion that the judge should have been disqualified under this high standard. At most, it indicates that over the course of the litigation the judge arrived at legal conclusions on the basis of what was represented in the various pleadings and motions; and that Steve either disagreed with the circuit court's interpretations of the law, or took issue with the **speed** at which they were made.

TO BE CLEAR HERE, Steve was denied the chance to conduct adequate discovery, i.e. litigation. Judge Williams struck 60% of purported evidence and testimony before she ever made the defendants answer the complaint. Furthermore, she didn't even attempt to conceal her position and thoughts on the case, prior to initiation of any discovery. In fact, at the onset she limited the discovery to a narrow two-year temporal reference unsupported by any case law or statute, even as of today. The exact same two years these strangers in blood had their hooks into Keith Chandler.

Moreover, Judge Williams on numerous occasions made a point to reiterate her narrow two-year temporal reference surrounding the execution of the will, many time throughout litigation.

WITHOUT QUESTION → The Strike Order Alone That Prevented Steve From Conducting Discovery And Fully And Fairly Litigating His Claims On Their Full Merits→Is Was And Always Will Be Unfair, Unjust, Arbitrary, and Most Definitely Unsupported By Sound Legal Principles.

Also, See Circuit Court Book →Steve Chandler's January 6, 2012 filing, one of three memorandums filed with the Circuit Court in opposition to the Strike Order.

[3] KRS 26A.015(2) provides:

Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:

(a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;

(b) Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner or such lawyer has been a material witness concerning the matter in controversy;

(c) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;

(d) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

1. Is a party to the proceeding, or an officer, director, or trustee of a party;
2. Is acting as a lawyer in the proceeding and the disqualification is not waived by stipulation of counsel in the proceeding filed therein;
3. Is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;
4. Is to the knowledge of the judge or master commissioner likely to be a material witness in the proceeding.

We are also unaware of any authority—and Steve cites none—indicating that a court's characterization of an individual as "estranged" on one occasion, or its incorporation of language used by a litigant into its orders, approaches this high standard.

[BRIEF PG. 9 ESTRANGED BROTHER, was mentioned briefly on page nine and was only mentioned in light of the fact that the judge actually referenced Steve Chandler as the "estranged brother" in her premature strike order, which obviously was before litigation even began.

MOREOVER, as previously mentioned, I had already expressed my concern over Brucie Moore referencing Steve Chandler as the "estranged brother" within her unfounded Motion to Strike. →I mentioned "estranged brother" one solidary time in the brief that I filed, but this is the second time the Court Order mentions it, while disregarding 75% of the arguments asserted within Steve Chandler's brief.

[Movant was repeatedly denied his constitutional rights to a fair and just trial at the onset. This was accomplished by eliminating any evidence and testimony that could have been used against the Defendants. This continued throughout litigation, throughout trial, and even within her two post trial orders.

The Court of Appeals Affirming Order fails to cite to any case law or statute that would allow Judge Williams to strike testimony and evidence from the Complaint and then less than a week before trial, essentially grant the same exclusion by way of Motion in Limine.
i.e. NOT SUPPORTED BY SOUND LEGAL PRINCIPLES

As you will also come to see.... The Court of Appeals consistently concealed the actual facts of the case, by denying Steve Chandler the opportunity to correct the false assertions placed in the record by Steven Downey, and always giving him with the last word, regardless of his veracity.

Regarding Steve's contention that the circuit court's line of questioning at the December 8, 2011 hearing reflected it had already formed an opinion of the merits of his case, we disagree. A central purpose of filing a complaint is to provide a short and plain statement of a claim showing entitlement to relief. CR 8.01(1). As set forth in his complaint, Steve claimed Keith's last will and testament was invalid because Keith suffered from a lifelong mental illness that completely prevented him from making any decisions or exercising any judgment.[4]

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[4] To illustrate, Steve's complaint alleged in relevant part:

> 8. That the deceased Harold Keith Chandler suffered from diminished mental capacity his entire life.
>
> 9. That the deceased Keith Chandler was an adult dependent who resided with his parents his entire life and relied on his father Rudolph Chandler to make decisions for him until he passed away in December of 2004.
>
> 10. That the deceased Keith Chandler never took the initiative to do anything on his own without first being instructed to do so.
>
> 11. Keith would only take instructions from his father, but Keith continued to live with his mother until she passed in December of 2007.
>
> 12. Prior to his Mother's passing Mrs. Chandler asked family members, neighbors, and friends to watch out for Keith because in her words, "he was not dealing with a full stack."

...

[A cherry picked inaccurate Mischaracterization of Movants Complaint.]
But more importantly, there is no case law which supports the ability of the Court to strike claims from the Complaint without addressing merits of the claim,

→→much less striking proposed evidence and testimony simply because the Judge does not like the length of the complaint.

HOWEVER, it is interesting to note that Judge Williams never set out CR 8.01(1) as a basis or reason for striking 60% of Movant's Complaint However, Steven Downey asserted this as justification within his fabricated Response.]

EVERYONE KNOWS THAT CIVIL RULE 8.01(1) establishes a minimum, not the maximum, a fact pleading complaint ordinarily would not be subject to a strike motion because of its length, much less when the cause of action, undue influence, is akin to a fraud, which requires fact pleading.

However, Steve's additional allegations discussed above (*i.e.*, Keith drove and was licensed to drive a motor vehicle; was appointed and functioned as the executor of his mother's estate; and was employed at a full-time job before and after he executed his will) appeared to undermine that proposition. Having reviewed the recording of the December 8, 2011 hearing, nothing about it indicates the circuit court was prejudging the merits of Steve's claim or attempting to impugn his character; it was asking Steve for further explanation and clarity.

Next, Steve argues the circuit court committed error by permitting the appellees to voluntarily dismiss their above-referenced abuse of process claim against him because, at the time of the dismissal, he had filed a response to it. As to how this prejudiced him, Steve asserts:

[Brief pg. 28-29; ONCE AGAIN, the Order purposefully ignores the argument that this information was presented under. SEE RELATED ARGUMENTS ABOVE PERTAINING TO IMPROPERLY STRICKEN COUNTER-CLAIM

In fact, Steve Chandler does not state that he was prejudiced because he filed a Response. The Steve Chandler set out that the Judge dismissed the counterclaim over the Steve's objection a few days before trial. The counterclaim was an abuse of process by the Defendants and provided Steve Chandler with a great deal of impeachment testimony. The Defendants audibly dismissed, nothing ever filed with the Court, less than a week before trial to prevent Steve Chandler from being able

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42. Keith never exercised his own judgment, but was always following instructions that someone gave him.

[Footnote Four (4) attempts to cherry pick allegations from the Complaint, and completely disregards all of the improperly premature evidence and proposed testimony.
The Court of Appeals cannot simply choose to decline reviewing the stricken paragraphs in the complaint and then base their analysis on the few paragraphs that remained within the Complaint. Obviously, Judge Williams struck everything that would not have assisted or would have gone against Brucie Moore]

to question the Defendants concerning their sworn to statements in their Counterclaim. Not to mention the fact that Judge Williams signed an Order that falsely set out that the dismissal was an agreed dismissal in exchange from being able to question witnesses concerning the undistributed personal property in the Chandler Family home.]

PLEASE TAKE NOTICE .... That the falsely padded Motion in Limine Order so graciously prepared by Steven Downey, was in reference to the exact same two probate estates that Steven Downey fought so hard to prevent Steve Chandler from being able to supplement the record with the two probate estates. **PLEASE SEE the attached CoA filings book.**

> The abuse of process counterclaim was a frivolous sham, and it's [sic] only purpose was to force Steve into filing excessive pleadings and responses thereto. Purpose designed solely to bully and intimidate Steve out of his cause of action and financially strap any attorney from continuing with the fight without requiring Plaintiff to pay an astronomical amount up front. Then to allow attorney [sic] to orally dismiss it a week before trial, is a deliberate abuse of discretion. Especially in light of the fact that, Defendants [sic] entire case stemmed on the fact that they claim Keith told them that his brother bullied him and always bossed him around. Steve should have been permitted to show the jury who the real bullies in the case have been.

To be clear, the jury was tasked with resolving whether Keith had testamentary capacity; and, if so, whether the appellees exerted undue influence upon Keith prior to or during the execution of his will.

[Judge Williams set out the exact same statement within one of her bias orders. Movant's Counsel adamantly argued that it would be manifestly unjust to exclude everything which she doesn't think speaks directly to one of essential elements for undue influence and mental incompetency.

The excluded evidence and testimony related "theory of the case, motive of the defendants, evidence and testimony that establishes unnatural disposition, evidence and testimony that goes to the nine badges of undue influence, which the Order completely ignored and disregarded. → SEE BRIEF pages 19-22 Undue Influence.

AGAIN, manifestly unjust all the way around.
→There is no sound legal principal, statute or case law that would warrant or even justify the Court making such broad unsupported exclusion of evidence.]

From the face of Steve's argument set forth above, it is unclear how introducing evidence regarding an ancillary claim that the appellees chose not to pursue—a claim Steve himself has characterized as frivolous—would have assisted the jury in resolving those issues. To the extent that the circuit court erred on this point, its error was harmless and not a basis for reversal.

It was a frivolous claim filled with lies set out by the Defendants and attorney Brucie Moore fraudulently claiming that Steve attempted coheres and bully the defendants into making a deal with them on the land.
SEE THE ARGUMENTS LISTED ABOVE IN RESPONSE TO THE IMPROPERLY

STRICKEN COUNTERCLAIM
Moreover, see the Circuit Court Filing Book → the filings of Attorney Moore was riddled with intentional fabricated and fraudulent assertions concerning the Steve Chandler, as well as conduct of the Defendants.

[The Court of Appeal's Order intentionally mischaracterizing Movant's argument as well as the heading upon which it was listed under. P. 26-35. Movant's Counsel objected to the dismissal, as well as informed Judge Williams that she was improperly eliminating evidence which went to MOTIVE and IMPEACHMENT MATERIAL]

Steve's next argument **[As a REMINDER-the ORDER in no way addresses arguments in chronological order]** is that the circuit court committed prejudicial error by entering an order overruling a set of "objections" he filed of record shortly after many of the allegations in his complaint were stricken pursuant to CR 12.06. His objections reincorporated most, if not all, of the substance of a response he had previously filed in opposition to the appellee's motion to strike. From the face of the "objections" he filed and his argument on appeal, it appears Steve was and continues to be under the impression that, for the purpose of preserving error, it was necessary to file a document into the record, shortly after the circuit court entered its strike order, which once again memorialized why he disagreed with the circuit court's decision to strike part of his complaint.

[Brief pg. 7; Yet another issue ignored by the ORDER, Movant's Brief fully discussed Kentucky Supreme Court Ruling of Roman Catholic Archdioceses of Lexington v. Noble., Ky., 92 S.W.3d 724, 733-34 (2002), wherein the Supreme Court of this states that granting a Motion to Strike is the equivalent of removing it entirely from the record.]
SEE CIRCUIT FILING BOOK → Steve Chandler's position remained the same from start to finish, he more than presented his arguments to the Court, as well as, preserved them for appeal.

And, it appears Steve believes that when the circuit court thereafter entered an order overruling his "objections," the circuit court was attempting to *erase* his attempt at preserving error. In the words of his brief:

> Despite recognizing that Steve's filed objections neither requested the Court to alter, amend, or vacate previous order, on August 9, 2012, the Court sua sponte, issued an additional Order for the sole purpose of Overruling Steve's filed Objection to preserve the record. One can only speculate that the purpose of the unsolicited Order was to keep the record clear for a speedy summary judgment.

What Steve has argued is not indicative of bias or error. It is a misapprehension of the civil rules and a misunderstanding of what occurred. No rule of procedure required Steve to file a second, post-judgment objection to having his complaint partially stricken.[5] For the purpose of

[5] Steve's "objections" also referenced Kentucky Rule of Evidence (KRE) 103 and its requirements for making a "proffer of evidence." KRE 103 is not applicable to allegations stricken from

preserving error for appeal, it was enough that he filed a response to the appellees' motion to strike.

NO RULE-CASE LAW- OR PROCEDURE HAS BEEN CITED BY ANY REVIEWING COURT TO SUPPORT THE UNLAWFUL -UNCONSTITUTIONAL STRIKE ORDER.

Here the Court Order seems to accept that the arguments concerning the relevancy of the stricken complaint were preserved by memos filed in opposition to the Motion to Strike, so the same would logically hold true with respect to the memorandums in opposition to Steven Downeys' Motion in Limines- [purportedly based entirely upon the original Strike Order] In fact, KRE 103 directly sets out that preservation requirement is met with submitted limine filings.

Moreover, the order Steve perceived as the circuit court's attempt to erase his preservation of error was nothing of the sort, nor could it have had such an effect. **As Steve's argument tends to indicate, the order was the result of the circuit court's understanding that Steve's "objections" were a post-judgment motion to alter, amend, or vacate its decision. The circuit court's order overruling his "objections" specifically stated as much.**

[BRIEF pg.10 & EXHIBIT B;
NO IT DOESN'T The Court issued a sua sponte Order, specifically asserting that Movant had not moved the Court to alter, amend or vacate previous Strike Order.]

The August 9, 2012, Circuit Order Actually States Just The Opposite!!!

But recall that Judge Debra Lambert was already appressed to this issue, as it was set out within Steve Chandler's motion filings. Just to name one, Steve Chandler's, January 7, 2015, Motion for Leave to File Excess Pages – **within the attached Memorandum pages 2-3.**
As this was a direct Motion and not a Motion seeking to file a REPLY to ensure veracity…. this should still be entirely part of the record. SEE COURT OF APPEAL FILLINGS book.

In fact you will soon come to discover, that just about everything set out within Steve Chandler's Brief, was referenced at one point in time within the endless filings, where Judge Debra Lambert served as either a 3-panel motion judge and on Steve's Discretionary Motion.

MOREOVER… Steven Downey within is **RESPONSE FALSELY** asserted several times that the COURT allowed information in after the October 23, 2006, cut-off date. YET within just about

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a complaint. Allegations are not evidence, nor are stricken allegations the equivalent of excluded evidence.

[The Order is correct that stricken paragraphs do not equate to stricken evidence. However, the stricken paragraphs in the Complaint was reaffirmed multiple times throughout litigation, as well as through two Limine Orders merely days before trial. It should further be noted that the stricken testimony and proposed evidence without proper objection would not be in the record to defeat a summary judgment motion by the Respondents.]

every single filing within the three years it took to get through the Appeals Court, he never once contradicted the OCTOBER 23, 2006 CUT-OFF date.
The Direct Evidence To Contradict Steven Downey's Direct Lies Contained Within His Response Brief → Were Improperly Stricken With Steve Chandler's Submitted Reply. SEE BACK OF THIS BOOK for ORDER and what it actually excluded.

Without question the Opinion affirming served a singular purpose, and that was to protect the Defense attorneys and Judge Williams.

In overruling Steve's "objections," the court was not attempting to erase Steve's attempt at preserving error; it was informing him that it would not alter, amend, or vacate its prior ruling.

Again, the ORDER was provided to the Court as Exhibit B, which clearly indicates otherwise. Also, same information was submitted and allegedly considered previously by Judge Debra Lambert within Steve Chandler's January 7, 2015 filing with the CoA.

Next, Steve argues the circuit court erroneously determined, in an order entered January 16, 2014, that the period allowed for discovery had expired. As to why, he acknowledges the circuit court had scheduled discovery to end on November 12, 2013, but he contends that discovery was **continued indefinitely** after he filed a Kentucky Revised Statute (KRS) 26A.020 petition to disqualify the circuit court judge on October 21, 2013.

[Brief pgs. 33-34; Again, the Order does not go in chronological order.
STEVE CHANDLER NEVER →→→asserted that discovery continued indefinitely.

Steve Chandler presented this argument under the following heading:

"THE COURT COMMITTED PREJUDICIAL ERROR BY HOLDING PLAINTIFF TO A SCHEDULING ORDER MUCH MORE STRINGENT THAN THE ONE IT APPLIED TO THE DEFENDANTS."

In fact, it was Judge Williams who couldn't keep her story straight as it pertained to the time the case was held in abeyance. Judge William's position on the matter seemed to alter depending on whether it assisted or harmed Attorney Brucie Moore's case.

During the March 13, 2014 hearing Judge Williams specifically acknowledge that the case was held in abeyance pending the Supreme Court Ruling. However, a little over a week later, Judge Williams issued an Order denying Plaintiff his Motion to amend witness list which was filed during the second week of February under the 10 day rule. Wherein Brucie Moore failed to make an objection, and only made a verbal objection during the March 13, 2014, last scheduled pretrial hearing.

THIS ARGUMENT WAS CLEARLY SET OUT ON PAGE #33 of Steve Chandler's Brief in the second paragraph of the heading listed below.

Steven Downey's Reply at the bottom of page (33) accuses Steve Chandler of misrepresenting the procedural history. **Wherein Downey, falsely asserts that the case was never placed in abeyance.**

On a similar note, I have a lengthy list of phrases that the Court of Appeals opinion attributes to Steve Chandler's brief that was never used in any form.
These include: "continued indefinitely" "suspicious" "compellingly" "demonstrated" and "adduced"

Judicial cover-up at some level, whether it be by the clerks or judges is crystal clear to any neutral person viewing the totality of this case.
BUT IT'S STEVE CHANDLER WHO HAS HAD HIS FAMILY LEGACY STRIPPED AWAY FROM HIM, IN ORDER TO PROTECT THE UNJUST.

A KRS 26A.020 petition has the operative effect of placing a case in abeyance. It deprives the circuit court of particular case jurisdiction until the Chief Justice of the Kentucky Supreme Court determines the merits of the petition; enforcement of any judgment entered by the circuit court during that period of time is suspended until the Chief Justice renders his or her decision. *See Shafizadeh v. Shafizadeh*, 444 S.W.3d 437, 443 (Ky. App. 2012). However, the Chief Justice rendered his decision denying Steve's petition on December 13, 2013. Any impediment the circuit court may have had in enforcing its scheduling order, owing to Steve's KRS 26A.020 petition, was removed as of that date. Accordingly, Steve has cited nothing indicative of error.

[Please see discussion above…. The entire argument is inaccurately stated and completely mischaracterized within the Order.]
MOREOVER, it was Steve Chandler that has consistently recognized that the period of abeyance continued until the Supreme Court issued an Order on his KRS 26A.020 Motion. But both Steven Downey as well as the 3-judge panel deliberately disregard the proper context that this subject was even addressed under.

JUST TO BE CRYSTAL CLEAR:
"The Court committed prejudicial error by holding Plaintiff to a scheduling order much more stringent than the one it applied to the Defendants."

The deadline for motion in limines was set for December 2013. I filed a motion to amend witness list in mid Feb 2014, and it was denied on March 25, 2014, on the bases that it was not timely filed and outside the scheduling order deadlines. Judge Williams specifically set out that allowing Steve Chandler to amend his witness list would be prejudicial to the DEFENDANTS…. i.e. Brucie Moore and Steven Downey

HOWEVER, Judge Williams allowed Steven Downey the opportunity to file more than 30 pages of Motion in limine less than three weeks before trial, which resulted in two additional all day hearings, a lengthy telephone conference, as well as a multitude of filings in opposition to be sure to preserve the record for appeal.

I couldn't add three new witness over two months out from trial, but Brucie Moore and Steven Downey can submit last minute Motion in Limines, a mere two and half weeks before trial. → **the deadline for motions to exclude evidence was December, 2013.**

Steve argues the circuit court erred in excluding from trial what he characterizes as evidence of undue influence exerted upon Keith *after* Keith executed his will, and events that occurred after Keith executed his will which, in Steve's view, **were suspicious**. This evidence includes: (1) information indicating that Keith's naked body was discovered in his basement on July 9, 2011, approximately four days after he died, and that there were loaded firearms in Keith's house at the

time; (2) information indicating that, due to decomposition and embalming, the cause of Keith's death remains unknown; (3) Steve's perception of and supposition regarding the appellees' behavior on or after the date Keith's body was discovered; and (4) Steve's testimony that he and Keith did not have a contentious relationship after the date Keith executed his will, and that Randy Fish and William Robinson voiced no objection when he planned Keith's funeral in 2011.

The paragraph above is by far the most egregious mischaracterization of Steve Chandler's Brief. This in no way represents the arguments that Steve Chandler set out under undue influence within his brief. Deliberate mischaracterizations such as this, causes me to unequivocally and without hesitation call into question the integrity of someone with the Court of Appeals. I have no way of knowing if one of the clerks doctored Steve Chandler's brief, or if the 3- member merit panel forsake their sworn duties and went out on a limb to protect the reputation of their own.

However, suspicion, speculation, and conjecture is not evidence. *O'Bryan v. Cave*, 202 S.W.3d 585, 588 (Ky. 2006).

[MOST OVERUSED statement by Defense attorneys and it's inaccurately stated since the full context reads, suspicion, speculation, and conjecture are not sufficient to survive a properly submitted summary judgment motion.]

REGARDLESS of the misstated context from the case sited above, Steve Chandler's position never changed. Steve Chandler's brief has been egregiously misrepresented by the Court of Appeals.

If all Steve had was suspicion, speculation and conjectures, there would have been absolutely zero reason to make a Motion to Strike, absolutely zero reason to file the 30+ page Motion in limine days prior to trial, and even far less of a reason to file and be granted a **DOUBLE OBJECTION** – to Steve Chandler's Proffer in efforts to exclude the CoA from being able to review the improperly stricken testimony and evidence.

And even if this information amounted to something more than that, Steve does not explain why any of what he has described would have been relevant to a claim of undue influence; nor do we view the circuit court's exclusion of this information on the basis of relevance as error. In the context of a will dispute alleging undue influence, relevant evidence supports a reasonable inference that undue influence *was* exerted upon a testator *prior to* or *during* the execution of the will. *Rothwell v. Singleton*, 257 S.W.3d 121, 124-25 (Ky. App. 2008).

AGAIN → [Brief pg. 19-22; The Order falsely portrays the content of Movant's Brief on pages 19-22.

In fact, the Order does not address a single argument properly submitted under the Undue Influence claim. Without question the mischaracterization of Movant's Brief was intentional throughout, but extremely prevalent on this point.

The Order is simply protecting Judge Williams reputation, and protecting the Respondents counsel from having to continue to answer civilly for their illegal conduct. The Order is facilitating the Fraud upon the Court.] BECAUSE THIS IS NOT WHAT THE BRIEF STATED]

What is interesting to note however, is that Steven Downey's Reply brief on page 27, suspiciously sets out that "Appellees cannot determine exactly what Appellant claims to be in error on pages 19-26 of his brief."

Please see pages 19-26 of Steve Chandler's Brief contained herein. Steve Chandler's brief set out a cohesive logical argument pertaining to Undue Influence and the nine associated badges.

→I am pointing this out, because on more than one occasion, I have suspected that perhaps what I have submitted throughout the Court of Appeals litigation, is not what is being submitted to the actually judges on the case.

→Steven Downey's sister-in-law, Cynthia Downey, is a case manager for Kelly Thompson. Kelly Thompson is the Judge who has signed every Order which denied Appellant the opportunity to correct the record. I submitted the brief on September 1, 2015, it was not accepted until September 24, 2015.

Steven Downey's RESPONSE contains endless false assertions throughout. His arguments set out within his Response makes little to no sense at all in comparison to the brief actually submitted on behalf of Steve Chandler.

Both named Defendants, Steven Downey as well as Brucie Moore are currently being sued by Steve Chandler for the misappropriation of estate funds, abuse of process and many other claims. Steven Downey has jointly owned property with his sister-in-law, Cynthia Downey, Court of Appeals case manager for Kelly Thompson.

Steven Downey retained Landrum and Shouse out of Lexington to represent them all.
I have repeatedly made the Court aware that Steven Downey has submitted numerous deliberate false filings to the Court. That he misappropriated funds from the estate, which he continues to deny, Steven Downey has every reason to lie. His reasons are based financially as well as professionally. The KBA has disbarred for much less.
I further informed the Court that Attorney Moore deliberately and intentionally concealed a $36,000 401K, and also submitted false filings within the will contest and both probate matters. She too has every reason to lie.

RECAP OF STEVE CHANDLER'S ACTUAL ARGUMENTS SET OUT IN HIS BRIEF UNDUE INFLUENCE Pages 19-22

- Randy and William first to refer to Keith as "Double O"
- Teasing at work family and Tom Easley stated would often come home in tears
- Judy Doom affidavit Randy control over Keith
- Randy made appointment with Brucie Moore for Keith to have Will made leaving everything to Randy's son.
- Both Randy, the trustee and William, the executor had a copy of the Will

EFFORTS TO RESTRICT CONTACT

- Randy made self at home and immediately began planting food plots
- Before Randy Keith hunted with Steve and his friends every year
- Before Randy farm viewed as a whole without dividing points between "your farm versus my farm"
- Randy testified helping Keith hand "Keep Off, Private Property" signs down in the bottoms that separated the brother's property from one another

- Steve had signs hung "No trespassing, trespassers with be shot" told Keith signs did not apply to him -- but did not want to sign Randy on his property

AFTER RANDY'S ARRIVAL

- Spring 2006 changed locks on house did not give mother a key despite her living there with life estate
- First time in over 40 years Steve suddenly found chains and locks connecting the brother's property
- Spring 2006 Steve received certified letter from his brother, did not sign for it realizing that it was some kind of legal move
- Steve later found a letter taped to his 4-wheeler-- asked Keith about it but Keith only looked at his shoes would not answer him
- Randy testified that he wrote the letter for Keith
- Steve and Mary Katherine always suspected that Randy wrote it since Keith struggled with reading and writing
- During trial Defense counsel produced the unopened certified letter from 2006 and introduced as exhibit
- Plaintiff Counsel asked to see envelop and discovered Uniontown postmark
- On cross examination of Randy, he states that he now remembered mailing letter for Keith because his wife worked at the Post Office in Uniontown
- Post mark on envelop predates when the letter was supposed to have been written
- Couple weeks after the letter was taped to Steve's 4-wheeler -- Steve comes home from hunting to find Randy, Keith and Sheriff in his driveway
- Sheriff states "I was sent here to help someone pick up tractor"
- Tractor belonged to Steve -- Steve had no problem with his brother using it - even jumped started it for him
- Steve puzzled why Keith called sheriff never had to get sheriff for assistance to get tractor or equipment from one end of the farm to other before
- Randy testified that Keith told him that himself and another gentleman prior to his arrival had tried to get tractor and load on trailer but gate was locked
- Randy only go with him if Sheriff went to because he remembered Keith told him that Steve threatened to shoot him
- Not logical thoughts of someone, who testified never had cross word with Steve, and asserted that Steve was nice to his son one afternoon they visited Chandler farm

Next, Steve takes issue with the circuit court's decision to exclude what he characterizes as "nearly a thousand posts made by Randy, online on various hunting websites under the name RJPOUTDOORS." But, these internet posts are not of record. The circuit court also prohibited Steve from adducing them at trial as part of a discovery sanction because, despite the circuit court's holding that this information was discoverable, Steve refused to produce it to the appellees. It is unnecessary to discuss this point further because Steve cites no authority to support the circuit court acted improperly in this regard.

HERE IS WHAT IS INTERESTING TO NOTE: RJPOUTDOORS was ultimately excluded because none of the post were before October 23, 2006, cut-off date.
The Appellees didn't even address this argument at all. Steven Downey NEVER addressed the argument in one single filing with the COURT OF APPEALS.

SO why would the Court of Appeals Order even address it, much less state a false reason for its exclusion?

[Brief pgs. 32-35; Again there is no rhyme or reason to the order of the Court of Appeals Order- IT'S ENTIRELY ILLOGICAL WITH INCOMPLETE ARGUMENTS ASSERTED OUT OF ITS PROPER CONTEXT.

THERE WAS NO DISCOVERY SANCTION CONCERNING RJPOUTDOORS→ since Steven Downey purposefully throughout ignored and disregarded RJPOUTDOORS altogether… I wonder where the CoA → came up with this false assertion.

The Court ultimately excluded **RJPOUTDOORS** because none of the post were prior to **October 23, 2006, CUT-OFF date.**

Each judge in the original panel had a copy of **EXHIBIT J a Court Docket dated 4/14/2014,** containing Judge Williams own handwriting setting out the exclusion due to the cut-off date. SEE **THE GENERAL ORDER EXHIBIT L→** last paragraph of page six (6)

NOT TO MENTION THAT EVEN THE AVOWAL ORDER → both the one actually signed by Judge Williams and the nearly identical one submitted by Steven Downey → falsely asserts the reason as to why they initially were excluded…was due to late identification of exhibit.
→ A complete and obviously inaccurate depiction of the matter.

RJPOUTDOOR postings were listed amongst the Plaintiff's exhibit list more than 7 months before trial. I spent days searching the internet of compiling the 1000 plus posts from various websites.

I gave Brucie Moore the name of all the websites and the username that HER CLIENT POSTED UNDER!!!

Brucie Moore demanded that the Court force me to hand over all of the postings that I personally spent days collecting and compiling, when she could just as easily request them from her own client.

I filed multiple **WORK PRODUCT OBJECTIONS** to the request and even set a hearing date, that was later canceled by Judge Williams with a sua sponte order. Judge Williams just before trial acknowledge that she had never fully addressed my **work product argument**, but regardless, she still found an alternate way to exclude them all just the same.
→THE INFAMOUS OCTOBER 23, 2006 CUT-OFF DATE

Throughout a substantial portion of his brief, [absolutely a direct intentional false assertion] Steve also argues the evidence adduced at trial and during his cross-examination of the appellees compellingly demonstrated the appellees exerted undue influence upon Keith prior to the execution of his will, which resulted in an unnatural disposition of his property. In other words, he is apparently making an argument based upon the sufficiency of the evidence produced at trial.

TO BE CRYSTAL CLEAR ON THE MATTER: AT NO TIME did Steve Chandler ever base his arguments pertaining to his "matter of rights" appeal upon the evidence "adduced at trial." The Order of the Court of Appeals falsely sets out statements like these throughout with no justification or merit for them.

With respect to the false assertion set out above, Steve Chandler absolutely did not assert that the testimony illicit during cross examination of the appellees compellingly demonstrated appellees exerted undue influence upon Keith prior to the execution of the will.

→STEVE didn't make the statement at all, much less asserted "compellingly demonstrated"

To that end, Steve Chandler's Brief discussed in great detail the direct evidence and testimony that would support unnatural disposition, if the testimony and evidence had not been improperly excluded. → Steve's brief specifically discussed the direct testimony and evidence that would have permitted him to unequivocally show that his brother Keith Chandler had no reason or justification to hate time, like the defendants proclaimed.

Steve's Brief clearly asserted that he essentially lost everything due to the Court's improper unsound, unsupported, unfair and biased CUT-OFF day, **and his inability to defend himself against Defendants testimony that was entirely based upon alleged hearsay conversation they claim to have had with the deceased.] However, the unnatural disposition argument was made up of the following:**

This type of argument is properly raised and preserved through a motion for judgment notwithstanding the verdict (JNOV). *Steel Techs., Inc. v. Congleton*, 234 S.W.3d 920, 931 (Ky. 2007). Moreover, a motion for a JNOV must, in turn, be predicated on a directed verdict motion made at the close of all the proof and prior to the entry of judgment. *Id.* at 926. Steve did not preserve any argument regarding the sufficiency of the evidence by moving for a directed verdict and JNOV. Consequently, this cannot serve as a basis for reversal.

[The two CoA paragraphs listed above have no place within the unnatural disposition argument whatsoever. Steve's brief did not place the purported information within his unnatural disposition / or within his undue influence arguments.

Not to mention that Judge Williams excluded all my evidence which prevented me from presenting my client's theory of his case, preventing from showing motive, excluded a great deal of proper impeachment testimony and evidence, and prevented me from showing bias and /or a reason for a witness to lie unless the evidence and/or prior testimony occurred prior to October 23, 2006.

REGARDLESS -- Even if JNOV was appropriate on the issue of undue influence, the burden of proof was always with the Plaintiff. I didn't and couldn't prove anything with my hands tied behind my back and constant unfounded interjections from Steven Downey.

It is uncontroverted that the only evidence the defendants had was entirely self-serving hearsay testimony of alleged conversations that they claim to have had with Keith Chandler many years prior to him passing away. Therefore, since the burden remained with the Plaintiff at all times even if

Judge Williams wasn't so biased or wasn't trying to conceal and cover-up her previous unprecedented illogical rulings, the burden remained on Steve Chandler at all times. So unless Judge Williams all of a sudden had a last minute change of heart or her conscious started eating at her and she personally took into account all the information that she knowingly excluded, a JNOV motion would have been improper and pointless.

RECALL HOWEVER, she didn't even feel the need to correct Steven Downey when he made numerous false assertions within his closing argument. **Obviously**, one of the biggest one being, Brucie Moore was a completely disinterest witness who had nothing to gain by showing up and testifying that day.

Steve's next argument concerns [the opinion in no way corresponds with actual brief] whether Keith had the mental capacity to execute a will. Steve begins by correctly summarizing the requisite criteria set forth in *Bye v. Mattingly*, 975 S.W.2d 451, 455 (Ky. 1998): "To validly execute a will, a testator must: (1) know the natural objects of her bounty; (2) know her obligations to them; (3) know the character and value of her estate; and (4) dispose of her estate according to her own fixed purpose." (Internal citations omitted). Steve further states:

> It is undisputed that Keith could probably have met the minimum standards set out in the first three prongs.
> However, Steve and all of his witnesses adamantly dispute the fact that Keith could have met the fourth prong, which required that Keith disposed of his estate according to **HIS** own fixed purpose.

Accordingly, Steve's argument is limited to the fourth of the above- stated elements. Steve adds:

> [T]he Defendants' evidence pertaining to mental capacity all boiled down to Keith had a job in a factory that he worked for 15 years. Keith graduated from high school and trade school, and he had a driver's licenses [sic].
> There was absolutely zero evidence presented by either side of Keith ever making a rational decision on his own, that didn't involve one of his parents, Steve, or one of the defendants.

If Steve is arguing the evidence adduced at trial compelled the conclusion that Keith could not have disposed of his estate according to his own fixed purpose, his argument is unpreserved. As noted, he did not move for a directed verdict and judgment notwithstanding the verdict.

Unlike the opinion of the Court of Appeals, Steve Chandler's arguments were presented within his brief in a concise chronological order addressing the numerous issues and arguments under their intended appropriate heading.
Steve Chandler preserved the argument from start to finish that his brother never made any decision on his own. → BUT RECALL that Steve Chandler's "matter of right" appeal was based upon the denial of his Constitutional Rights to fully litigate his claims and

presents his case in its entirety to a fair and impartial tribunal. Steve didn't present arguments concerning the evidence "adduced" at trial.

Conversely, if Steve has based his argument upon the circuit court's decision to exclude evidence from trial, it is his burden on appeal to demonstrate: (1) the substance of the excluded evidence; (2) that the circuit court abused its discretion by excluding it; and (3) that there was a substantial possibility the jury would have reached a different verdict if the evidence had not been excluded. *See* Kentucky Rule of Evidence (KRE) 103;[6] *Goodyear Tire & Rubber Co. v. Thompson*, 11 S.W.3d 575, 581 (Ky. 2000) (explaining the standard to reviewing a trial court's ruling admitting or excluding evidence is abuse of discretion, and the test is whether the trial **judge's decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles);** *see also Hart v. Commonwealth*, 116 S.W.3d 481, 483-84 (Ky. 2003).

- → **Judge Williams motion to strike order which again was issued before Defendants even had to answer, was completely arbitrary, unreasonable, unfair, and unsupported by sound legal principles of any kind.**
- → **Steve's brief discussed Kentucky Supreme Court case law as well as other cases which unequivocally supported his position that the premature evidentiary Strike Order was not a proper use of gatekeeping power in the least.**
- → **The CoA opinion throughout references the motion in limine, which by Steven Downey's own statement based entirely upon Judge Williams Strike Order, without giving a second thought to how this premature evidentiary exclusion affected Steve Chandler throughout litigation, and was further reaffirmed multiple times by Judge Williams throughout litigation.**
- → **The CoA's refusal or decline to not review the relevancy of the stricken allegation in Steve's complaint which ultimately set out an unfair, unfounded, arbitrary, unsupported two-year temporal reference time frame restriction at the onset → is both a miscarriage of justice and obstruction of justice.**

ENDLESS COURT OF APPEALS FILINGS AS WELL AS CIRCUIT COURT MOTION IN LIMINES FILINGS REPEATEDLY REITERATED THE SUBSTANCE OF THE EVIDENCE AND TESTIMONY THAT WAS EXCLUDED.

There is no conversely about it, any neutral observer can plainly see that Steve Chandler's entire appeal was based upon the premature and bias rulings of Judge Williams which denied Steve Chandler his Constitutional Due Process Rights at the onset. A denial which continued throughout litigation, throughout trial, and even within her post trial rulings.

If in fact, the Court of Appeal Judges were actually given a true and correct copy of Steve's

[6] [6] In relevant part, KRE 103 provides:

> (a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected; and
>
> . . .
>
> (2) Offer of proof. If the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

brief, Steven Downey's Response, along with Steve's submitted Reply, and still issued this affirming opinion, I would have no problem with directly questioning the integrity of the first and subsequent merit panel of record.

In fact, Appellant's Proffer set out the purpose for each and every paragraph presented in the Avowal. **The EXHIBITS (14) of the Brief and (5)** of the Reply that has been falsely portrayed as attempt to place 29 additional pages of arguments in the record, was nothing more than a side by side comparison between Judge Williams signed Order and the proposed Order presented by Steven Downey.

This is a compelling piece of evidence to indicate complete and total bias of Judge Williams. Only after the record was certified, counsel was able to add the cites to the **RECORD ON APPEAL.**

There are more than (254) sites to the record on appeal within the above mentioned exhibits, for the exact same information the proposed Order and the Judge's Order falsely states were never mentioned until after trial. In addition to, (98) sites contained with Steve Chandler's brief. **THE APPELLANT SITED TO THE RECORD NEARLY (400) times.**

See Back of this Book for additional argument pertaining to the CoA's complete and total disregard of Steve Chandler's **REPLY.**

In addition to the numerous times the COURT OF APPEALS was placed on notice of the excluded information within all the substantive and procedural motions.

It's Extremely Insulting to Make the Same Arguments – Repeatedly Present the Same Exact Evidence Over and Over Again, And Then Have the Courts Pretend Like You Never Brought It to Their Attention.

AN EGREGIOUS MISCARAGE OF JUSTICE THROUGHOUT / TO SAY THE LEAST

John Grisham couldn't even sell a book this preposterous. But if he did, a perfect title would be "The Gatekeeping Rainmaker."

In this respect, Steve has prevented this Court from reviewing much of the substance of what he complains was excluded from trial. Within the 35 pages this Court allotted him for his brief,[7] he attempts to relate the substance of what was excluded in large part by citing allegations in his complaint and six depositions that were not included with the appellate record. Allegations are not evidence, and depositions that are not filed with the appellate record cannot be considered. *See Educ. Training Sys., Inc. v. Monroe Guar. Ins. Co.*, 129 S.W.3d 850, 853 (Ky. App. 2003)

[7] [7] Steve attempted to append an "exhibit" to his brief consisting of 29 more pages of argument and citations. We granted a motion from the appellees to strike this exhibit.

→A complete mischaracterization PLEASE SEE THE Back of ***APPELLATE BRIEF*** BOOK
The CoA just happened to strike all of Steve's Reply wherein the attached exhibits without question established the endless lies presented by Steven Downey within his Response.

("Pleadings are not evidence."); *see also Lowe v. Taylor*, 172 Ky. 275, 189 S.W. 204, 205 (1916), explaining:

> [W]here the evidence heard by the lower court is not brought up on the appeal, the appellate court will presume that it supports the judgment rendered in the court below, and . . . in the absence of any part of the evidence, this court will not, on appeal, consider any question relating to the testimony offered or introduced on the trial.

First off, Steve Chandler unequivocally requested that all depositions be included with the record. **SEE THE ATTACHED CONFIRMATION** → but far more important than that is the fact that Steve's brief in no way relies upon depositions. Much less base any arguments "in a large part" of what was excluded with information contained within depositions.
AGAIN, however, the Opinion seems to be implying that Steve Chandler's appeal was based upon the trial itself. Steve's appeal was based entirely upon being denied his due process rights at the onset.

Issues of preservation aside, Steve also provides no basis for concluding the circuit court abused its discretion in excluding what he urges should have been admitted at trial. From what can be gleaned from his brief, the nature of what Steve wished to adduce at trial was as follows:

- Testimony to the effect that despite serving as the executor of their mother's estate and filing a final settlement of her estate in September 2008, Keith did not distribute articles of her personal property according to their mother's will;
- Keith's high school transcripts indicating Keith achieved B's and C's during his last two years before graduation, but was enrolled in a number of special education math and reading classes;
- Testimony indicating that after the factory where Keith had been employed for about 15 years shut down in 2008 and Keith was subsequently laid off, Keith often did not pick up his mail, would not pay bills or purchase groceries despite having the money to do so, and lived for long periods of time without water or electricity until Steve paid to have those services restored;
- Bank records indicating the last time Keith visited the lockbox where he kept his will was June 2008;
- A durable power of attorney Mary Katherine executed on September 19, 2007, authorizing both Keith and Steve, rather than only Keith, to act as her attorney in fact in all matters;
- General information from various sources about autism and Asperger Syndrome;
- Lay opinion testimony from one of Keith's relatives, Glen Newcomb, to the effect that Keith underwent a drastic personality change after the date Keith executed his will. Newcomb's testimony was based upon his recollection of his conversations with Keith's and Steve's mother, rather than his own personal observations.

Boiled down, Steve sought to introduce this evidence because, in his view, it was probative of the state of Keith's mental condition before and after October 23, 2006, the date Keith

executed his will.

The circuit court's reason for excluding this information, as stated in a pretrial order granting a motion *in limine* filed by the appellees, was that it either touched upon events too remote in time to be relevant to the issue of Keith's testamentary capacity; would have called for the jury to engage in speculation or conjecture; or was simply inadmissible hearsay. We agree.

Yet another false depiction of Steve Chandler's brief. Steve had concrete undisputable proof concerning mental capacity as well as undue influence. Steve was not able to defend himself from the false bully assertions predominately set out by defense counsel Steven Downey, who didn't know Steve, Keith, Rudolph or any member of the Chandler / Newcom family. Defendant Randy Fish and Defendant William Robinson asserted that they never saw Steve be mean to his brother in any way. Randy testified that the worst thing Keith ever told him about his brother is that he acted like a big boss.

Steve should have been able to show that after the day to day contact with Randy Fish ended, Keith never returned to the Lock Box. In fact, he only paid for it once, but without any proof of legal authorization, People's Bank began to automatically withdraw the amount annually.

Keith wasn't paying any bills what so ever. He had more than $100,000 in the bank was not even paying for electricity, food, or water. His brother Steve, had his utilities restored for him several times. Yet, his supposed "best friends" testified to having no idea how he was living.

This is just naming a few things that were definitely not "speculation, conjecture or inadmissible hearsay." All of which is spelled out multiple times throughout the Circuit Court litigation as well as within several COURT OF APPEALS FILINGS.

To be sure, a trial court may properly admit circumstantial evidence of a testator's mental state a reasonable length of time before and after the testator executes a will, so long as it has a reasonable tendency to indicate what the testator's mental state was during the execution of the will. *Pardue v. Pardue*, 312 Ky. 370, 227 S.W.2d 403, 405 (1950). In *Pardue*, for instance, a trial court reviewed evidence of a testator's capacity two years before and a few weeks after August 9, 1943, the date the testator executed his will. Two years prior, the testator had begun suffering from uremic poisoning due to kidney issues. *Id.* At 404. The testator's doctor testified that uremic poisoning had affected the testator's mind; based upon the doctor's examination of the testator in September 1943, he concluded the testator had lacked testamentary capacity at that time. *Id.* Lay witnesses also testified that the testator's condition had progressively worsened from March 1943 until his death on December 10, 1943. *Id.*

Nevertheless, as explained by the Kentucky Supreme Court in *Bye*, 975 S.W.2d at 455:

> In Kentucky there is a strong presumption in favor of a testator possessing adequate testamentary capacity. This presumption can only

> be rebutted by the strongest showing of incapacity. *Williams v. Vollman*, Ky.App., 738 S.W.2d 849 (1987); *Taylor v. Kennedy*, Ky .App., 700 S.W.2d 415, 416 (1985). Testamentary capacity is only relevant at the time of execution of a will. *New v. Creamer*, Ky., 275 S.W.2d 918 (1955).
>
> ....
>
> [T]he privilege of the citizens of the Commonwealth to draft wills to dispose of their property is zealously guarded by the courts and will not be disturbed based on remote or speculative evidence. *American National Bank & Trust Co. v. Penner*, Ky., 444 S.W.2d 751 (1969). The degree of mental capacity required to make a will is minimal. *Nance v. Veazey*, Ky., 312 S.W.2d 350, 354 (1958). The minimum level of mental capacity required to make a will is less than that necessary to make a deed, *Creason v. Creason*, Ky., 392 S.W.2d 69 (1965), or a contract. *Warnick v. Childers*, Ky., 282 S.W.2d 608 (1955).

Here, what Steve complains was excluded involved remote events that occurred several years before or at least two years after Keith executed his will.

The information about autism or Asperger Syndrome had no evidentiary value because Keith was never diagnosed with either disorder; no expert testified he had either disorder; and we are aware of no broad rule providing that persons afflicted with either disorder are incapable of having testamentary capacity, much less incapable of having a fixed purpose of their own.

Moreover, as Steve describes it in his brief, Glen Newcomb's lay testimony about Keith's mental state was not based upon his own personal observations. It was therefore inadmissible. *See McDonald's Ex'r v. Transylvania Univ., Lexington*, 274 Ky. 168, 118 S.W.2d 171, 175 (1937) ("A layman may testify to a thing within his knowledge concerning apparent conditions of another, but he may not express his opinion, since he cannot diagnose disease or give expert evidence with reference thereto." (quotations and citation omitted)). In short, even if Steve had preserved an argument with respect to the circuit court's decision to exclude his evidence of mental incapacity, he has failed to demonstrate the circuit court's decision was unsupported by sound legal principles and thus represented an abuse of discretion.

Having reviewed the breadth of Steve's arguments, we find no error or other reason that would justify setting aside the jury verdict in favor of the appellees. We therefore AFFIRM.

ALL CONCUR.

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