

The Houston Trial: From Opening Statements through the Verdict

J. Howard Marshall, III et al v. Robert S. MacIntyre, et al
Harris County Probate Court No. 2
Houston, Texas

**This page contains all Houston Trial Updates
through the date of the verdict, Wednesday, March 7, 2001.**

Wednesday, March 7, 2001

Houston Jury Upholds J. Howard Marshall II's Estate Plan; Sanctions Ordered Against Son Who Brought Lawsuit

A Houston jury today turned the tables on a California man who sued his brother for a share of the late oilman J. Howard Marshall II's (Howard Senior) estate. Jurors ordered J. Howard Marshall III (Howard Junior) to pay his brother and other Marshall family defendants more than \$35 million dollars in damages for bringing a frivolous lawsuit that tied the estate up in court for more than five years. "It is our hope that these sanctions will prevent others from burdening other families and the courts with frivolous lawsuits based on phony claims," said E. Pierce Marshall. "No family should have to go through what our family was put through by my brother and his attorneys.

"I want to thank the jury for taking a stand against frivolous lawsuits and for affirming that Dad had the right under Texas law to determine the disposition of his property upon his death," said Pierce Marshall. "Jurors saw through the lies and fabricated misinformation presented to cloud the real facts of the case and made a decision based on the truth and the law. Their patience, dedication and attention shown consistently through this 22-week trial of a complex case has been exemplary. They demonstrated once again the validity of our country's jury system and the collective wisdom it dispenses. The jury clearly understood that this was not simply a fight between brothers. Rather, it was about Dad's rights regarding his property.

"Dad always said that Howard Junior received his inheritance 'early and in cash' in 1980 when Dad paid him \$8 million to buy back stock he had given Howard Junior as a wedding present," said E. Pierce Marshall. My father said Howard Junior betrayed him by siding with a dissident group of shareholders at Koch Industries in 1980. Witnesses said that betrayal was one of the greatest disappointments of my father's life and led to Dad's decision not to leave Howard Junior any additional assets in his will. My brother had 15 years after the event to reconcile his difference with our father, but he staunchly refused to do so.

"Also, I want to thank Judge Mike Wood for his patience, fairness, courage, dedication to and knowledge of the law ensure that a full airing of the facts was presented to the jury. The citizens of Harris County are indeed fortunate to have a man of his caliber on the bench. He is a 'keeper of due process of law.'

"Lastly, I want to thank the many witnesses who came forward to truthfully tell their experiences with J. Howard and how he communicated his intent to each of them. J. Howard would be most proud of their desire to stand tall with him.

"People have often asked why we didn't settle this case. Simply, it was not Dad's intent. He clearly and repeatedly stated his wishes for the disposition of his property in six wills and seven separate property Living Trust Agreements executed over a period of 13 years prior to his death. They were his assets. He earned them through a lifetime of hard work and some brilliant business decisions. Dad gave me the obligation to carry out his wishes after he died.

"Secondly, Howard Junior received more than \$8 million dollars in cash and gifts from my father while he was alive. Never, however, did he intend for Howard Junior to receive part of the family business and the responsibility attached to it. It is regrettable that he was not satisfied with the millions he was given and only wanted more regardless of Dad's intent.

"We never would have prevailed had it not been for our extraordinary legal team and their untiring efforts, dedication and teamwork in presenting this complicated case to the jury. Because of the giant fishing expeditions conducted over five years, our legal team had to deal with many complex issues from business transactions to probate to medicine contained in over two million pages of documents covering the last 20 years of Dad's life.

"My family and I personally want to thank attorneys Rusty Hardin, Lee Ware, Don Fogel, Don Jackson and Jeff Chambers who were ably assisted by Eileen O'Neill, Cathy Herasimchuk and Jeff Diamant for their brilliant legal work during this case. No one would have been able to find and present our evidence without the sustained efforts of our paralegals Stella Jares, Shannon Campbell, Bridgett Daspit, Kathleen Stamps and Janis Sherrill in and out of the courtroom.

"It is our goal now to fade from the spotlight and resume living our private lives. Not a public person, I look forward to returning to the quiet responsibilities of running successfully our family business.

"Dad was a brilliant scholar, a dedicated public servant and a successful businessman. It is my hope that the public will remember my father for his entire life's work."

Defense law firms: Rusty Hardin & Associates, P.C., Houston, Ware, Snow, Fogel & Jackson, Houston, The Law Offices of Jeffrey W. Chambers, Dallas and The Steidley O'Neil Law Firm, Houston.

Smith Leaves Houston With Nothing Marshall Vows to Overturn California Decision

After sitting through a 22-week trial Vickie Lynn Marshall's (stage name, Anna Nicole Smith) legal team walked out of the courtroom empty handed. Vickie and her attorneys are gambling that they will receive money as the result of a California bankruptcy ruling in their favor. But attorneys for E. Pierce Marshall have filed an appeal saying that probate issues are reserved for state courts.

"Vickie's decision to drop her claims in Texas enable us to focus all our efforts on overturning the California ruling," said E. Pierce Marshall.

"Despite his incredible generosity to her and her son, Vickie treated Dad despicably. Her greed was insatiable. I believe one of Dad's nurses, Betty Morgan, explained it best when she wrote, 'She made his last months on this earth long and lonely when only a few minutes every other day or so would have made a difference. He gave her all he had to give. In return, I truly believe she gave him death.'

"I am grateful to the many witnesses who came forward and told jurors the truth about Vickie's treatment of my father. These people loved, respected and cared for J. Howard Marshall II. Their testimony clearly illustrated that I never made any attempt to interfere with her relationship with my father.

"It is unfortunate that Vickie also lied about others to promote her scheme to raid my father's estate. The Houston police officers that provided security at my father's home did an outstanding job, as did the physicians and nurses who cared for my father. Vickie's suggestion that they stood around and watched my father choke to death were inexcusable and another example of her willingness to say anything for money.

"People have often asked why we didn't settle this case," said Pierce Marshall. "This case was a total fabrication and it would have been against everything my father believed in to settle with people to whom he did not owe a dime.

"It is my sincere hope that appropriate action will be taken to deal with this situation to discourage others from making this type of outrageous claim from the witness stand.

"It is now our goal to fade from the spotlight and return to our lives. I look forward to returning to a quiet life and the responsibility of running successfully our family business.

"Dad was a brilliant scholar, a dedicated public servant and a successful businessman. It is my hope that the public will remember my father for his entire life's work and not for the past few months of this trial."

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Thursday, March 1, 2001

**Closing Arguments Scheduled to End Friday;
Jury Deliberation Set to Begin Monday**

Attorneys for J. Howard Marshall, III (Howard Junior) have changed their tune now that jurors in Judge Mike Wood's court have been asked to consider awarding millions of dollars in damages to E. Pierce Marshall, his family and the Marshall Museum and Library. Suddenly Howard Junior's attorneys were telling the jury that the case wasn't really about money and are backing off from their original damage claims.

But E. Pierce Marshall's attorney, Lee Ware, reminded jurors that Howard Junior's actions spoke louder than his words. "You don't hire a mouthpiece," noted Ware, "and then say I'll screw up your tax case, destroy everything your father's worked for," in an attempt to get money from the estate. Accountant Finley Hilliard testified he received such a call from Howard Junior's attorney shortly after J. Howard Marshall II (Howard Senior) died in 1995.

"The malice came about because Howard Junior intentionally lied and betrayed his dad. Ware described Howard Junior's as: 'I'm so smart. I'm right on the liquidity issue, everyone else is wrong.'"

In closing arguments attorneys for Howard Junior continued their vicious personal attacks on Pierce and their late father which lead attorneys for E. Pierce Marshall and the Marshall Family Defendants to ask jurors to consider malice if they award damages against Howard Junior. Attorney Lee Ware suggested jurors consider doubling actual damages of \$5.9 million dollars reminding jurors that Howard Junior "will do it again (file another lawsuit) when his mother dies."

Howard Junior's attorney has tried to make jurors believe that a long list of people conspired with Pierce Marshall to cut their client out of his father's will. The attacks have been against everyone including former and current Marshall family employees, attorneys, accountants, the management team at Koch Industries and even former Koch dissidents.

Virtually anyone who testified that J. Howard Marshall II had testamentary capacity and controlled his own estate plan came under attack. Current and former employees of the Marshall family and the family business were often witnesses to wills and other legal documents that left nothing to Howard Junior.

In some cases those testifying hadn't worked for the Marshall family for years. Defending Marshall and current and former Marshall family employees, Ware noted, "You don't lie just because you get a paycheck." Even a real estate agent who testified on Vickie Lynn Marshall's (stage name, Anna Nicole Smith) behalf was attacked when she said Howard Senior seemed competent to her when she showed him a home in 1994.

Howard Junior's case lacked any witnesses who would support his claims against the estate and against Pierce. Noted Ware, "He doesn't have any co-conspirators. He's betrayed his family and everyone he did business with."

As the defense continued, attorney Don Jackson showed jurors that a number of financial transactions criticized by Howard Junior's probate attorneys were, in fact, part of a well thought out estate plan approved by Howard Senior and outlined in a memo from his attorney Edwin Hunter in 1993.

Jackson pointed out that Howard Junior had no standing to challenge the 1993 and 1995 transactions, since he was disinherited in 1982. Jackson showed the new will was part of a completely revised estate plan that required considerable research.

"There was only one intent and one plan," Jackson told jurors. "Get the stock to Pierce Marshall in the most tax efficient way possible." Even Howard Junior's attorneys have acknowledged that the estate plan Hunter recommended has been very successful and accomplished Howard Senior's objectives.

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Wednesday, February 28, 2001

Lawyers for Howard Junior are working overtime to distance themselves from Anna Nicole Smith and from their opening arguments. "Don't confuse the fact we were sitting at the same table with Vickie," said Howard Junior's lawyer. The lawyer asked jurors to "keep an open mind" but as he continued it seems like he really hoped they would check their brains at the door.

Howard Junior claimed to have had a conversation with his father who told him, "When I go, please make sure she's taken care of." But jurors have learned that Howard Junior never made any attempt to take care of Vickie, despite the fact he testified he is a multimillionaire.

Howard Junior's attorney contended the statement meant that his client would still inherit something from his father's will. Unfortunately, six wills and seven trusts written over a 13-year period tell a different story. Howard Junior wasn't in any will.

"What J. Howard did with Vickie Marshall was insanity," Howard Junior's lawyer told the jury in Judge Mike Wood's court. He went on to tell jurors Vickie should be looked at as a 5-year-old.

With a net worth of \$26 million Howard Junior could certainly have fulfilled his father's request that he take care of Vickie.

Howard's attorney also apologized for remarks he made concerning R. Pierce Marshall. While closing statements are still underway it is clear that Howard Junior's attack on his father's estate is really just an attack on his father -- and 20 years of hatred and bitterness spilled out through the mouth of his lawyer.

Poor Howard

According to his attorneys, Howard Junior was the victim of a plot that included his stepmother, his brother, executives of Koch Industries as well as people from the Haverford School. Nobody likes Howard Junior. After today's closing statements, it is easy to see why.

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Wednesday, February 28, 2001

The jury has just received the charge, which has 81 questions, from Judge Wood.

Final arguments will begin at 2:45 p.m. today and are expected to last into Friday.

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Tuesday, February 27, 2001

**Judge Again Rejects Vickie's Attempts
to Flee Houston Courtroom**

Judge Mike Wood has again rejected an attempt by Vickie Lynn Marshall (stage name, Anna Nicole Smith) to block a jury from hearing claims from the Marshall family that she filed a frivolous lawsuit in an attempt to get still more money from her late husband J. Howard Marshall II (Howard Senior).

The Marshall family is asking jurors for a declaratory judgment that would prevent Vickie from coming back to a Texas probate court and for attorneys fees for filing a frivolous pleading.

Vickie's bizarre defense included calling a real estate agent who saw her for an hour and once took her house hunting in tony River Oaks. Vickie needed another house like a fish needs a bicycle. She already had a ranch and a home in Houston. Her husband had a home in Houston and had also bought her a house in Los Angeles.

The agent, who volunteered to be a character witness for Vickie, after knowing her for only one hour, was asked about the price range Vickie said she was looking in as they toured homes in River Oaks. "Price?" said the agent, "It didn't matter."

Marshall family attorneys decided to take the opportunity to ask the agent about a meeting she had with Howard Senior. She told the court that Howard Senior was "bright and sharp" and certainly could have signed a contract for a new home. That was bad news for Howard Junior whose attorneys have been trying to get jurors to believe Howard Senior was incompetent when he wrote their client out of his will.

In fact the best testimony concerning Howard Senior's competence was that he never called the real estate agent back after she showed him a multi-million-dollar home in River Oaks.

Vickie's next defense witness was a nurse from Spring Branch Hospital where Howard Senior was taken in 1995 after a choking incident. The nurse had worked for the same law firm as Vickie's attorneys and willingly met with them at least five times to go over her testimony.

She said Vickie was attentive to her husband and often stayed at his bedside. But had more trouble explaining why hospital security guards had to remove Vickie's male companion from her husband's room at two in the morning when she was found video taping her husband. Jurors have learned that Vickie made several attempts to get her elderly husband to make promises of still more money (he gave her more than \$6.7 million) into tape records, via recorded telephone conversations and on video before he died.

Marshall always said he intended to take care of Vickie while he was alive but would not change his estate plan. He was true to his word.

A few jurors applauded when each attorney finally rose to rest their case. Closing arguments begin today (February 28).

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Wednesday, February 21, 2001

Vickie Again Accused of Lying to Jurors

The nurse who was with J. Howard Marshall II (Howard Senior) when he died told jurors that Vickie Lynn Marshall (stage name, Anna Nicole Vickie) lied to them when she claimed her late husband choked to death and that health care workers did nothing to try to save him on orders from Pierce Marshall. "He didn't choke to death," declared nurse Letitia Hunt. Medical records confirm her testimony.

"Are you aware of allegations by Vickie and her attorneys that you stood by and let him die," asked defense attorney Rusty Hardin? "It's a lie. It's an out and out lie," Hunt responded.

Hunt also contradicted Vickie's claims that Pierce Marshall attempted to block visits by Vickie to her husband or to influence his medical care. Hunt's testimony is significant because Vickie's suit against Pierce Marshall is based solely on her unsupported claims.

Rusty Hardin: "Were there any instructions to keep Vickie Marshall away from her husband?"

Hunt: "No"

Hardin: "Were there any limits on her visits?"

Hunt: "No"

Hardin: "Did Pierce Marshall ever control you or tell you what to do?"

Hunt: "No. We were there to take care of J. Howard, he didn't interfere with our giving care."

Some jurors were crying as Letitia Hunt described her relationship with the late oil man who she said she "came to love" after caring for him at home. "I kind of fell in love with J. Howard," she told the court. There was something about him. You just got kind of attached to him."

Like many witnesses who have testified in this case, Hunt worked for Howard Senior and came to care for and respect a man who she described as a difficult patient. A deeply religious woman who volunteers in a prison ministry, Hunt was an especially effective witness as she contradicted Vickie's version of events during an incident that made nationwide headlines. Attorney Rusty Hardin asked Hunt if Vickie bared her breasts to entice her husband to repeat statements she was instructing him to make into a tape recorder. Vickie denied the incident took place and called Hardin a "pervert" for asking about it.

But Hunt told jurors the incident did happen. She said Vickie asked Howard Senior, "Do you miss me? Do you miss my Rosebuds?" and then lifted her shirt to reveal her breasts. Hunt says Vickie then told her husband, "Now honey I want you to tell the judge that you want your wife to be taken care of." Hunt said Vickie would tell Howard Senior to say something and he would repeat it into the tape recorder.

Vickie's attorney, faced with yet another credible witness calling his client a liar, went back to his familiar theme that Vickie and Howard Senior was just a normal loving couple. Hunt didn't buy it. "I thought he was being coerced," she told Vickie's attorney. Vickie's attorney pressed on asking why the couple wasn't allowed some private time. Hunt told jurors Howard Senior's caregivers considered his wife a threat to his health after another nurse caught Vickie trying to feed her sick husband solid food when he could barely eat. Concerned for Marshall's health, the nurses told Hunt to keep an eye on Vickie when she came to visit. In fact, a log kept at the home notes that Vickie called several times to say she was coming over with solid food, including barbecue, to feed her husband.

Hunt also joined the long list of witnesses who said security guards at the home were not armed and did not wear uniforms and did not prevent Vickie from visiting her husband. Vickie and her attorneys have made the presence of the off duty police officers a centerpiece of their fabricated claim of a plot by Pierce Marshall to keep Vickie away from his father.

New Witness More Bad News for Vickie

If Vickie's lawyers thought things would get better when Hunt left the stand, they were wrong. The next witnesses again contradicted Vickie's version of key events.

Eyvonne Scurlock ran Howard Senior's office and saw him more than any other witness including members of his family. She was one of only a few people who attended Howard Senior's wedding to Vickie and kept a log of Vickie's comings and goings during her marriage to Howard Senior. She also paid Vickie's bills from Howard Senior's personal funds.

Vickie's attorneys claimed Pierce Marshall ordered Scurlock to keep a log of Vickie's comings and going to spy on his father's new wife. But Scurlock testified the log was her idea because she was responsible for trying to find Vickie when her husband tried to reach her and because she became concerned about the way Vickie treated Howard Senior.

The log shows a wife who spent virtually no time with her husband. According to the log, Vickie spent only 17 days with her husband between June 27, 1994 and December 31, 1994. In addition, she did not see her husband at all during the last month of his life.

Like many of the people who knew and cared for Howard Senior, Scurlock said she had a pleasant relationship with Vickie but came to resent the way she abandoned her husband especially when he was ill. "He needed her sitting there holding his hand," Scurlock told jurors.

"It hurt me cause I cared for him," Scurlock said. "If she had just come out there and sat there and held his hand and said I loved you."

Vickie has claimed that she was prevented from seeing her husband but Scurlock testified, "She would have been treated like royalty if she had come to see him. She was his wife. Why didn't she come and take care of the needs of her husband?" she asked.

Scurlock told jurors Vickie was not telling the truth when she testified she had never heard of Compaignie Victoire, a corporation Howard Senior created to provide long term support for Vickie. Vickie told jurors she never refused to come to Marshall's office. Scurlock said she constantly declined to come to meetings involving Compaignie Victoire. Jurors have heard that Howard Senior planned to use Compaignie Victoire as a way to provide long term security for Vickie, but Vickie did not seem to understand the concept of the corporation and would not sign the agreement.

Scurlock says Howard Senior Controlled His Estate

Scurlock confirmed that Howard Senior knew exactly what he was doing when he made his separate property living trust irrevocable in 1994. Vickie has charged that Pierce Marshall orchestrated the change to prevent his father from leaving money to Vickie.

Scurlock described Howard Senior directing his advisors on how to draw up the document making the separate property trust irrevocable and ordering changes when he didn't like the first drafts. "He (Howard Senior) knew exactly what was going on," she testified. "He was in charge." Scurlock said she heard Howard Senior tell his advisors he understood what he was doing when he signed the document, which meant that he could not change his estate plan to leave anything to Vickie. Vickie was also not included in a will Howard Senior wrote after meeting Vickie. "His advisors did exactly what Howard Senior asked them to do," she said. "These were people he'd had around him for years. What did they have to gain?" Scurlock said that Howard Senior was always in complete control of his affairs. "Did you see any evidence that Pierce Marshall was trying to do anything with the estate?"

"No," she responded.

Scurlock confirmed stories told by previous witnesses of Vickie's insatiable hunger for cash, jewelry and real estate. Vickie told jurors she never had to ask her husband for money. Scurlock told jurors Vickie frequently screamed at her husband demanding cash. She said she once demanded \$10,000 be delivered to her within 30 minutes.

Scurlock repeated stories jurors have heard before about monthly six-figure credit card bills, million-dollar jewelry purchases and envelopes filled with cash for Vickie. She described for jurors what happened when Howard Senior wrote a check for close to a million dollars for jewelry for Vickie. Scurlock said Howard Senior could not borrow the funds to cover the check. She said he called Pierce who said, "Good God, dad. What do you want to do?" She testified Pierce asked his father if he wanted to sell assets to cover the check. She said Howard Senior answered, "No," and told Pierce that Vickie would have to return the jewelry.

As the case winds down it has become clear that Vickie, and later her attorneys, developed a fixation on Pierce Marshall as the cause of Vickie's money problems. In fact, witnesses have confirmed repeatedly for jurors that Howard Senior made the final decisions on all his business affairs including the decision that he could no longer afford to fund Vickie's lavish lifestyle.

Witnesses have testified that by 1995, Howard Senior had become tired of his wife's demands and recognized that she would spend or lose anything that he gave her. On the day of his death he would not even accept a phone call from the woman he once called, "the light of my life."

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Tuesday, February 20, 2001

For the second time, a witness broke down in tears while describing how Vickie treated her husband the late J. Howard Marshall II (Howard Senior).

Howard Senior's driver and traveling companion, Arnold Wyche, joined a growing list of witnesses who are telling jurors that Vickie repeatedly made statements that were untrue during her testimony earlier in the trial. Wyche also described a deteriorating relationship between Howard Senior and his wife that left Howard Senior so angry with Vickie that he would not accept her phone calls.

Wyche said Smith's testimony that she never had to ask her husband for money was untrue. He described a phone call in which Vickie yelled at her husband demanding cash. He quoted Marshal Senior as saying, "G__damnit, I don't have anymore money, you spent it all."

Wyche Contradicts Vickie on Numerous Issues

Vickie has repeatedly told jurors that simply meeting her saved Howard Senior's life. She also claimed she saved her husband's life during a choking incident.

But Wyche told jurors his version of the choking incident story. He said Howard Senior choked when Vickie was feeding him soup, and Vickie, who he described as "hysterical and freaking out," summoned Wyche to the room. Wyche said he called 911 and began relaying instructions to Vickie on how to clear Howard Senior's airway and give him mouth to mouth resuscitation. But Wyche said Vickie gave up after breathing into her husband's mouth only once and remained hysterical throughout the incident.

Wyche said he had to take over and finally got Howard Senior breathing before an ambulance crew showed up at the house. "Did she bring him back to life," asked attorney Rusty Hardin. "No, I sdid," was Wyche's reply.

Cruel Treatment Brings Tears

Wyche described how Vickie humiliated her husband when he asked to be placed in her bed so he could take a nap. "Arnold, just throw me in bed next to her," Wyche said Howard Senior suggested. The incident took place during a trip Howard Senior made to visit Vickie at her home in California. Wyche said Vickie told her husband, "Oh no, Howard, you know you don't get in the bed with me. You pee the bed." He said Howard Senior was deeply embarrassed and sunk down in his wheelchair and dropped his head. Vickie told

jurors the incident didn't happen. Wyche, an ex-Marine, broke down in tears shortly after describing Vickie's insensitivity and his elderly employer's embarrassment.

Vickie Was in Bed During Howard Senior's Visits

Vickie also claimed she spent as much time as possible with her husband when he visited California. Wyche told a completely different story. He said Vickie spent virtually all of her time in bed, rarely seeing her husband, even when they were in the same house, and continually making excuses when asked to accompany her husband to dinner. "Arnold," Wyche quoted Howard Senior as saying, "Where is she? I'm in the same house with her. I still can't find her."

Where's My Pin Money

Wyche also contradicted Vickie's claim she never emptied her husband's wallet. He described a scene during the August 1994 visit to California when he wheeled Howard Senior in for a rare and very brief visit with his wife. Wyche said Howard Senior called him back five minutes into the visit and that Vickie demanded her "pin money." He said Howard Senior gave Vickie his wallet which she emptied of between fifteen hundred and three thousand dollars in cash and a blank, signed check.

Vickie's Cooking Makes Husband Ill

Vickie also adamantly denied making her husband ill by feeding him undercooked bacon during a visit he made to California in December 1994. While Vickie's ability to cook is not an issue before the jury, she adamantly denied ever serving her husband undercooked bacon during her testimony. While he has attempted to defend his client's actions in many other instances even Vickie's attorney told jurors, "I guess its no secret Mrs. Marshall's not the best cook in the world." But Wyche told jurors Vickie's insistence her husband eat the undercooked bacon made him sick.

Wyche described the scene in detail. He said Vickie did cook breakfast and served her husband and Wyche bacon that was undercooked and limp. Wyche said Howard Senior didn't want to embarrass his wife so he ate eggs instead but eventually ate a little of the bacon when Vickie insisted. He became ill a short time later.

Despite his illness, Wyche testified, Vickie insisted her 90 year old husband accompany her to a fancy Los Angeles restaurant that evening in the rain. Wyche said that after they got home Vickie tried to get him to leave her husband and go dancing with her. When he refused he said Vickie left with her bodyguard.

Vickie and Bodyguard Sleep at Marshall Home

Vickie's attorney made another valiant but futile attempt to protect his client's reputation when he questioned housekeeper Ada Estes about the night Vickie and her bodyguard spent the night at the Marshall home while her husband was in the hospital. Jurors laughed when Vickie's attorney suggested the bodyguard may have stayed up all night guarding Vickie as an explanation for why only one bed had been slept in upstairs. Estes answered, "I know the bed was slept in and two pillows were messed up." Earlier Estes described a scantily clad Vickie coming to the kitchen for a bowl of cereal and two spoons.

Cops Liked Vickie

Wyche joined a long list of witnesses who contradicted Vickie's claim that off-duty police officers who provided security at the Marshall home were armed and prevented Vickie from seeing her husband. "We hoped she would be with him," Wyche testified. "It would have made things easier for us," he added. As for the police officers he told jurors, "They loved to look at her and loved to see her." But testimony showed Vickie was rarely in Houston during the last months of her husband's life.

"The only thing that kept Vickie from Mr. Marshall was Vickie. They begged her to come see him," Wyche said.

Deteriorating Relationship

Wyche joined a long list of Marshall family employees and former employees who were deeply offended by the way Vickie treated a man they cared for and respected. He is the second witness to tell jurors that Vickie's late husband had given up on the relationship during the last months of his life. Wyche said Howard Senior was too proud to admit his marriage to Vickie was a mistake. Another witnesses, Betty Morgan, says he told her the marriage was a mistake and she confirmed that Howard Senior eventually refused to take Vickie's phone calls.

Howard Junior

There was also some unsettling testimony for Howard Junior who claims Pierce Marshall blocked him from receiving an inheritance from their father. The Marshall family's housekeeper, Ada Estes, told jurors that Howard Senior's disappointment in his older son was obvious. Howard Senior was forced to pay Howard Junior \$8 million dollars to stop him from participating in a takeover attempt at Koch Industries. Estes described the scene at the Marshall household shortly after that transaction was completed.

Estes described Howard Senior in tears at the family breakfast table. She said Bettye (his wife) told her husband, "Howard you did that all night long." Howard Senior said "I know Tiger, but I am so hurt. I never thought Howard Junior would betray me like that. I've paid him \$8 million and I'm finished." Bettye, whose nickname was Tiger and was known as being outspoken, then told her husband, "I tried to tell you about that greedy son-of-a-bitch."

Arnold Wyche testified that it was well known among employees of Marshall Petroleum that Howard Junior had been disinherited by his father. However, he said Howard Senior did not talk to him about it.

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Monday, February 19, 2001

Vickie Lynn Marshall (stage name, Anna Nicole Smith) may have left the courtroom but her conduct and credibility remain the focus of the case this week in Judge Mike Wood's court. An attorney who worked for Howard Senior (J. Howard Marshall II) and a Los Angeles police detective provided sharply different accounts of events Vickie testified to under oath.

Attorney Jeff Townsend provided billing records to show that he met with a number of attorneys regarding a company Howard Senior set up to benefit Vickie.

Vickie denied being aware of the company's existence and denied knowing some of the attorneys who said they represented her in the negotiations. The company was designed to promote Vickie's career and was funded with millions of dollars by her late husband. Vickie, however, never agreed to go along with the arrangement that was designed to provide for her long term economic support.

Townsend also reminded jurors that Vickie's attorneys have provided misleading information concerning a lien placed on the ranch Howard Senior gave to Vickie. Her attorneys have contended that the lien indicated the ranch was not really ever given to Vickie.

Townsend explained that the lien was designed to protect the ranch from Vickie's creditors and told jurors that when Vickie forced the removal of the lien, she soon lost the ranch. Vickie demanded removal of the lien as part of a deal for her to return almost \$1 million in jewelry her husband told her he could not afford. Townsend said Vickie made a deal to return the jewelry for cash as well as the removal of the lien. Vickie took the money, returned the jewelry, but then sued to try to get the jewelry back again.

Police Officer Testifies Over Objections of Vickie's Attorneys

A veteran Los Angeles police detective also contradicted Vickie's sworn testimony. Officer Bob Lewis went to Vickie's Brentwood home to investigate the alleged theft of \$4 million in jewelry in June 1994. He said Vickie was in bed each time he interviewed her, directly contradicting her previous testimony. Lewis said he encountered a nude photo of Vickie hanging in the hall of the home that she shared with her eight-year-old son. "I asked her if she was on drugs or under the influence at the time," said Lewis. "Her speech was deliberate, slow and slurred."

But the officer's most damaging testimony involved Vickie's bodyguard Pierre DeJean, who claimed to have the jewelry, which has never been recovered. Officer Lewis testified he told Vickie her bodyguard had a criminal record and that she should not trust him. Asked if Vickie testified that she had not been told of DeJean's criminal past by the police officer, he said that her testimony to that effect would be "untrue."

Jurors have learned that Vickie spent the night at DeJean's apartment and once greeted her bodyguard in the driveway of her home wearing only her underwear. Vickie told jurors she felt violated when she learned that Pierce Marshall had used private detectives to keep an eye on his father when he traveled to California to visit his new wife. Pierce Marshall testified that the detectives were hired because he had learned of DeJean's serious criminal record and he was concerned for his father's safety. Vickie claimed she would have fired the bodyguard if Pierce Marshall had warned her of his criminal record. According to Officer Lewis he had already warned Vickie of the problem with her bodyguard shortly before Howard Senior visited California and Pierce hired detectives to protect his elderly father.

-30-

Monday, February 19, 2001

Did A Wife's Demands Lead to a Father's Betrayal?

A defense witness told jurors that Howard Junior (J. Howard Marshall III) sold his Koch stock because, "he has a spendthrift wife and he never could satisfy her needs." Ilene O'Rell Marshall, who attends the trial each day, showed no emotion as a friend of her late father-in-law J. Howard Marshall II (Howard Senior) made the comments in a video taped deposition played for jurors in Judge Mike Wood's courtroom.

Randolph Crossley described himself as a long time friend of Howard Senior as well as a friend of Pierce Marshall and Charles Koch. Crossley told jurors his friend, Howard Senior, loved and respected both his sons but did not forgive Howard Junior's betrayal because his son refused to apologize.

Crossley said Howard Senior told him that he had disinherited his son after Howard Junior sided with a group of Koch stockholders intent on challenging the way the company was managed. Crossley said he asked his friend if the disinheritance was "without recourse." Crossley said Howard Senior indicated he might reconsider his decision if his son had apologized and made restitution. Even today, more than 20 years after the dispute, Howard Junior refused suggestions that he did anything wrong when he took \$8 million dollars from his father to return stock he received from his father as a wedding present.

Crossley's testimony was another blow to a case that never seems to get any traction. Attorneys for Howard Junior have been unable to produce a single witness to support their client's claim he was promised more money from his father's estate if he sold his stock. On the other hand, attorneys for defendant E. Pierce Marshall have produced six wills and seven trust agreements dating as far back as 1982 which consistently write Howard Junior out of his father's estate. Crossley reconfirmed for jurors that Howard Senior told virtually everyone he knew why he had disinherited his son.

One of the defendants Howard Junior sued for allegedly plotting with Pierce to block his inheritance has already walked out of court midway through the trial when Judge Wood ordered a directed verdict in his favor due to a lack of evidence. Nor have Howard Junior's attorneys produced a single witness who has testified that defendant E. Pierce Marshall did anything to encourage his father to disinherit his older brother.

Crossley, whose testimony tracks that of other witnesses, reminded jurors, "No one ever told J. Howard Marshall what to do -- not his sons, not his business partners, not anyone else."

Crossley also told jurors that the fact Howard Senior continued to associate with his oldest son and sit on his son's corporate board was not an indication he had forgiven him for his betrayal. Crossley said Howard Senior told him, "It's always good to be in the enemy camp," when he asked why Howard Senior continued to travel to California for his son's board meetings. "He was my first son, I love him and I still love him," Crossley quoted his friend as saying. "If he apologizes and makes restitution than we can talk again."

Vickie Lynn Marshall (stage name , Anna Nicole Smith): A Bad Influence

Crossley also discussed Vickie saying he thought she was a bad influence on Howard Senior. Crossley described her as, "a money gruber," adding "she wasn't any good for Howard or anyone else."

Asked if Pierce Marshall ever said anything bad about Vickie, he said Pierce was upset when she removed everything from his father's home that belonged to his late stepmother Bettye. "Pierce thought it was done without any feeling for family at all," he added.

-30-

Wednesday, February 14, 2001

Spoiled

Sometimes a single word says it all. Anna Nicole Smith showed up in court Wednesday in a dress emblazoned with the word "Spoiled" across her ample chest.

Accompanied by her bodyguards, as well as her "personal attorney," Smith finally left Houston after a string of contradictory testimony that left her credibility in tatters.

Smith told a nationwide television audience that she "just wanted (her) bills paid" when she falsely claimed she was broke because Pierce Marshall cut off her income. Testimony in Houston has shown that Smith had tens of thousands of dollars in the bank at the time she claimed she couldn't pay her utility bills.

Her statements in a 1995 edition of the TV program "A Current Affair" are in sharp contrast to claims she is making in Judge Mike Wood's courtroom that her late husband promised her half of everything he owned.

Always full of surprises, Smith volunteered that she was paid for the tearful interview during which she repeated her claim that late oilman J. Howard Marshall (Howard Senior) stayed alive because she saved his life. "He only responded to me," she told jurors.

"Do you feel responsible for his being alive?" she was asked.

"Yes, I do. Me and Jesus," she replied.

Noting that the self-serving interview was used to give her a national platform to criticize Pierce Marshall, attorney Rusty Hardin commented, "You get back at Pierce and get paid for it."

"I was completely cut off and had to take out a mortgage on my house," Smith whined.

"Just like everybody else," Hardin noted sarcastically.

Smith was asked if she spent the night in Howard Senior's home with a male bodyguard while her elderly husband slept downstairs. Smith answered that she didn't have a bodyguard at the time, then volunteered that the man was probably a movie producer friend. She said she didn't recall going downstairs in the home to get a bowl of ice cream and two spoons. Previous witnesses have testified Howard Senior became upset when Smith brought other men with her when she visited him.

Smith Leaves With Her Credibility in Shambles

Smith's credibility is crucial in this case because she has no witness or document to support her claim that her late husband promised her half his estate. While Smith has dropped that claim, she is being sued by E. Pierce Marshall for interfering with his inheritance rights by tying up the estate in court, based on a fabricated claim.

Pierce Marshall's defense team showed jurors a series of affidavits in which Smith swore under the penalty of perjury to a set of facts that contradict her claim that she planned to spend as much time as possible in Texas with her husband. In one document asking a court to move a lawsuit against Smith to a California court, Smith swore she would rarely come to Texas. Smith has repeatedly told jurors in her probate case that she had a home and a ranch in Texas and lived in both Texas and California.

Another document reads: "My primary residence is located in Brentwood, California.... I do not reside in the State of Texas any part of the year."

Smith told jurors, "My lawyers prepared the papers. I can't help what's in them."

But Hardin noted, "You're willing to swear to whatever will help you at the moment."

Jurors have been shown that Smith signed each affidavit under the penalty of perjury. She previously told jurors she understood the meaning of the word perjury.

Good Girl, Bad Girl

In another bizarre twist, Smith was asked if she took off her blouse to entice her husband when she coached him while recording tapes that were to be played to a court hearing a dispute over who should be appointed his guardian. "Oh, Rusty," said Smith. "You're a pervert."

But just the day before, Smith volunteered that she willingly displayed her breasts to her husband despite the presence of other people in the room.

Now That She's Gone

No doubt everyone will miss Anna Nicole Smith, now that she is gone. The trial has returned to the excruciating process of examining virtually every financial transaction made by the late Howard Senior and his family for the past decade or more.

It's boring, it's time-consuming, and it ignores the key issue in the case. Howard Senior signed six wills and seven trusts that didn't leave a dime to Howard Junior. Why Howard Junior's attorneys want to question transactions that took place years after their client was disinherited remains the largest unanswered question in this trial.

Bizarre Testimony from Vickie

Vickie Lynn Marshall (stage name, Anna Nicole Smith) told a Houston jury today that she wanted to be buried in the same crypt as the late Marilyn Monroe, and that her late husband J. Howard Marshall II (Howard Senior) wanted to be buried with her. "I told him (Howard Senior) that I wanted to be buried in the same concrete thing as Marilyn Monroe," Vickie told jurors in Judge Mike Wood's courtroom. "He wanted to be buried there also."

Perhaps as a result of Anna fatigue, even this strange statement didn't seem to raise many eyebrows. Vickie's fixation with Monroe is already well known. She rented a home Monroe once lived in and sometimes flew under the name Norma Jean. But the suggestion that her late husband wanted to be buried with the deceased movie star is truly the most strange testimony to date from the former stripper.

Did Smith Get Her Wish?

E. Pierce Marshall had to go to court to carry out his father's last wish that he be cremated in keeping with his Quaker upbringing. Howard Senior's ashes were split between Pierce and Vickie. Attorney Rusty Hardin got Vickie to admit on the stand that she had her attorneys pick up her half of her late husband's ashes for years after he died and only did so when she learned that Pierce wanted to claim them.

Chipping Away at Smith's Credibility

Over the strenuous objections of Vickie's attorney Hardin, continued to show the jury gaping inconsistencies in Vickie's testimony. Vickie testified that she was often hung up on when she tried to reach her husband at his home in 1995 and that she was not kept informed of her husband's medical condition.

Hardin played a tape, made by Vickie, showing nurse Betty Morgan graciously accepting her call and even filled Vickie in on her husband's latest medical tests before she turns the phone over to Howard Senior so he could speak to Vickie.

Vickie told jurors she told her husband she was taping the calls, but the transcripts, which begin with the nurse answering the phone, give no indication that her husband knew he was being recorded.

I Don't Know Dates

Vickie continues to be able to answer her attorney's questions easily but balks at answering questions from E. Pierce Marshall's attorneys. She frequently claims not to understand the question and asks to have questions repeated slowing an already excruciating process. "I don't know dates," is a frequent refrain when she is asked about potentially damaging issues. Vickie seems to remember dates or times when they bolster her case.

I Didn't Know Anything about My Husband's Estate Plan

"Did you ever know anything about your husband's estate plan?" asked her attorney. "No sir," Vickie replied. Although she has told jurors repeatedly that Marshall promised her half of all he owned which may sound to some like a discussion of his estate plan.

Emotional Distress

Vickie also denied causing E. Pierce Marshall emotional distress. Apparently in Vickie's mind, falsely accusing someone of murder and attempted murder in public in front of his family and in stories carried worldwide without one shred of evidence doesn't cause emotional distress or discomfort to the person she is falsely accusing.

Softball Questions Backfire

Vickie's attorneys tried to rehabilitate their client with a series of softball questions. Vickie told her lawyer, "I just want to go home. I don't belong here, I just want to go home." Attorneys for Pierce Marshall quickly pointed out that it was Vickie who initiated the lawsuit against Pierce Marshall and his family.

What Happened to All the Money?

Vickie told a startled courtroom that, "\$100,000 is not a lot of money to me. My husband just threw money at me. My husband gave everything to me. I had everything I wanted."

Hardin continued to attack Vickie's claim that she was so broke in early 1995 that her utilities were cut off. Her attorneys have made much of the incident and the "pain and embarrassment." Vickie went on national television and blamed the cutoff on Pierce Marshall.

"You claimed Pierce Marshall caused you to lose your utilities," Hardin stated "In this one account alone you had \$45,000. You could have written a check to keep your utilities from being turned off."

Hardin introduced bank statements showing Vickie had tens of thousands of dollars in her bank accounts at the time she claimed to be broke. In fact, she had received more than \$100,000 from her husband in late 1994 and early 1995. Jurors saw dozens of canceled checks made out to cash for tens of thousands of dollars. Vickie told the jury she had at least four other people who were allowed to sign her checks and didn't always know what the money was being used for.

Vickie Finds \$27,000

Vickie plays the part of the movie star to the hilt. Telling jurors that, "my assistants pay my bills. I didn't do anything with them, I had people taking care of me." At one point Vickie told the court that she found an old check from a talent agency for \$27,000 stuck in her fan mail.

-30-

Monday, February 12, 2001

Vickie Grilled Again - Despite Lawyers Best Attempts to Shut Down Questioning

J. Howard Marshall, II gave Vickie Lynn Marshall more than \$6.6 million during their relationship. "He just showered me and showered me with gifts," Vickie gushed. "It was nothing to him." Yet a few days after her husband died in 1995 Vickie told a California court that she was nearly broke.

While no one is keeping an official count today must have set a record for objections as Vickie's attorney tried diligently but unsuccessfully to keep attorneys for E. Pierce Marshall from asking her any tough questions in Judge Mike Wood's courtroom.

Where Did All the Money Go?

Vickie's lawyers filed an affidavit in Los Angeles outlining her financial condition after her husband died.

Within a few days of her husband's death, Vickie told the court that her debts included a \$350,000 lien on the California home Howard Senior purchased for her in cash. Vickie said she owned nine lawyers or law firms another \$350,000. What about the millions of dollars of jewelry Vickie received? "I don't have my jewelry, my jewelry is all gone," Vickie told the jury. The 1995 affidavit offered this explanation as to why she doesn't have it anymore:

"Although it is commonly known that my husband gave me a large amount of jewelry that cost him several million dollars, all of this jewelry has been stolen from me over the past 18 months, I suspect by relatives, former bodyguards, former friends, and my son's former nanny. The only jewelry I have left are the two pieces I wear constantly - my wedding ring and my inexpensive watch."

Asked to explain how she managed to lose a king's ransom in jewelry Vickie answered, "I used to be a real ditz."

The affidavit is significant because Vickie, with the help of legal counsel, is listing her assets and liabilities under penalty of perjury. Pierce Marshall's lawyers asked her why the affidavit didn't mention the property she now claims a right to inherit. Asked why Vickie told jurors, "Cause I didn't have it." You were never entitled to it," said attorney Lee Ware, "That's why you didn't have it,"

A Tough Time with Dates

Vickie lives in a world that sometimes seems to be suspended from reality -- sometime referred to as Planet Vickie by courtroom observers who marvel at her testimony. She does not remember the last time she saw her husband alive, the name of the hospital where he died or the last words they spoke to each other.

But her memory is clear when it comes to the time and place she says Howard Senior promised her "half of everything he had."

Pierce Marshall's attorneys brought up that pesky old notion of witnesses to the "promise." "I can't point to any people," Vickie replied. "I don't have any documents to prove it."

Jurors have already learned that Howard Senior did have numerous witnesses and did write down a detailed estate plan that left the family business to his son, Pierce. Vickie received shares in a corporation set up in her name as well as the \$6.6 million dollars prior to Howard Senior's death.

In their suit against Vickie, Pierce Marshall's attorneys say she made up her claim and is attempting to interfere with Howard Senior's clearly stated intentions concerning his estate.

Vickie Surprised Her Elderly Sick Husband Died

Vickie was fighting her husband's long-standing request to be cremated. Although her 90-year-old husband had been seriously ill and was in and out of the hospital for months Vickie claims that she had been told he was "in no immediate danger" and was "completely unprepared" for the news of his death. Attorneys for Pierce Marshall have repeatedly pointed out that Vickie rarely saw her husband during the last months of his life.

J. Howard Marshall, III (Howard Junior) -- Lost in Space

He sits in court every day. But no one seems to pay him much mind. Howard Junior sits expressionless in the courtroom as all eyes focus on Vickie.

Vickie refers to the man who is old enough to be her grandfather as "Junior" but today the words of Dr. Joel Kirkpatrick were of more concern to Howard Junior and his attorneys.

Kirkpatrick examined the late Howard Senior's brain following his death. Today, in a videotaped deposition the pathologist said that while Howard Senior had had a series of strokes throughout his life his brain was "basically intact." "In my opinion, Dr. Kirkpatrick testified, he was able to transact business."

Kirkpatrick also confirmed that Howard Senior did not have Alzheimer's disease.

The testimony is significant because it is the only medical testimony that has been offered concerning Howard Junior's claims that his father lacked testamentary capacity when he wrote his son out of his will in 1982 and continued to do so through a series of six wills and seven trust agreement over the next decade.

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Monday, February 12, 2001

Vickie Due Back on the Stand in Houston

Vickie Lynn Marshall (stage name, Anna Nicole Smith) is scheduled to resume testimony on Monday, February 12th in the Houston courtroom of probate Judge Mike Wood.

Jurors in the case have already heard a parade of witnesses say that Vickie's late husband, J. Howard Marshall II (Howard Senior), provided generously for her while he was alive. Witnesses say Howard Senior never intended to change his estate plan, which placed the family's energy business in a separate property trust (when Vickie was 14-years old) and left the company to his son E. Pierce Marshall.

Vickie faces possible perjury charges following her previous testimony in the case. Her answers contradicted those of witnesses who have appeared during the trial, which began in September 2000. Those witnesses have portrayed Vickie as an absentee wife who was greedy, manipulate and insensitive to her elderly husband. One witness said Vickie got her husband in the mood for shopping by giving him Valium while visiting an expensive jewelry store. A witness said the drug left the 88-year-old Howard Senior slumped in his wheelchair.

Furthermore, Vickie cannot provide a single witness or document to support her claim to a share of the estate.

Question: (Attorney Rusty Hardin) - "You cannot give us the name of a single human being who ever heard J. Howard Marshall promise you half of the estate?"

Answer: Vickie-- "I don't know."

Hardin challenged Vickie to produce a document or even a witness who would say that her late husband promised her half of his estate. "I'm sorry. I'll have to get back to you," Vickie said. "I can't tell you now."

"Vickie's testimony has helped explain why we have consistently rejected suggestions this case be settled," said E. Pierce Marshall. "It is now evident to the world that this is a fabricated story. My father made his wishes clear in a series of six wills and seven trusts (signed before and after his marriage to Vickie). My father never would have settled this type of frivolous lawsuit, and I will not insult his memory by settling a lawsuit based on fabricated claims we know are untrue."

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Friday, February 9, 2001

The following letter is in response to comments made by Vickie Lynn Marshall's (stage name -- Anna Nicole Smith) attorneys in an article for *Lawyers Weekly USA*.

Thanks to worldwide media coverage, the public now knows that Vickie made up her claim that her late husband promised her half of everything he owned. After her performance in Houston, it is no wonder her attorneys have fought so hard to keep her off the witness stand and focus her case on false claims of discovery abuse.

When Vickie was asked if she could provide a single witness or document to support her claim, she told the court, "I will have to get back to you on that."

Vickie made other allegations from the stand that were so outrageous that she was admonished by Judge Mike Wood not to lie to the court. Speaking out of the presence of the jury, Judge Wood told Vickie he will refer her testimony to the Harris County District Attorney because he believes she lied under oath.

Pierce Marshall and his attorneys have never engaged in any form of discovery abuse, nor has he abused any court rules or procedures. It should be noted that a Houston probate court has found that the millions of documents produced during discovery are more than adequate to try the case.

Jurors in the Houston probate case now underway have heard numerous credible witnesses refute each of Vickie's claims about Howard Senior's clearly stated estate plans, his ability to see and understand the documents he signed and the plans he did make to promote Vickie's career during his life.

Attempts by Vickie's attorney, Philip Boesch, to demonize others only emphasize the fact that he has no case. Criticizing someone for retaining legal counsel and pursuing his family's rights under the law is a slap in the face to the federal courts and the legal profession. Boesch's unwarranted attacks on the Marshall family attorneys show disrespect for the due process of law.

Pierce Marshall has the greatest respect for our nation's legal system, and is confident that these issues will finally be resolved in his favor as the legitimate legal process continues.

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February 1, 2001

Anna Nicole Smith may have blown her chance for a guest appearance on "Who Wants To Be a Millionaire." You have to be able to answer questions, and the answer to every question can't be "Pierce Marshall did it." Getting a straight answer out of the former stripper proved exasperating.

"I'm a social drinker," she told attorney Rusty Hardin. But Hardin quickly got Smith to admit she was admitted to the Betty Ford Center for alcohol and prescription drug abuse.

Smith Blows the Million-Dollar Question

"You cannot give us the name of a single human being who ever heard J. Howard Marshall (Howard Senior) promise you half of the estate?"

"I don't know," Smith answered. Hardin challenged Smith to produce a document or even a witness who would say that her late husband promised her half of his estate. "I'm sorry. I'll have to get back to you," Smith said. "I can't tell you now."

Testimony has already shown that Smith's husband provided her with millions of dollars during their marriage but left the family business to his son, Pierce, a plan he had set in place in 1982 and specifically chose not to change after her married Smith.

Judge Instructs Jury to Disregard Some of Smith's Testimony

For the first time in the case, Judge Wood instructed the jury to disregard some of Smith's testimony after Smith violated a court motion excluding certain topics from the trial. "Her remarks were improper," Judge Wood told jurors. "They should not be given any consideration."

Do You Understand What Perjury Is?

Smith appeared especially shaken when she was shown an affidavit with her signature that was used to make a \$450,000 "home improvement loan" on the house J. Howard Marshall purchased for her in California. Her signature attested that she bought and maintained the house with her own money. Smith has testified J. Howard bought and paid to maintain the home. Smith then continued her pattern of outrageous statements by implying that Hardin fabricated the affidavit.

"Do you understand what perjury is?" asked Hardin, pointing out that Smith's own attorneys had provided the document she was questioning.

An Evening Gown vs. Paying the Electric Bill

Smith and her attorneys have tried to focus the jury's attention on the pain and embarrassment Smith felt when the utilities were cut off at her Los Angeles home. But jurors have learned Smith had plenty of money at the time. They were shown a check for \$20,000 she wrote to a designer for a dress. "You had \$100,000 in your own checking account when you were claiming your utilities were cut off," Hardin said.

Smith told jurors the \$20,000 was probably for an evening gown for a premiere, bringing back memories of what may be one of her most memorable claims in the trial: "It's expensive to be me."

Hardin asked Smith if she used any of the home improvement loans to buy the dress. "I don't think the loan people would mind if I bought a dress," Smith replied.

Nurse Anna

Smith has continually maintained that she saved her husband's life and implied that she knew more than the physicians and nurses who cared for him. "He wouldn't eat for nobody else," she told the court.

When asked if it was medically advisable to prepare chopped barbecue for her husband, who was being fed with a feeding tube, she told the court, "Why would I ask doctors about feeding my own husband?"

When Was the Last Time You Saw Your Husband?

Attorneys for Anna Nicole Smith have repeatedly told jurors how much J. Howard loved her. Defense attorneys showed jurors a very different side of the relationship when they asked if Smith could tell jurors the last time she spoke to her husband and the last time she saw him.

"No, sir, I can't," she replied. "I wish I could. I really wish I could."

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January 30, 2001

Questioning Vickie Lynn Marshall (stage name -- Anna Nicole Smith) is like trying to nail Jell-O to the wall. Vickie curses, cries, complains and forgets, especially when she is asked the most difficult question of all: does she have any evidence for her outrageous allegations. "You never have a single bit of proof, you just throw the mud on the wall," attorney Rusty Hardin charged. "Take a flying leap and try the truth for a change." Jurors in Judge Mike Wood's courtroom heard Hardin ask again and again, "Have you no shame?"

as Vickie lashed out at other witnesses, her late husband's doctor and her favorite target, E. Pierce Marshall. Vickie called the numerous witnesses who do not agree with her version of events, "damn liars." When attorneys pointed out that jurors had seen portions of two depositions by Howard Senior that contradicted Smith's testimony, Hardin told Vickie, "You are doing your late husband a disservice when you suggest he lied under oath."

Fact Check: Outrageous Charges vs The Facts in Evidence

Vickie said -- Pierce Marshall let his father choke to death in 1995.

Fact -- Howard Senior died of heart failure while in the hospital.

Vickie said -- She talked to her husband every day.

Fact -- Howard Senior was upset when he couldn't reach Vickie and his staff had trouble locating her to take her husband's calls.

Vickie said -- Pierce didn't tell me my bodyguard had a long felony record.

Fact -- The Los Angeles police told Vickie about her bodyguard's record after he was last seen with \$4 million of her jewelry, which has never been recovered.

Vickie said -- Pierce Marshall was somehow responsible for problems she had with surgery in 1995.

Fact -- Vickie couldn't describe the type of surgery or where it was done. She never talked to the police or the hospital or explained how Pierce Marshall would even know she was in the hospital.

Vickie said -- Pierce signed a Do Not Resuscitate Order in an attempt to kill his father.

Fact -- Howard Senior signed the same order and told his doctor he did not want to be kept alive by a machine. This isn't a real issue because the order was not in effect at the time of his death.

Vickie said -- Pierce Marshall cut off her funds, causing the electricity to be turned off at her California home.

Fact -- Vickie received over \$250,000 from the Marshall family during the time period she was telling the media she had no money to pay her electric bill.

Life on Planet Vickie

Anna Nicole Smith's real name is Vickie Smith Marshall. Some courtroom observers have described her unique view of the world as living on Planet Vickie.

Life was great on Planet Vickie. Describing her marriage to oilman J. Howard Marshall II (Howard Senior), Vickie told jurors, "He gave me tons of jewelry, tons of clothes, I got anything that I wanted." In Vickie's view, her husband's son, E. Pierce Marshall, threatened the good times, and she attacked him and many of the other witnesses who have testified in the trial, calling them "damn liars" if they disagreed with her claims. When pressed for evidence of her claims, Vickie would duck and weave before leveling a fresh allegation against Pierce Marshall or the other witnesses.

\$4 Million in Missing Jewelry

Attorney Rusty Hardin pressed Vickie on how she lost \$4 million in jewelry. She admitted being drunk and waking up to find the jewelry missing. Her bodyguard, a convicted felon, told police he had the jewelry, but it was never recovered. Hardin pointed out that Vickie carried the jewelry in a shoulder bag and never declared it to customs officials when she left or returned to the United States.

She described as "rude" the Los Angeles Police Department officers who investigated her claim that the jewelry was stolen, saying they asked "if I was on something." The police ultimately concluded the jewelry, which has never been found, was "neither lost nor stolen." Hardin strongly suggested that Vickie finally agreed to marry Howard Senior because she had lost the jewelry, she faced numerous lawsuits, and her career was in a downward spiral.

Doctor's Orders Are For Normal People

Vickie continued to insist that off-duty Houston police officers that worked at the Marshall home "dragged me out of my husband's room." She claimed the officers were armed and in uniform when other witnesses have said they were unarmed and in civilian clothes and simply asked Vickie to leave the room for 30 minutes so nurses could attend to her husband and he could rest. Attorneys pointed to the two off-duty Houston officers Vickie has hired to guard her while she is in Houston. When attorneys explained that limitations on the length of visits to her sick husband were ordered by his physician, Vickie told the court, "Doctor's orders are for normal people. I'm his wife. I was the reason he lived."

The Truth, The Whole Truth and Nothing But The Truth

Vickie did make one statement that brought no argument from defense attorneys when she told the court, "My whole life seems outrageous. It's like a crazy soap opera." Amen.

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January 29, 2001

Vickie Lynn Marshall (stage name -- Anna Nicole Smith) used scare tactics to get money from her late husband J. Howard Marshall II (Howard Senior), according to Patty Leonard, former Marshall Petroleum, Inc. receptionist. "There were times she would demand lots of money. He would say, 'I don't have it.' She would say things that would scare him like, 'I'm going into the hospital.'" She quoted Vickie as saying, "They're going to cut off my breast, I have cancer."

Anna Nicole Takes the Stand

After still another valiant try by Vickie's lawyers to keep their client from testifying, Judge Mike Wood told Vickie to take the stand. Clutching a picture of her late husband, Vickie told jurors it took only "30 minutes and a few drinks" to convince her to strip at a Houston topless bar. A shy woman, she said it took her two weeks before she did her first "table dance."

Quickly taking the offensive, Vickie called testimony by witness Patty Leonard, whom she would later describe as a good person, "just completely crap."

"It's Very Expensive to Be Me"

Vickie did not dispute Leonard's testimony that she received at least \$5,000 a week in cash from her late husband. "Did you put the money in the bank?" asked attorney Rusty Hardin? "No," Vickie replied, "I put it in my purse." Asked how should could go through so much cash so quickly she told jurors, "It's very expensive to be me."

Hardin pointed out that attorneys for Pierce Marshall's brother, Howard Junior, claim Howard Senior's lavish spending on Vickie totaling more than \$6.7 million showed he was incompetent and engaged in "unusual behavior." Vickie said her husband was competent and said she thought the millions of dollars in cash, cars, homes and jewelry "was great behavior."

Oh, By The Way, I Forgot to Mention

Vickie also told jurors about some bizarre new claims concerning Pierce Marshall, claims so new that in spite of five years of litigation, she has never made them before.

She told jurors that Pierce wanted his father to die in 1991, and was angry when she "brought him back to life." She offered no evidence to back her allegations. Witnesses have testified that Howard Senior was depressed when he met Vickie, but no other witness has suggested he was ill or dying. "You've disliked Pierce since 1991," said an incredulous Hardin, "a year and a half before you met him."

Jurors Already Know the Truth

Vickie claimed that Pierce had armed guards limit access to Howard Senior when he was ill in 1995. "Pierce cut me off," she said. "He only let me see him 30 minutes a day." Other witnesses have already told jurors that visits were limited to 30 minutes at a time under doctor's orders but that Vickie was always welcome to wait so her husband could rest for 30 minutes and then continue her visit. Vickie told jurors it was Pierce's fault she taped the Howard Stern radio program in New York while her husband lay severely ill in Houston.

Vickie's attorneys have told jurors she was intimidated by the off duty Houston police officers that provided protection at the Marshall home at the request of the nursing staff. Ironically, Vickie hired two off duty Houston police officers as part of her entourage for her appearance in court. There has been no explanation of why Vickie, who is also accompanied by an attorney from California, needs two bodyguards.

Everybody's Out to Get Me

Vickie concluded her first day on the stand telling the jury, "Pierce bought all my friends, took everyone away from me," she said. "Every single person turned on me when he (Howard Senior) got sick," she said. The jury is still waiting to see any evidence for Vickie's outrageous claims.

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Thursday, January 25, 2001

Vickie Could Testify Next Week; Judge Rejects Her Attorney's Pleas

Attorneys for E. Pierce Marshall want Vickie Lynn Marshall (stage name: Anna Nicole Smith) to testify as early as next week in a Houston probate court. Today, Judge Mike Wood cleared the way for her testimony when he rejected Vickie's lawyers' attempts to severely limit questioning of their client.

Vickie dropped her claim that E. Pierce Marshall prevented her from getting an inheritance from the late oilman J. Howard Marshall II (Howard Senior). She dropped her suit midway through the trial. But Pierce and his family are also suing Vickie, charging she attempted to interfere with their inheritance rights. Judge Wood has ruled that the Marshall family's suit against Vickie can go forward.

"We have subpoenaed her and she can expect to be fully examined on the truth of her claims," said Rusty Hardin, a member of the Marshall defense team.

In testimony yesterday, attorney Jeff Townsend testified that Vickie refused her husband's request that she return \$956,000 dollars in jewelry and refused to help reconcile credit card bills amounting to \$600,000. Townsend testified that Vickie's attorneys held the jewelry hostage while they demanded more and more money from her husband. Townsend testified Vickie was receiving tens of thousands of dollars from her husband at the time.

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January 23, 2001

**Bizarre Twist in Houston Trial:
Vickie (stage name -- Anna Nicole Smith)
Sues J. Howard Marshall III**

Some have mistaken them for allies. But it is becoming increasingly evident that Vickie Lynn Marshall (stage name -- Anna Nicole Smith) and Howard Junior are working at cross-purposes as they attack Howard Senior's estate plan.

In the latest bizarre twist Vickie has sued Howard Junior in California Superior Court. It is believed naming Howard Junior in the suit is designed to keep assets away from Howard Junior in the unlikely event he wins any money in the Texas probate trial now underway in Judge Mike Wood's court.

But filing the suit may be only a formality. Howard Junior's Texas suit suffered a major setback when defendant Harvey Sorensen walked out of the courtroom with a directed verdict from Judge Wood who said Howard Junior's case against Sorensen was so weak he would not even send it to the jury.

Howard Junior must also contend with the fact that Vickie's attorneys contend that Howard Senior was mentally competent when the late oilman married the former stripper in 1994. Howard Junior is trying to show his father was mentally incapacitated as far back as 1982.

Howard Junior's dad may have called Vickie "the light of his life," but for Howard Junior Vickie may turn out to be the blight of his life.

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January 23, 2001

Smith Held Jewelry Hostage

Vickie Lynn Marshall (stage name -- Anna Nicole Smith) refused to return almost \$1 million dollars worth of jewelry despite requests from her husband who told her he could not afford it. So much for the traditional marriage vows for richer or for poorer. Instead, attorney Jeff Townsend testified that Vickie misled her attorneys into pressing her husband, Howard Senior, to give her still more money. Townsend worked for Howard Senior from 1985 until the oilman's death in 1995.

Townsend said he was forced to negotiate with Vickie's attorney for months as she held the jewelry hostage in an attempt to get still more money from her husband. Townsend testified that Vickie's attorneys claimed the former stripper wasn't getting any money from her elderly husband. He said he believed Vickie was misleading her attorneys and provided them with itemized lists of tens of thousands of dollars Howard Senior was paying to cover his young wife's bills.

Townsend testified Vickie's refusal to return the jewelry led to a federal lawsuit against her husband.

**Townsend Contradicts Other Key Elements
of Vickie's Cases In California and Texas**

- Townsend testified that Howard Senior was competent and in control of his affairs when he made his living trust irrevocable and when he signed a will that left nothing to Vickie.
- Townsend contradicted another of Vickie's key claims when he testified that Howard Senior decided to replace attorney Harvey Sorensen because of differences over legal strategy. Vickie claims that Pierce Marshall fired Sorensen because of a memo the attorney wrote outlining a proposal to provide Vickie with additional income. Pierce Marshall has testified he never saw so the so called "New Community Memo." Sorensen has already testified Howard Senior dropped the

- idea outlined in the memo when he learned it was impractical. He joined a parade of witnesses who told jurors that it was Howard Senior's decision to shift his tax work to another attorney. Townsend confirmed that Pierce Marshall had nothing to do with the change. Sorensen, accountant Finley Hilliard, and Pierce Marshall have all confirmed that the decision to replace Sorensen.
- Townsend also contradicted Vickie's claim that Pierce Marshall blocked creation of a catch all trust for her benefit. He said Howard Senior decided instead to form a corporation that would allow Howard Senior to finance Vickie's modeling career without incurring enormous gift taxes.
 - A bank, not Pierce Marshall, refused to cover the check Howard Senior wrote to buy Vickie almost \$ 1 million in jewelry. "There was no money in the bank to cover the check," Townsend testified. "The bank wouldn't lend us money to cover the check." Townsend testified it was Howard Senior's decision not to sell assets to pay for the jewelry. When the option of selling assets was raised Townsend said Howard Senior's answer was, "Hell no." Townsend told jurors Vickie refused to return the jewelry and that he was forced to negotiate with her attorneys for months to secure its return.
 - Marshall Petroleum Inc. (MPI) was a legitimate operating company and not an attempt to shield assets from Vickie or Howard Junior.

Pierce Marshall's attorneys added Townsend's name to the long list of witnesses who testified that Howard Senior ran the show and was not influenced by his son Pierce. "Was there any evidence Pierce Marshall could get his dad to do something he didn't want to do?" asked defense attorney Lee Ware. "No," said Townsend. It was the father telling the son what the father was going to do."

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January 23, 2001

Witnesses Contradicts Key Conclusions in California Bankruptcy Case

An attorney who worked with J. Howard Marshall II (Howard Junior) for more than a decade has specifically and strongly refuted conclusions made in a California bankruptcy court.

Jeff Townsend's testimony in Judge Mike Wood's Houston courtroom calls into question key elements of Vickie Lynn Marshall's (stage name -- Anna Nicole Smith) claims against E. Pierce Marshall.

The California court found that attorney Harvey Sorensen was fired by Pierce Marshall after he wrote the so called "new community memo" which asked a member of his law firm to explore a process for giving money to Vickie. Townsend testified that Howard Senior shifted his estate planning and tax work away from Sorensen because he wanted an attorney who would be more aggressive in dealing with tax issues. Previous testimony in the Houston probate case by Sorensen, Pierce Marshall and accountant Finley Hilliard all support Townsend's version of events. Pierce Marshall has testified that the "new community memo" was an internal document generated at Sorensen's law firm and that he didn't see it until years after it was written.

The bankruptcy court also claimed that Pierce Marshall blocked the creation of a catch all trust for Vickie. Townsend, who worked with Howard Senior on the issue, told the Houston court that the catch-all trust was one of four options and that Howard Senior decided a corporation that would allow him to fund Vickie's career was a better alternative.

Pierce Marshall's attorneys added Townsend's name to the long list of witnesses who testified that Howard Senior ran the show and was not influenced by his son, Pierce. "Was there any evidence Pierce Marshall could get his dad to do something he didn't want to do?" asked defense attorney Lee Ware. "No," said Townsend. "It was the father telling the son what the father was going to do."

Townsend also contradicted claims that Pierce Marshall was heavily involved in his father's estate planning and relationship with Vickie. He said Pierce Marshall's attitude was, "Dad can do what he wants with his money."

Townsend also raised the issue of what happened to the millions of dollars in jewelry Howard Senior purchased for Vickie. He said that the jewelry was not on a list of assets filed with the bankruptcy court when Vickie filed for bankruptcy protection. "Do you have any idea what happened to it," he was asked. "No, sir."

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Wednesday, January 17, 2001

Two Defendants Dropped in Marshall Lawsuit

Saying, "I don't think there is any evidence," Houston probate judge Mike Wood granted a directed verdict in favor of a Wichita law firm and one of its partners.

Harvey Sorensen of Foulston & Siefkin did estate planning for the late Texas oil man J. Howard Marshall, II. Sorensen was sued by the late oil man's son, J. Howard Marshall, III, after he prepared five wills and trusts that left nothing to the son at the direction of his client.

Sorensen's attorney, David Beck, argued successfully that his client followed J. Howard Marshall, II's instructions in writing the wills and trusts. Beck reminded the court that wills written before and after Sorensen's also excluded J. Howard Marshall, III.

"Harvey Sorensen worked diligently to carry out my father's wishes," said E. Pierce Marshall. "We are pleased that the court recognized that despite months of testimony there was never any indication that Harvey did anything but serve his client, J. Howard Marshall II, with great dedication."

Earlier in the day Judge Wood ruled that former stripper Anna Nicole Smith must remain in the case. She dropped her suit against E. Pierce Marshall, but now must answer counterclaims that she interfered with Pierce Marshall's inheritance.

Judge Wood also confirmed today that the Marshall family's long time accountant Finley Hilliard has also been dropped from the suit.

"Today's developments confirm my faith in the legal system," said Pierce Marshall. "Finley Hilliard should never have been personally at risk for faithfully carrying out my father's specific instructions," Marshall added.

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Tuesday, January 16, 2001

**New Legal Woes for Anna Nicole Smith;
Judge Rejects Efforts to Leave Houston Trial**

Houston Probate Judge Mike Wood ruled today that E. Pierce Marshall could continue his lawsuit against Anna Nicole Smith. Smith's attorneys had asked the court to allow the model to exit the lawsuit.

Pierce Marshall is seeking damages from Smith alleging that she tortiously interfered with his inheritance rights by filing a frivolous lawsuit in Houston and then dropping the suit midway through the trial. Pierce Marshall has previously accused Smith of trying to "flee the facts" by leaving Texas just before she would be subject to a detailed review of her relationship with her late husband.

Smith was served with a subpoena while on her way to hold a news conference announcing she dropped her suit against Pierce Marshall and that she was leaving Texas. She can be compelled to return to testify.

Jurors in the Houston case have already begun learning about the dark side of Smith's relationship and later marriage to Pierce Marshall's father, J. Howard Marshall, II and her attempts to turn her elderly husband against Pierce.

Jurors heard Smith trying to coach her ill husband in an audio tape she had him record for presentation to a probate court judge. A voice, identified as Smith's by nurse Betty Morgan says, "I want my wife taken care of." J. Howard Marshall, II is then heard repeating the phrase on the tape.

Morgan testified that she heard Smith coaching her husband saying, "No, J. Howard you've got to tell the judge you want me to have half of everything." But J. Howard did not repeat the phrase into the tape recording.

Jurors also learned why the elder Marshall said he didn't want his son, Pierce, coming between him and his wife. In a telephone conversation with her husband, which Smith recorded, she claimed that Pierce Marshall and Howard Senior's doctor were interfering with her visits. Smith tells her husband, "They told me in court I can't come over past 8:00, honey. They'll put me in jail. That's why you have a cop there in your house. There's a police officer there at all times to take me to jail if I stay beyond my time and don't see you. That's why I can only see you 30 minutes at a time."

Nurse Betty Morgan and Pierce Marshall both testified that off-duty Houston police officers were hired after publicity brought a hoard of media and the curious to Marshall's Houston home. Morgan testified that an officer, dressed in civilian clothing and unarmed, simply asked Smith to leave her husband's room for 30 minutes so the nurses could attend to his medical needs. Morgan said both she and the officer invited Smith to wait at the house and then continue the visit.

Nurse Morgan and Pierce Marshall testified that J. Howard Marshall, II's physician, not Pierce Marshall, ordered the visitation limits, and that the limits applied to everyone, including Pierce Marshall. The doctor's orders allowed people to visit J. Howard Marshall, II during a 12-hour period each day. Visits were limited to 30-minutes each between 8 a.m. and 8 p.m., with a 30-minute interval between visits.

Jurors were told that everyone but Smith complied with the doctor's visitation orders. Smith was the only one to complain about them.

The series of taped telephone calls showed a pattern of Smith trying to convince her husband that Pierce was trying to keep them apart, when in fact Smith would show up a few minutes before the end of the visiting hours prescribed by Marshall's physician.

Smith also suggested to her husband that, "They're probably recording this conversation," when in fact she was recording it.

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Friday, January 12, 2001

**Anna Nicole's Worst Nightmare
Elderly Husband Sorry He Married Former Stripper**

She was the witness Vickie Lynn Marshall (stage name: Anna Nicole Smith) didn't want the jury to hear. Despite her attorney's strenuous objections, and Vickie's attempt to flee the facts by dropping her Houston lawsuit, nurse Betty Morgan took the stand and told jurors about the dark side of Vickie's relationship with Howard Senior.

Morgan wrote, "She made his last months on this earth long and lonely when only a few minutes every other day or so would have made a difference. He gave her all he had to give. In return, I truly believe she gave him death."

Morgan described a visit by Vickie to her sick husband's bedside in 1995. Morgan said Vickie's attorney delivered Vickie to the Marshall home. Clutching a tape recorder she said Vickie pulled a chair up to her sick husband's bed and told him "No, J. Howard, you have to say what I tell you. You tell the judge you want me to have half of everything you have."

Morgan testified that she often heard Vickie pressure her husband to make her the beneficiary of his will. "Did he ever agree to do that?" asked defense attorneys. "No," said Morgan. "He would say that he wasn't going to change his will," she testified.

Morgan told jurors in Judge Mike Wood's courtroom that Howard Senior told her he made a mistake when he married Vickie. She testified Vickie did not visit her husband during the last weeks of his life, and that he refused to take a phone call from her on the day he died.

Morgan told jurors that Vickie would call as often as five times a week demanding still more money. "She would begin to scream and holler, she needed the money," Morgan testified. "She said he had to send her the money, he was her husband."

Morgan also described other bizarre behavior by Vickie, including an attempt to claim her late husband's body so that she could put it on display at a pool party. Morgan says she once blocked an attempt by Vickie to remove all the books from Howard Senior's home and replace them with pictures of Marilyn Monroe and Elvis.

Morgan began working for the Marshalls in 1991, caring for Howard Senior's wife, Bettye, who suffered from Alzheimer's disease. When Bettye died, Morgan stayed on to care for the man she called J. Howard (Howard Senior). She had first-hand knowledge of Howard Senior's relationship with Vickie before and after the former stripper married Howard Senior.

Morgan described a relationship between Howard Senior and Vickie that deteriorated over time as Vickie became increasingly demanding. "In the beginning he was happy to give her things," she testified. "But as time went by she was demanding, really demanding. He told her at the time, 'Vickie, I can't afford to pay the gift taxes.'"

Morgan told jurors she thought Howard Senior wanted to marry Vickie to eliminate the gift taxes that were costing him millions of dollars.

Morgan presented a sharp contrast to the high paid expert witnesses and well rehearsed plaintiffs who have testified during the trial. Low key and sincere Morgan brought tears to some juror's eyes as she described her relationship with Howard Senior.

Morgan told jurors that Howard Senior often said he would not change his will, and that there were other ways of helping people. She said Vickie began pressuring Howard Senior to change his will within six months of the start of their relationship. "I never heard anything about his leaving her half of his estate," she testified. "We had conversations that she would be well taken care of by the time of his death," Morgan told the court.

Morgan told jurors the Howard Senior was in control of his affairs and not subject to influence from his son, Pierce, or his other business advisors. "He (Howard Senior) was in charge," she told the court. "Would these people get him to do something he didn't want to do?" she was asked. "No," she answered emphatically.

Morgan also undermined claims by Howard Junior that his father was mentally incompetent. She told jurors that Howard Senior disliked attorneys and physicians, and loved to give them a hard time when they attempted to question him during examinations and depositions. "He told her, 'I'm not going to play their games.'" She described Howard Senior as playing a joke when he told his doctor during an examination in the early 1990s that Roosevelt was president. She said he winked at her, indicating the answer was a joke

because he didn't like the question. She said that he knew who was president and told her, "It's that son of a bitch Clinton."

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Thursday, January 11, 2001

**Nurse Says Anna Nicole Smith Used Drug
to Put Future Husband in Mood To Shop**

More Testimony Expected Tomorrow

Betty S. Morgan says Vickie Lynn Marshall (stage name: Anna Nicole Smith) used drugs to put her future husband, J. Howard Marshall, II (Howard Senior), in the mood to shop, during a trip to a fancy New York jewelry store. Morgan, a licensed vocational nurse, told jurors in Judge Mike Wood's court that she specifically told Vickie on a number of occasions that Howard Senior could not take Valium, the drug Vickie told Morgan she gave Howard Senior during the visit to Harry Winston's in 1993. Howard Senior purchased several million dollars worth of jewelry during the visit.

In a statement Morgan provided in previous litigation, she stated, "After Vickie sedated Mr. Marshall, he completed the transaction at Harry Winston. Mr. Marshall did not have a prescription for Valium as he was physically unable to take such drugs."

Morgan told jurors that Howard Senior was alert and aware of his surroundings when he entered the store, but left after his shopping trip in a daze. "He was way down in his chair," she testified, "drooping to one side and drooling," Morgan added.

Morgan described a scene in 1993 where Howard Senior took a taxicab to the jewelry store while Vickie arrived in a stretch limousine. Morgan's account of the story supports previous testimony by E. Pierce Marshall who told jurors his father was drugged when he made multi-million dollar jewelry purchases for Vickie.

Arnold J. Wyche, who worked as Howard Senior's driver, also confirmed that guards and visitation limits when Howard Senior was ill in 1995 were doctor's orders, and applied to everyone, including Pierce Marshall. Wyche said he never saw the guards in the room with Howard Senior when Vickie visited. Wyche said the guards were put in place because the news media had begun staking out the home.

Morgan is expected to return to the stand Friday morning at 8:30 a.m. Today's testimony was admitted over the strenuous objections of Vickie's attorneys.

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More from Thursday, January 11, 2001

**What Were They Thinking?
Brother Continues to Call Witnesses Who Help Defense**

Attorneys for Howard Junior continued to call witnesses who help the defense. Both Arnold J. Wyche, who worked as a driver for Howard Senior, and Betty Morgan, who worked as one of his nurses, testified they were told that Howard Junior had been disinherited by his father.

Neither witness helped Howard Junior's claims that his father could not see well enough to read the six wills and seven trusts created over a ten-year period that specifically disinherited Howard Junior. Wyche described Howard Senior as someone who liked to watch the news, the Weather Channel and movies about trains. He also testified that Marshall Senior could read the menu in restaurants. "I thought he could see," Wyche testified. "He never complained about his ability to read."

Morgan was even stronger, testifying that Howard Senior read the newspaper and often joked with her that he had better vision than she did. "He read to me (the newspaper) without his glasses," she testified. "He would show me that he could read better than I could." She described a 1993 trip to New York during which Howard Senior was pointing out the sites to her as they rode in a cab.

Morgan totally discredited Howard Junior's claims that his father was "lethargic, drooling and can't sit up." Howard Junior's attorneys tried to claim that it was Morgan who used those words to describe Howard Senior in 1993. But Morgan pointed out the description applied to Howard Senior's temporary condition after Vickie gave him an unauthorized dose of Valium. Morgan testified that Howard Senior was sensitive to the drug and that she had repeatedly told Vickie not to give it to him. Morgan said Vickie gave Howard Senior the drug anyway, even though a physician did not prescribe it for him.

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Friday, January 5, 2001

**Judge Mike Wood Refuses to Let Anna Nicole Smith
Out of Litigation with E. Pierce Marshall**

Today in Judge Wood's court, Vickie Lynn Marshall (stage name: Anna Nicole Smith) filed papers to officially end her law suit against E. Pierce Marshall and other defendants.

Although Vickie has again disappeared from the court room, her attorneys are continuing to stick around while they try to convince the court to allow their client to exit the case.

But she can't leave, yet, because Pierce Marshall and others have also sued her, claiming that the former stripper tortiously interfered with the inheritance rights of Pierce, his family and others.

"Vickie and her lawyers declaring victory because of a California bankruptcy ruling is like the captain of the Titanic declaring victory over the ice berg because the ship did not sink immediately," said defense attorney Rusty Hardin. "In both cases they are going down. She can run, she can hide, but she cannot escape being held accountable by a Harris County jury."

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January 2, 2001

Defense attorney Rusty Hardin asked the question that has been on almost everybody's mind in Judge Mike Wood's Houston courtroom: "What is this case about?"

He put the questions to the man who should know, J. Howard Marshall, III (Howard Junior), who filed suit claiming that his younger brother, Pierce, and many of his father's most trusted advisors conspired to cheat him out of his inheritance. Howard Junior claims his father promised him "equal participation with his brother Pierce in estate planning and control before and after his parents' deaths," but has failed to produce a single live witnesses to support the claim.

Testimony showed jurors that Howard Senior specifically excluded Howard Junior from any additional inheritance in a series of six wills and seven trusts dating back to 1982 following a business dispute which the father paid Howard Junior \$8 million to end. The father referred to the payment as "Howard's inheritance."

"Did your father never intend to fulfill his promise, or was he prevented from fulfilling it by others?" Asked Hardin. "I'm not sure," said Howard Junior.

"The man who has sued contending these people entered into a conspiracy, after four years of discovery, you can't tell them (the jury) to this day what your father's intentions where in 1980?" Hardin asked in disbelief. "His state of mind is cloudy to me," Marshall replied.

Howard Junior's attorneys have studiously avoided bringing up the other big question in this case: "Why would a group of successful professionals, including the son of a federal judge, conspire against their client, Howard Senior, to benefit Pierce Marshall?" Each has testified they worked for Howard Senior and followed his specific instructions concerning his wills and trusts.

Defense attorneys also continue to hammer away at Howard Junior for failing to act each time, over a 15 year period, he learned that estate planning was taking place or that he was not being treated equally with Pierce. Howard Junior admitted he didn't raise the issue with his father even when he learned estate planning was taking place and he was not involved. Defense attorney Lee Ware pointed out that Howard Junior knew he was not being treated equally as early as 1981, because his brother Pierce received an option to buy back the Koch Industries shares Howard Junior sold to his father.

Defense attorneys also showed that Howard Junior's view of his father changed dramatically after his father died and Howard Junior learned that he was left nothing in his father's will. Howard Junior testified he considered his father a valued business advisor throughout the 1980s and 1990s. Howard Junior told jurors he saw no impairment in his father's activities when Howard Senior served on his company's board until a year before his death in 1995. Once Howard Junior learned that he was not named in the will, he allowed his attorneys to portray his father as a slobbering, mentally impaired drunk whose mental problems dated back to 1982.

Defense attorneys continue to remind jurors of other major problems with Howard Junior's case:

- Howard Junior, who took over 30,000 pages of notes, cannot produce the original notes from the key December, 1980, meeting with his father where he claimed the oral agreement was reached.
- He did not produce notes for a deposition from an October 21, 1982, meeting that is the only time he claims he used the terms "share equally with Pierce" in front of his father.
- He cannot explain why he did not use the term, "share equally with Pierce," when describing his alleged agreement with his father.
- He could not provide defense attorney Ware with details of his 1980 meeting with his father, continually saying, "I don't know, I don't remember the exact words, I just don't remember," as Ware pressed for details of the meeting.
- He will not commit that he will not take many of the same parties to court again over his mother's estate.
- Ware also pointed out that Howard Junior did not even tell his mother about his alleged agreement with his father, even during the time he was trying to convince her to leave him more of her estate. Jurors learned Howard Junior's mother claimed she was not leaving him any of her Koch stock because she agreed with his father's assessment that Howard Junior was out to ruin the company.

Jurors in Judge Mike Wood's court learned today that Howard Junior was so obsessed with inheriting equally with his brother, Pierce, that Howard Junior actually sued Pierce's children personally for half of the gifts they received from their grandfather. Howard Junior also refused to say he will not sue for a larger share of his mother's estate in the future.

Today, jurors saw clear evidence that Pierce Marshall was not responsible for his mother's decision not to leave Howard Junior any MPI stock. Howard Junior's mother wrote that Howard Senior told her not to leave their oldest son any stock in the family business, Marshall Petroleum Inc. (MPI). MPI held the family's interest in Koch Industries.

The date of Howard Junior's mother's November 1992 letter is especially significant because it means Howard Junior knew his father was violating the so-called "oral contract" years before he filed suit, creating statute of limitation issues.

Hardin also showed jurors that Howard Junior told virtually no one about his so-called agreement with his father for "equal participation with Pierce in estate planning and control before and after my parents death." Howard Junior also testified he didn't tell his brother, Pierce, or two other defendants, attorney Harvey Sorensen who visited and corresponded with Howard Junior about estate planning issues for his mother, and CPA Finley Hilliard who did Howard Junior's tax returns and was Howard Senior's trusted accountant. All three have testified they knew nothing about the agreement because Howard Senior told them that he had paid Howard Junior his inheritance early and in cash when he purchased Howard Junior's Koch Industries stock in 1980 for \$8 million.

Defense attorneys have already pointed out that the language says nothing about receiving an equal inheritance. They have also questioned whether Howard Junior ever had an agreement of any kind with his father, since no evidence has been presented that Howard Senior ever told anyone he made such an agreement with Howard Junior, and Howard Senior's estate plan never took such an agreement into account.

Howard Junior failed to confront his father concerning the issue for 15 years, even though Howard Junior learned time and again that his father was engaged in estate planning and that Howard Junior was not involved. "Your assumption is that if Pierce comes out ahead he did something nefarious," said defense attorney Rusty Hardin. "What if it was just your parent's decisions?" "It's possible," Howard Junior conceded.

Hardin pointed out that the "oral agreement" didn't come up even when it would have benefited Howard Junior, for example, to try to convince his mother that if Howard Senior planned to leave MPI stock to Howard Junior, she could, too. Because MPI represented the majority of the Marshall family wealth, Howard Junior could only share equally with Pierce by receiving MPI stock.

Defense attorney Jeff Chambers pointed out that Howard Junior's step mother, Bettye Marshall, was also unhappy with him for siding with dissident Koch Industries stockholders and agreeing to a one-sided deal with his father. Chambers showed jurors that Howard Junior's agreement to sell back to his father the Koch Industries stock his parents gave him as a wedding present (as well as some other Koch holdings), made virtually no economic sense for Howard Senior, and helped explain why his father said he paid his eldest son "a blackmail price."

Howard Junior agreed that the Koch Industries stock he sold his father for \$8 million dollars produced only \$80,000 a year in dividends. With interest rates in 1980 in the double digits Chambers showed jurors that the interest payments alone on the \$8 million dollars needed to finance the transaction amounted to \$1.6 million dollars a year.

In previous testimony jurors learned that Howard Senior could not make the interest payments and wound up selling the stock to Charles and David Koch, reducing the Marshall family's holdings in what Howard Senior considered the family's most precious asset. Chambers went on to challenge Howard Junior's contention that William Koch would have paid between \$16 and \$24 million for the same stock.

Chambers pointed out that the interest costs for a \$16 million dollar loan would have amounted to \$3.2 million per year and interest costs on \$24 million would have amounted to \$4.8 million per year for stock that would produce only \$80,000 per year in dividends. Howard Junior tried to counter the argument by saying

Chambers wasn't taking into account the potential appreciation of the Koch stock. But, Chambers pointed out that dissident shareholders sold out for less than the \$207 a share Howard Junior received for his stock when they sold three years later. Howard Junior's claims also did not track with his constant complaints that stock in the private energy company is an illiquid asset that cannot be easily sold or used as collateral.

Earlier, defense attorneys continued to press home the point that Howard Senior never mentioned the so-called deal with Howard Junior to anybody. In fact, Howard Senior told just the opposite story to friends, business associates and even acquaintances. Hardin showed jurors an internal memo written in February 1989 by a college official who met with Howard Senior seeking financial support. The memo reads in part: "He can forgive his son Howard (Howard Junior), but he can't trust him."

Howard Junior claimed that he never called his father to ask about estate planning issues even when it became evident he was aware that he was not participating in any of his father's estate planning activities. Attorney Hardin also challenged one of Howard Junior's central claims that his brother, Pierce, was somehow responsible for writing Howard Junior out of Howard Senior's will.

In a letter to Howard Junior, his mother tells him that Pierce and Finley Hilliard (the family accountant) have been urging Howard Senior to engage in estate planning. "Pierce suggests you call Finley to know all about everything," his mother writes. "Pierce says he considers him honest."

Howard Junior sued Hilliard and his brother after his father died and he learned he had been left out of his father's will. But Howard Junior admitted he never followed up on his mother's and brother's suggestion that he call Finley while his father was alive in 1982. "If you really had an oral contract...why didn't you call your father?" demanded Hardin. "I just chose not to," answered Howard Junior. "Are you familiar with the phrase, 'smoking gun?'" Hardin asked. "If you had an oral contract with your father why didn't you follow up?" asked Hardin. "You were asked 13 years before your father died to look into it," Hardin added. Jurors have also heard evidence that Howard Junior is unhappy with his mother's estate plan. Howard Junior was pressed several times whether he would commit to not suing his mother's estate, but declined to make that commitment. Defense attorneys also continued to hammer away at an opening statement claiming that Howard Junior was the successful older brother. They introduced a letter from a foreign firm that had invested in Howard Junior's California company. In the letter, the investors complained about unexpected losses and asked to be bought out of their investments. Howard Junior would later step down as president of the company.

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Tuesday, December 19, 2000

Howard Junior stuck a knife through the heart of Vickie Lynn Marshall's (stage name Anna Nicole Smith) case today when he told jurors that his father's MPI stock "came out of his father's first marriage and was his father's separate property." A surprised defense attorney Rusty Hardin drove the point home for the jury adding, "As of June 26, 1994 everything your father owned was his separate property as it applied to anyone he married on June 27, 1994?"

The statement was unusual because it came from a witness whose stubborn insistence on sticking to his story has become a running joke in the courtroom. Howard Junior repeats his key messages even when they are not responsive to the questions of opposing attorneys, so it is surprising that he would make a statement that seems to undermine the case of someone who the media has portrayed as his ally.

Vickie's attorneys don't want jurors to hear about the fact that Howard Senior's MPI stock was his separate property because that means Vickie isn't entitled to inherit it since it was not part of the community property in their marriage.

Attorneys for defendant Pierce Marshall contend that the MPI stock (which makes up the bulk of the late J. Howard Marshall's (Howard Senior) wealth) was his separate property dating back to the time of his divorce

from his first wife in the 1960s and was never community property during his marriage to Vickie. That takes a huge amount of money off the table since MPI stock made up the majority of Howard Senior's wealth.

Howard Junior and Vickie are supposed to be on the same side in this case. He has said nice things about Vickie although he admits he didn't really know her. Yet jurors in Judge Mike Wood's court have learned that their cases have major conflicts. Howard Junior has claimed his late father was impaired when he wrote his eldest son out of a series of wills and trusts beginning in 1982. Vickie's attorneys claim Howard Senior was fine when he married the former stripper in June 1994.

Howard Junior's attorneys also gave jurors another indication that their client and Vickie have competing interests when they pointed out that Howard Junior isn't asking for half of the estate, but rather an equal share with his brother Pierce, despite the fact that Howard Senior specifically wrote him out of his wills and trusts beginning in 1982. That means Howard Junior would receive less if Vickie receives anything. Howard Senior left the bulk of his estate to his son Pierce in a series of six wills and seven trust dating back to 1982.

Jurors have also learned that Howard Junior met with Vickie and her attorneys concerning their respective cases, which have remarkably similar themes. Both claim an oral promise the decedent made only to them and can offer no live witnesses or documents to support their claims.

Howard Junior's testimony also undermined Vickie's case by showing jurors that Howard Senior's stock in MPI was so important to him that he disinherited Howard Junior when he sided with dissident shareholders who attempted to take control and overthrow Koch Industries management in 1980. Howard Senior left the stock to his son, Pierce, because they shared a commitment to Koch Industries and a desire to keep the stock in the family. Jurors may wonder whether Vickie, who has only a 9th grade education and has testified in depositions that she doesn't know what a check register is, would take the same long term view of the Koch investment and want to keep it in the family for future generations.

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**More from:
Tuesday, December 19, 2000**

Jurors in Judge Mike Wood's court learned more about the bizarre relationship Howard Junior had with his parents.

According to his own testimony, the oldest Marshall son studiously avoided talking to his father about estate planning issues for years but had no problem berating his elderly mother for her estate planning documents and constantly urging her to leave him still more money, and didn't attend his father's memorial service even though his mother urged him to come.

Defense attorney Rusty Hardin portrayed Howard Junior as a man who had little success in business but was relentlessly focused on getting as much of his parent's money as he could. Jurors learned that the eldest Marshall son:

- Charged his father for trips to visit him in Houston, even turning in receipts for airport parking
- Made notes to himself about newspaper articles concerning his father's wealth
- Never called his father in 1994
- Didn't call his father for a month after his brother Pierce told him his 90-year-old father was in the hospital
- Wanted his 86-year-old mother and her attorney to fly to California to see him to discuss how much he would receive from her estate
- Did have his attorneys obtain his father's will and trust documents within a few weeks of his father's death
- Suggested his mother sue his father over her estate and accused his mother (who is a minister) of lacking moral character

- Spend days pouring over his mother's estate documents which he obtained after a bitter fight that left his mother so upset she refused to meet with him to discuss her estate
- Supposedly told only two people, his wife and fellow dissident Bill Koch, about his father's alleged "promise" that he would share equally with Pierce in the estate
- Failed to tell his mother, his accountant, his father's attorneys or his brother Pierce about the "promise" until his father died
- Failed to keep the original notes concerning the "promise"
- Met with Vickie and her attorneys in California to discuss their lawsuits against Pierce, which both claim a secret oral promise for which there are no witnesses
- Refused to apologize to his mother or father even after he knew his actions had visibly upset them and hurt them deeply

Howard Junior's own testimony portrayed a stubborn man obsessed with the lack of liquidity in his Koch Industries holdings. In the end, he would sacrifice his relationship with his father and seriously threaten his relationship with his mother over the issue. And even though generous gifts from his father and mother were the principle reason he became wealthy, Howard Junior's testimony showed a man obsessed with making sure he received as much from his parents as did his younger brother, Pierce.

Howard Junior testified he was very concerned that his younger brother had been chosen as executor of his parent's estates, claiming Pierce resented him.

Howard Junior's attorneys told jurors during opening arguments that it was their client who was a success and that Pierce Marshall was jealous. But using Howard Junior's own words, defense attorneys showed that it was Howard Junior who was dependent on his father for financial help throughout his life, Howard Junior who was only modestly successful in business and Howard Junior who constantly tried to make sure Pierce didn't get a dime more than he did from their parents.

Howard Junior only raised the issue of the liquidity of his holdings in Koch Industries once with his father in 1977. When his father said he did not want to talk about the subject, Howard Junior said he didn't raise it again with his father for three years. Instead he decided to side with a dissident group of shareholders who wanted to take control of the Koch Industries board. Howard Junior took the position even though he knew his father was adamantly opposed to the dissidents. Howard Senior flew to California and purchased his son's Koch Industries stock, even after it was clear that the takeover attempt would fail, and then made good on his promise to write Howard Junior out of his will for betraying him.

"You still don't get it," said defense attorney Rusty Hardin. "Your father cared more about that company (Koch Industries) and your family maintaining its position in it even more than his beloved cash."

Howard Junior's claim that part of his deal with his father was that he would share equally in his father's estate conflicts with virtually all the testimony so far in the trial where witness after witness, all called by the plaintiffs, have testified that Howard Senior told them he had disinherited his oldest son after giving him his inheritance when he purchased his Koch Industries stock.

Attorney Rusty Hardin reminded Howard Junior over and over again that his claim that he would have "equal participation with Pierce in estate planning and control before and after my parents death" says nothing about him receiving an equal share of the estate. Hardin showed jurors that Howard Junior took no action when it became evident that he was not having any role in his father's ongoing estate planning and was never named co-executor of his mother's estate.

In fact, Hardin noted Howard Junior didn't raise any issues with his father concerning the so-called "promise" to share equally with Pierce. "You refused to confront your own father, you were too afraid to ask your father a single question about his estate from 1980-1995," Hardin said.

Hardin suggested Howard Junior was really concerned about making sure he was going to receive an equal share of his mother's estate. "Didn't you tell Bill Koch that your father couldn't disinherit you because your mother also owned Koch stock?" asked Hardin. His mother sided with his father in the dispute and changed her estate plan to make sure Howard Junior did not receive any of the MPI stock she held as her separate

property. She told her oldest son his decision to side with the dissidents threatened her economic welfare and that he lacked character when he took sides against his father.

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Monday, December 18, 2000

"Money is only a tool to be used for productive purposes - but for those who believe otherwise, it does become the root of all evil."

J. Howard Marshall, II in a letter to Eleanor P. Marshall, Jan. 11, 1992

Jurors had an opportunity to hear why J. Howard Marshall, II (Howard Senior), in the late oilman's own words, decided to disinherit his oldest son.

Attorney Rusty Hardin introduced a letter Howard Senior wrote to Howard Junior's mother 12 years after he paid Howard Junior \$8 million to buy out his Koch Industries stock. Howard Senior bought the stock after Howard Junior sided with a group of dissident shareholders who wanted to take control of the Koch Industries board of directors. For a time, the Marshall family's Koch Industries stock that Howard Senior had given his sons was the swing vote to determine who would control the company.

The letter is important because it not only explains the events but also makes it clear that defendant E. Pierce Marshall had nothing to do with his father's decision to disinherit Howard Junior, Pierce's older brother. Howard Senior writes that he received his information from his oldest son, not Pierce noting: "...I talked to Howard in several long phone calls before the takeover meeting which was to be held."

Howard Senior writes:

"Money is only a tool to be used for productive purposes - but for those who believe otherwise, it does become the root of all evil."

"In all of this tragic situation, our family held the balance of power - the swing vote if you please. And that swing vote was in turn held by our two sons to whom we had given our voting stock in Koch because I thought - I fear rightly - it was the most valuable asset we owned with which the boys could help carry on what Fred Koch and I had built, block by block."

"...I talked to Howard in several long phone calls before the take over meeting which was to be held. I asked Howard to stand with me. He flatly refused. In talking to young Howard (Howard Junior), I stressed that my moral obligations as regards Koch were his moral obligations - that Fred Koch had said he disliked partners but had one exception, 'Howard Marshall,' that we had no right to be false to that trust. By way of contrast, Pierce told the same people who courted Howard (Junior) that they could never offer him enough to vote against his father or the best interest of the company."

Marshall went on to write "...I have never been so distressed and inwardly angry in my life."

The letter quotes Howard Junior's wife as saying, after Howard Senior bought the stock, "It's alright to be poor but it's better to be rich," adding he hoped her comment was in jest.

In response to his former wife's suggestion that he should consider forgiving Howard Junior, Howard Senior writes: "Perhaps time - a great healer - may bandage the wound. Forgive - easily if Howard asks it. Forget - not easily. I quite agree he did not intend to hurt us - but hell is truly paved with good intentions."

Defense attorney Hardin was incredulous when Howard Junior maintained that he had never apologized to his father because he had no idea anything was wrong. "You never really understood what his driving force was," said Hardin. "Is it possible you never really understood your father's love for Koch Industries?"

Once again pointing out Howard Junior's stubborn refusal to concede the smallest point while on the witness stand Hardin concluded: "In the world according to Howard III (Howard Junior) there is no room to admit you were wrong."

The Blackmail Price

Howard Junior has maintained that his father paid a bargain price when he bought out his Koch Industries stock in December 1980. Howard Junior has claimed dissident shareholders were willing to pay between \$16 million and \$24 million for his shares because they represented the swing vote in the takeover bid for Koch Industries.

But in a letter to his former wife, Howard Junior's mother, Howard Senior said the higher price was a myth, writing: "...I concluded by throwing my check on his table for \$8 million for all of his stock in Koch with the words 'That check is good - you had better weigh it against the promises of the opposition...'"

In testimony today, Howard Junior admitted he valued his Koch stock at between \$60 and \$80 a share when he applied for a bank loan in early 1980. His father paid him \$207 a share just seven months later. Howard Senior called the \$8 million a blackmail price, and said his son had received his full inheritance "early and in cash."

The next time Howard Senior revised his will and trust in September 1982, he specifically eliminated Howard Junior as a beneficiary.

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Thursday, December 14, 2000

J. Howard Marshall, III (Howard Junior) accumulated 30,000 pages of handwritten notes during his life but can't produce the notes he says he took when he claims his father offered him equal participation in his estate. The lack of notes, or any live witnesses to the so called deal with his father is only one of the problems Howard Junior faces as he undergoes intense cross-examination in Judge Mike Wood's Houston courtroom.

Using his own words, defense attorneys Rusty Hardin and Lee Ware portrayed Howard Junior as a bully and coward willing to scream at his 86-year-old mother, reducing her to tears while demanding her estate planning documents, but afraid to ask his father any questions about his estate over a 15-year period.

"What color is your sky?" demanded Hardin. "Where does a child get off getting mad at a parent for not giving him her estate documents?"

"You accused your own mother of lacking strength of character," charged Hardin, an especially vicious allegation since Howard Junior's mother had become a minister. "Did you apologize to your mother?" he demanded. "I don't believe I did," Howard Junior replied. Hardin also noted that Howard Junior urged his mother to sue his father, even though the two continued to get along well after their divorce and agreed together that Howard Junior would not receive any Koch Industries stock from either estate.

Attorney Hardin ripped into Howard Junior for hiring attorneys to portray his younger brother, Pierce, as a failure, dependent on his father for any business success, while his wife and family looked on. Howard Junior claimed he had nothing to do with the vindictive nature of his attorney's opening statements to the jury.

Jurors have already learned from previous testimony that Howard Junior's characterizations of Pierce as a failure are unfair and untrue. According to testimony already presented, Pierce served his country in the U.S. Navy, worked for General Motors and on Wall Street and saved a business owned by his wife's family when

it was on the verge of collapse. Pierce joined his family's business at his father's request, even though witnesses have testified he was already successful and happy running another company.

In a blistering cross-examination by Hardin, jurors learned that it was Howard Junior who depended on his father's wealth, loan guarantees, business connections and advice throughout his business career. Hardin portrayed Howard Junior as a man so insulated from reality by his father's wealth that he could not tell jurors how much his 12 years of college and post-graduate school costs, the rent on his first apartment or the salary from his first job.

Howard Junior steadfastly claimed that the only reason he permitted his father to purchase his Koch Industries stock in 1980 for \$8 million dollars was a promise that he would have "equal participation with Pierce in estate planning and control before and after his parent's death." Howard Junior claimed that dissident Koch stockholders would have paid him millions more for his shares than his father offered because they represented the swing votes in an attempt to take over the company. His brother, Pierce, refused to side with the dissidents. But jurors have already learned that when the dissidents lost a bank proxy for other Koch shares, Howard Junior's stock no longer represented the swing votes and carried no premium.

Throughout his cross examination, Howard Junior showed jurors his stubborn insistence that he is always right, even when confronted with the most minor discrepancies in his testimony. When questioned about what every witness who addressed the issue described as his betrayal of his father when he backed Koch dissidents, Howard Junior refused to concede he might have done anything wrong. He testified how tired and disheartened Howard Senior looked when he flew out to California to confront him concerning the issue. Howard Junior said he sold his Koch Industries stock out of concern for Howard Senior's health. Yet when asked why he never apologized to his father during the next 15 years Howard Junior insisted that he "had nothing to apologize for."

Attorney Lee Ware pointed out that Howard Junior was aware of major changes in his father's estate planning in the early 1980s but never asked to be involved, even though the changes violated the agreement he claimed he had with his father. Ware also pointed out that Howard Senior could not make an agreement to give Howard Junior equality with his brother, Pierce, in planning his mother's estate, since the couple had divorced years earlier. "Why didn't you act like you had a contract?" Ware demanded. "No reason," Howard Junior replied. "Why did you never confront your father," asked Ware, "saying 'remember our deal'. . . if you had a deal? You were not a part of the estate planning and you knew it," Ware added.

"Your mom told you weren't going to inherit anything from your dad in 1986 and 1988," Ware noted. "Why didn't you mention your contract to your mother?" "I didn't think it was relevant," Howard Junior replied.

The trial has continued to produce some ironic moments. Howard Junior can't produce notes from a meeting that would allow him to share in his father's estate, yet his attorneys proudly produced letters from his father thanking his son for a Christmas fruit basket in an attempt to show Howard Junior had a good relationship with his father. Attorney Hardin pointed out that Howard Junior kept copies of his own handwritten letters, and told the court that Howard Junior would only do that if "you were setting up a lawsuit." Throughout the trial, Pierce Marshall's attorneys have told jurors that Howard Junior had always planned to challenge his father's will after he died, because there would be no other witnesses to his "supposed oral agreement" with his father to share in the estate.

Howard Junior is expected to return to the stand on Monday, December 18 for another grueling round of cross-examination.

"I have no regrets regarding my decisions in 1980 and prefer to live my life independent of my father even at the expense of a large inheritance." -- **J. Howard Marshall, III, 1992**

That's not the story Howard Junior is telling the jury now. Defense attorneys painted a picture of Howard Junior as a greedy man who measures his self worth by his net worth. Under cross examination by defense attorney Lee Ware, Howard Junior told jurors in Judge Mike Wood's probate court that being left out of his father's will meant he was "not a part of the family." Howard Junior told jurors that the amount of money he was left by his parents "defined his status within the family."

"I want to show the jury the mind set that you operate under," said Ware.

Howard Junior didn't recognize his father's strong feelings toward Koch Industries and his determination to keep the family's interest in the successful company intact. Howard Junior testified he was more interested in using the stock to fund other activities and did not share his father's attachment to the company. What his father considered a fatal lack of judgment and integrity led to his Howard Senior's decision to write him out of his wills and trusts.

Howard Junior told jurors he had a good relationship with his father, even after he sided with a dissident shareholders group against his father's wishes who were trying to take control of Koch Industries. Howard Junior changed sides when his father bought his Koch stock for \$8 million in 1980. The stock had been a gift to Howard Junior from his father and mother in 1974.

Dissident leader Bill Koch testified that Howard Junior broke an oral contract with him when he decided to sell his stock to his father. Howard Junior testified he broke his agreement with the dissidents because he thought he would eventually receive more money by dealing with his father.

Howard Junior's attorneys had promised jurors that Bill Koch would appear in person, but had to substitute a video taped deposition when Koch declined to appear. Koch also testified that Howard Junior was aware he was risking his inheritance by siding with the dissident shareholders. Speaking of another shareholder who had not yet committed to the group, Koch quoted Howard Junior as saying, "She damn well better support us because I'm risking all my inheritance on this."

According to testimony so far in this case there is also no evidence that Pierce Marshall played any role in his father's decisions concerning his brother's inheritance. Testimony shows that Howard Senior's dealing with his oldest son took place in person and before Pierce Marshall knew of his father's purchase of Howard Junior's stock.

Koch testified that Howard Senior made it clear to his son as early as 1977 that he did not share his son's concerns about the lack of liquidity in the family's Koch holdings. According to previous testimony, Howard Junior did not tell his father he was siding with the dissident group. His father learned of what he termed his son's betrayal from other board members who received notice of a special meeting signed by Howard Junior.

Howard Junior testified that his father gave him an ultimatum on November 26, 1980. He said, "If I didn't let him vote the stock his way he'd disinherit me." Howard Senior bought his son's stock on December 2, 1980. Howard Senior told colleagues the \$8 million dollars he paid for the stock was his son's inheritance.

Pierce Marshall testified that he told the dissidents that there was no amount of money that would make him split with his father. This testimony was corroborated by a taped conversation between Pierce and Bill Koch taken on December 2, 1980, which was played for the jury by Howard Junior's own attorneys. He held on to his Koch stock. His father left him the bulk of the family estate, which included the family's Koch holdings.

Howard Junior told jurors his father visited him often and served on the board of his company after the 1980 dispute. However, since he learned he was written out of the will, he and his attorneys have tried to portray Howard Senior as a drunk, and a womanizer who was too blind and mentally addled to make decisions about his affairs.

In order for Howard Junior to win his case he must have someone challenge the validity of six wills and seven trusts written over a period of more than a decade that do not leave him anything from his father's estate.

In earlier testimony Howard Junior's attorneys leveled vicious personal attacks on his brother Pierce. The mud slinging continued when he told jurors that his father had an affair.

Ware attacked Howard Junior's claim that he had an oral agreement with his father that was part of the deal to sell his stock in 1980. Ware quoted the language Howard Junior used to describe the deal, that he would be "treated equally with Pierce in estate planning and control before and after my parent's death." Ware pointed out that the language does not indicate that Howard Junior would receive an equal share of the estate. Ware also pointed out that despite months of testimony Howard Junior had not presented a single live witness to support his claim of an agreement with his father.

Howard Junior's concern about money is evident in a series of letters he sent to his mother complaining that she was not leaving him enough money. Previous testimony has shown that Howard Junior hounded his mother concerning her estate plans, demanding meetings and continual updates, leading to a rift in his relationship with her. At one point the relationship was so strained that Howard Junior's mother refused to meet with him, sending her attorney, Harvey Sorensen, instead. His mother agreed with Howard Senior not to leave Howard Junior any Koch stock, because like her former husband she supported the Koch management team and saw the dissidents as a threat to her financial security.

Howard Junior has claimed he never intended to overthrow Koch management. But Koch officials who testified previously said top executives would have quit if dissidents had taken over the board. They also dispute Howard Junior's claim that three members of the Marshall family could have served on a restructured Koch board.

Howard Junior's overwhelming concerns about getting his hands on his parent's money was evident in letters he wrote his mother:

"My father's exploits with Vickie (a.k.a. Anna Nicole Smith) are sufficiently notorious that Ilene and I often see them described in print. They include million-dollar credit card charges for jewelry and negotiations with her lawyers to establish the amount and terms of his gifts. My father even mentioned that she wanted him to buy her a house in Beverly Hills, but apparently she lost interest after the recent earthquake. I can easily believe that the expenses run into the millions, she clearly wants all that she can get, while giving little more than the flattery of a pretty face and a now voluptuous body in return." -- July 9, 1994

The depth of Howard Junior's feeling about his father was illustrated in another letter to his mother written in 1992: "I am aware of my father's (sexual) exploits. His vanity allows him only two major topics of conversation the beautiful women in his life and the success of Koch Industries."

Ironically, Howard Junior said he wanted his father on his board of directors for his business expertise. Howard Senior said he agreed to serve on the board to keep a foot in the enemy camp.

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Thursday, December 7, 2000

Donna Roebuck, a long-time employee of Marshall Petroleum and Howard Senior (1981-1999), who had known him since she was a teenager, testified today that Howard Senior had never discussed with her any plans to leave anything to Vickie.

Roebuck said she saw Howard Senior everyday he was in the office, and that she worked for Pierce after Howard Senior's death until Marshall Petroleum got out of the oil and gas business.

Roebuck also said that Pierce had never discussed with her anything about the money his father spent on Vickie before or after their marriage. Asked by Vickie's attorney about her opinion of Howard Senior's mental competence, she said she believed he was mentally competent. "No one ever got him to do anything he didn't want to do," she noted. She said she never saw any signs in the 1980s that Howard Senior's mental faculties had declined, even when he lost his wife of 30 years and his mistress in 1991.

She said that during 1992 and 1993, Howard Senior was, "coming to the office daily, was aware of what was going on, and still making the final business decisions at Marshall Petroleum."

She said in the 14 years she worked for Howard Senior, she never met Howard Junior and never saw him at the hospital when she visited Howard Senior there.

In response to a question from attorney Jeff Chambers, Roebuck said she was unaware of physical incapacity that would have prevented Howard Junior from visiting Howard Senior.

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Thursday, December 7, 2000

Their case is going nowhere, so attorneys for J. Howard Marshall, III (Howard Junior) tried to put a stop to the trial. Their strategy: ask for a legislative continuance because one of the attorneys working on the case is a state legislator. Attorneys for Pierce Marshall argued that there is no precedent for a continuance during a trial and noted that the trial has dragged on because Howard Junior's attorneys have kept witnesses on the stand for days at a time.

Judge Mike Wood denied the motion for the legislative continuance, noting that the legislator was spending most of his time managing documents and has yet to examine one witness. The continuance would have resulted in a mistrial after months of testimony. Yesterday, an appeals court upheld Judge Wood's decision. The trial will go on.

Howard Junior claims his late father promised him an equal share of his estate. But witness after witness has testified that Howard Senior officially disinherited his older son beginning in 1982 and continued to do so in a total of 13 wills and trusts spanning more than a decade. The same set of wills and trusts left the majority of the estate to E. Pierce Marshall who worked side by side with his father in the family business.

-30-

Wednesday, December 6, 2000

It was a bad day for the plaintiffs, as the defense repeatedly shot holes in an already leaky case.

The CPA retained by the first law firm to represent Vickie testified that Vickie never discussed with him what she expected to receive from Howard Senior. This reinforced the defense's argument that Howard Senior never intended to include Vickie in his will, and that the gifts of cash, real estate, cars and jewelry Howard Senior gave her while they were married were all he intended for her to receive. Attorney Rusty Hardin also pointed out that the \$3 million in jewelry Howard Senior gave Vickie was left in Howard Senior's name in order to avoid gift taxes.

Questioned by attorney Jeff Chambers, the accountant said he calculated that during the 30-month period of their relationship (which includes the 14 months of their marriage), Howard Senior gave Vickie an average of \$197,000 a month in gifts, excluding real estate.

Under questioning by Rusty Hardin, the accountant also admitted that it was clear from documents entered in evidence that Howard Senior had always intended his Koch Industries stock to go to his youngest son, Pierce, and no one else.

The CPA also noted that the estate planning work performed for Howard Senior by attorneys Edwin Hunter and Harvey Sorensen had no positive or negative effect on the amount of income Howard Senior received during his 14-month marriage to Vickie. In fact, the accountant agreed with Hardin's statement that Howard Senior received all the cash he asked for from 1992 until the time of his death, and that most of it was spent on things for Vickie. Beyond that, the income went to pay living expenses, legal fees, and, eventually, substantial medical bills which are considered community property obligations.

David Beck, the attorney representing Harvey Sorensen, asked the accountant, "Having looked at all the depositions, would you say it would be fair to say that Harvey Sorensen did not control or manipulate Howard Senior's conduct from 1982-1992?" The answer was, "Yes."

"As a CPA," Beck asked, "would you say that estate tax savings strategies used by Harvey Sorensen made sense?" "Yes," was the answer.

"Did you see anything to question the integrity of Harvey Sorensen," "No," was the answer.

-30-

Tuesday, December 5, 2000

A former Marshall Petroleum employee, Henry Schlesinger, testified that Anna Nicole Smith would disappear for days at a time, not telling her worried husband where she was or what she was doing. "She didn't treat Mr. Marshall very good," he stated.

Schlesinger testified as the trial entered its ninth week in the court of Judge Mike Wood in Houston.

The only thing he wanted in life was to hear her voice before he went to bed," said Henry Schlesinger. He described how the 89-year-old Marshall would keep everyone up waiting for a call from his young wife, which often never came. "She didn't have the courtesy to do that," Schlesinger testified.

Schlesinger appeared larger than life as he peered down on the jury box from an overhead television screen. The former Marshall Petroleum employee's video deposition was presented by the plaintiffs, but the more Schlesinger talked the more holes he blasted through their case.

He testified that Howard Senior could read and was mentally sharp until his last illness. "He would come to the office and read his Wall Street Journal," Schlesinger testified. "He read most of the day."

He told jurors that Howard Senior knew exactly what he was doing when he made his trust irrevocable. "He said he was going to fix it so it couldn't be changed," Schlesinger testified. "He said he wasn't going to change it anymore. This was it. There was no more changing to be done. It was clear he made that decision before he married Vickie."

Noting that Smith is not mentioned in her husband's will, Schlesinger said that Marshall would have found a way to provide additional funds for her if he had wanted to. "You couldn't talk him out of doing something he wanted to do," he said. "You couldn't talk him out of giving something to Vickie."

Schlesinger testified that Howard Senior would do just about anything for his young wife with two exceptions. "He wouldn't change his will and he wasn't giving her any Koch stock."

Jurors have already heard that Howard Senior provided his young wife with millions of dollars of jewelry, homes, cars and cash and gave her additional gifts, including stock in her own company, once they were married. However, he never left her anything in his will and never planned for her to share in his separate property. Jurors have heard that Howard Senior left his stock in the family business, Marshall Petroleum, Inc. to his son Pierce in a series of wills and trusts dating back to 1982. "He was going to leave everything to Pierce," Schlesinger testified. "He stood by him, he was a good son."

Plaintiffs have claimed that Pierce Marshall used undue influence to cut his older brother and Smith out of his father's will. Schlesinger told jurors that Howard Senior was hard headed and couldn't be talked into anything by Pierce or anyone else. He told jurors Howard Senior had no problem telling his son Pierce, Finley Hilliard or anyone else "no" if he didn't want to do something. "He always had the final word," Schlesinger said.

Schlesinger also confirmed for jurors that Howard Senior decided to write his older son Howard Junior out of his will after the son backed a dissident group that wanted to take control of Koch Industries in 1980. "Tears came to his eyes," said Schlesinger as he described Howard Senior talking about the incident. "He still loved his son," he said. "I think he was proud of what he was doing, but he was still disappointed." He said he wasn't going to leave him anything. He got his inheritance right there." The statement refers to Howard Senior's purchase of his older son's stock in Koch Industries to thwart the takeover attempt.

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Monday, December 4, 2000

An accountant hired by the Vickie's attorneys to attack Howard Senior's estate planning admitted to jurors that he has received hundreds of thousands of dollars in consulting fees from the Vickie's attorneys who hired him in this and other cases.

Under strong cross-examination he also acknowledged that he reviewed only a small portion of the approximately two million pages of documents that have been part of the discovery in this complex case.

The accountant, who makes most of his living as an expert witness, called the Marshall estate plan "harebrained," but was quickly forced to admit he had not read key documents that would have shown J. Howard Marshall II's (Howard Senior) intent. He acknowledged he was told that Howard Senior wanted maximum cash flow, but did not read a key memo that outlined Howard Senior's most important estate planning goal.

Defense attorney Jeff Chambers showed the accountant a memo from the George School prepared after a visit to Howard Senior by school officials to discuss his estate planning in hopes of obtaining a donation. After each meeting, school officials would write a memo summarizing the discussion. The memo clearly describes Howard Senior's intent concerning the Koch Industries stock he left to his son Pierce.

"Keeping the Koch Industries stock in tact and giving it to Pierce as part of his estate are still Mr. Marshall's top priorities. Everything else seems to be of secondary importance," the memo said.

Defense attorneys noted again and again that, in fact, the estate planning the plaintiffs have criticized met Howard Senior's goals.

Chambers also blasted the expert for claiming that it was poor estate planning to discount a formula price established for stock in the family company (Marshall Petroleum, Inc.) for some transactions. Under cross-examination, the expert admitted that the discount meant Howard Senior would pay less in gift taxes. He also acknowledged that another series of transactions in 1993 reduced Howard Senior's holdings in Marshall Petroleum, Inc. below 50%. "Under the right circumstances the tax savings would be enormous?" asked Chambers. "Under the right circumstances that's true," the expert admitted.

When told that Howard Senior frequently rejected advice from his attorneys and accountants the expert finally admitted, "He certainly was entitled to do whatever he wanted."

The expert did provide some good news for defendant Harvey Sorensen who worked on some of the Marshall estate plan. Under questioning from defense attorney David Beck, the expert readily agreed that Sorensen's recommendations were reasonable and that he saw no evidence that Sorensen was trying to unduly influence Howard Senior. "I didn't see anything improper," the expert said.

"Is it fair to say that as we sit here today there is no reason to question his integrity?" Beck asked. "No, I have to reason to do that," replied the expert.

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Thursday, November 30, 2000

NO. 276,815-402

IN THE ESTATE OF
J. HOWARD MARSHALL, II,
DECEASED

J. HOWARD MARSHALL, III
Plaintiffs

v.
ROBERT S. MACINTYRE,
et al Defendants

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IN THE PROBATE COURT

NUMBER TWO OF

HARRIS COUNTY, TEXAS

Order

On the 29th day of November, 2000, came on to be heard the Motion for Continuance filed by J. Howard Marshall, III on November 28, 2000, in the above-styled and numbered cause, and came the parties by and through their counsel of record, and outside the presence of the jury, the Court heard the evidence and arguments of counsel, and having heard and considered such evidence and arguments, makes the following findings and conclusions of fact and law:

1. This cause of action is a dispute between two brothers and their father's third wife over the assets in the estate of their father and husband, J. Howard Marshall, II. Howard Marshall died in August of 1995. This cause of action was originally filed in December, 1995. A trial of a portion of this cause was held in July, 1998. Defendant Howard Marshall, III requested a mistrial, which was granted, on the thirteenth day of the first jury trial of this cause.
2. The motion for continuance was filed during the trial of this cause on November 28, 2000, pursuant to Texas Civil Practice & Remedies Code § 30.003, on the basis that Will Ford Hartnett, one of J. Howard Marshall, III's counsel, is a member of the Texas Legislature..
3. Trial in the above-styled and numbered cause commenced on September 18, 2000. All counsel appeared and announced ready. The jury was seated and sworn on October 2, 2000, and the first witness was called on October 3, 2000. The trial has continued without interruption since that date. As of the date of this Order,

plaintiff Howard Marshall, III has not rested. This is the fourth day of the eleventh (11th) week of trial, and the ninth (9th) week of presentation of evidence to the jury.

4. At the beginning of trial, all parties estimated the total length of the trial at ten (10) weeks. Although the Court asked counsel about the possibility of the filing of a legislative continuance and the subject was discussed on more than one occasion before trial, counsel for Howard Marshall, III did not file a motion for legislative continuance until November 28, 2000. If Will Ford Hartnett had said prior to the commencement of the trial of this cause that he would file a legislative continuance at any time, the continuance would have been granted, and the trial would not have started.

5. Lead counsel for Howard Marshall, III is Terry Giles. Second lead counsel is Jim Hartnett. Jack Lawter is the third counsel for this party. Those three lawyers have presented all arguments, evidence and witnesses thus far in the trial. The work of Will Ford Hartnett is undoubtedly important to the team of counsel for plaintiff Howard Marshall, III. He has taken some to the depositions and is by far most familiar with the discovery and documentary evidence. He has not, and apparently will not, present any witnesses during the trial. Although Will Ford Hartnett's absence from the trial to attend the Legislature may cause some inconvenience to Howard Marshall, III's team of counsel, that inconvenience is far outweighed by the impact and injury to other parties if the continuance is granted.

6. Based on the evidence adduced at the hearing on the motion, the Court finds that all parties, both plaintiffs and all defendants, will suffer significant and substantial injury if the motion is granted. Obviously, considerable expense has been incurred by all parties in eleven weeks of trial (One of the defendants, Pierce Marshall, testified that his attorneys' fees to date just since the commencement of trial exceed \$700,000.) Based further on the evidence, the Court specifically finds that Defendants Finley Hilliard and Harvey Sorensen would suffer irreparable injury if the trial of this court is stopped and a mistrial declared.

7. The Court determines that Plaintiff Howard Marshall III's motion for continuance is not in fact or in law a motion for continuance. Because of the timing of the filing of the motion, it is a motion for mistrial. A continuance is a delay of the date of the commencement of a trial. With a jury in the box for nine weeks, the trial cannot be recessed, abated, or otherwise delayed, and restarted thirty (30) days after the end of the legislative session with the same jury. If the trial is stopped, the jury must be released. The legal and practical effect of that act is a mistrial, not a continuance.

8. This Court understands and respects absolutely the necessity of the legislative continuance. Citizen legislators must be allowed to pursue an occupation outside the time of the legislative sessions, and to be in attendance at the Legislature during the session.

9. The right to a legislative continuance is not, however, absolutely unlimited. As the Supreme Court of Texas held "mandatory continuances [when the party opposing the continuance ...faces irreparable harm from the delay] violate the due process clause of the Fourteenth Amendment of the United States Constitution and Article I, sections 13 and 19 of the Texas Constitution", *Waites v. Sondock*, 561 S. W .2d 772 (Tex. 1977).

10. Because the motion for continuance was not filed at the beginning of trial, and because all counsel announced ready for trial, Plaintiff Howard Marshall, III, and his counsel, Will Ford Hartnett, have waived any right granted by Texas Civil Practice & Remedies Code § 30.003 or Rule 254, Texas Rules of Civil Procedure for a continuance based on counsel's being a member of the Legislature.

11. Because one or more parties to this cause will suffer irreparable injury if the motion of continuance is granted, the Court determines that a substantial existing right will be defeated or abridged by a mistrial of this cause in the eleventh (11th) week of trial. The Court therefore further exercises its discretion to deny the motion for continuance.

It is therefore, ORDERED, ADJUDGED, and DECREED that the Motion for Continuance filed by Plaintiff Howard Marshall, III, is DENIED.

SIGNED, this 30th day of November, 2000.
Mike Wood
Judge Presiding

Wednesday, November 29, 2000

"They're losing this. Losing big time and they know that they're losing, they want to get rid of this jury."

Harvey Sorensen's attorney, David Beck, said what many people have been thinking as this trial drags on. Now, after jurors have sat through nine weeks of testimony, J. Howard Marshall, III's (Howard Junior's) attorneys are trying to stop the case in mid trial. Their strategy is to ask for a "legislative continuance" because one of the members of their trial team is a state representative and the next legislative session is fast approaching.

Judge Mike Wood has indicated that stopping the trial for a prolonged period would require a mistrial. Attorneys agreed to file a motion for the continuance so that Judge Wood can rule and a likely adverse ruling can then be appealed.

There is some question as to how critical the state legislator is to Howard Junior's case. Even his colleagues refer to him as "our computer guy." Defense attorney Rusty Hardin told the court that Howard Junior's legal team still has more than two months to find a replacement for the attorney who has not questioned any witnesses, raised an objection or addressed the jury in court.

Attorneys for Pierce Marshall and other defendants told the court that stopping the trial would cause irreparable harm to their clients as well as jurors in the case. They pointed out that a "continuance" is a term used to describe putting off the start of a trial, not stopping a trial after the defendants and Harris County have invested hundreds of thousands of dollars in the proceedings.

Attorney Beck repeated his comments twice, noting that despite weeks of testimony Howard Junior's attorneys have yet to present a single witness who says he was ever promised a portion of his father's estate. Every witness who has addressed the issue has said that Howard Junior was disinherited and waited until his father died to try to overturn his six wills and seven trusts in court rather than try to reconcile with his father.

-30-

November 29, 2000

"Screw me once, shame on you, screw me twice, shame on me." -- J. Howard Marshall, II

J. Howard Marshall, III (Howard Junior) didn't bother to go to the memorial service conducted for his father, but was quick to pick up the phone and demand money from the estate when his Howard Senior died. That testimony came from Finley Hilliard, who served as Howard Senior's accountant for thirty years. He described a telephone conversation with Howard Junior shortly after his father's death.

"He (Howard Junior) said he wanted some money," said Hilliard. "He wanted to know what Pierce was going to pay him. I told him, 'Howard, your dad had not mentioned you in the will.'"

Hilliard said Howard Senior was furious with Howard Junior for betraying him during an attempt by dissidents to take over Koch Industries. Describing his son's actions, Howard Senior told Hilliard, "Screw me once shame on you, screw me twice shame on me." Hilliard said Howard Senior told him, "It will never happen again. He said Howard Junior 'was not going to get anything else. He would never have a chance to get to me again.'"

There was no doubt in my mind," Hilliard told jurors, "That Howard Junior knew he had been disinherited."

Hilliard said Howard Junior was unrepentant when the accountant expressed concern about the falling out with his father. He said Howard Junior told him, "Listen, I got \$8 million and that is more than I ever would have gotten from him anyway. Now I can go on and live my life."

As Howard Junior's case continues to drag on into the 11th week, he has yet to produce a single witness who supports his claim he had an oral agreement with his late father to share equally in the father's estate. Every witnesses who has addressed the issue has said that Howard Senior felt his son betrayed his trust and was determined to make sure Howard Junior did not participate in his estate plan. Howard Junior's mother supported that decision.

Hilliard said that Howard Junior never brought up the alleged oral contract with his father, even though it was information Hilliard should have had when preparing Howard Junior's tax returns in the early 1980s, nor did he bring it up in a later conversation 15 years later after his father died.

"Did he ever mentioned an oral contract," asked defense attorney Rusty Hardin? "No sir," said Hilliard, who testified that the first time he ever heard the oral contract claim was when Howard Junior filed suit against the estate.

Hilliard pointed out that he had done work for Howard Junior and liked him. He pointed out that he was not being sued by Howard Junior and had no reason to have any animosity toward his former client.

Accountant Refutes Major Claim By Vickie Lynn Marshall (stage name, Anna Nicole Smith)

Hilliard also contradicted claims the Pierce Marshall fired attorney Harvey Sorensen. This is a key part of Vickie's claim that Sorensen was fired because he wrote the so called "new community memo" discussing a request from Howard Senior for research on a way to provide money for Vickie. Sorensen said the idea was dropped when it proved impractical. Vickie's attorneys have alleged that Pierce fired Sorensen over the memo. But Hilliard explained that Howard Senior fired Sorensen over a disagreement concerning how aggressively Marshall should fight a demand for documents from the IRS. Hilliard testified that otherwise Howard Senior was satisfied with Sorensen's work and never questioned his integrity. He said neither he nor Sorensen ever tried to influence Howard Senior concerning his decision to disinherit his oldest son.

Hilliard also took strong exception to attempts by Vickie's attorney to continually infer that he conspired to prevent Howard Senior from spending more money on Vickie and blocking her from receiving anything from the estate. The normally soft-spoken Hilliard told Vickie's attorney, "You have no evidence. You are not going to produce any evidence that there was any wrongdoing at all, and yet you stand up there and affront me."

Hilliard also struck a devastating blow to Howard Junior's allegation that his father did not have the mental capacity to disinherit his son and was easily influenced by others. Hilliard testified that Howard Senior was fully aware and capable and that there was nothing to indicate that his judgment or memory was impaired.

Under questioning from Sorensen's attorney, David Beck, Hilliard testified that Howard Senior was competent when he signed wills and trusts in 1982, 1984, 1989, 1990 and 1992 that excluded Howard Junior from any inheritance. The latest will also did not leave anything to Vickie. Previous testimony showed that Howard Senior provided money, cars, homes and even created a business for Vickie, but after 11 weeks of testimony no witnesses has testified that Howard Senior ever intended to name Vickie in his wills or trusts.

November 28, 2000

If Vickie Lynn Marshall's (stage name: Anna Nicole Smith) attorneys had great hopes of benefiting from the testimony of Edwin Hunter, they were greatly disappointed. His two memos, one referring to Vickie as "Miss

Cleavage," and another called the "Post Nuptial Fine Tuning Memo," were supposed to show jurors there was a plot to cut Vickie out of her late husband's estate. But Hunter didn't cooperate with their plans. Articulate and funny, Hunter is a walking encyclopedia of the U.S. Tax Code. He deftly and strongly defended the estate planning he did for his client J. Howard Marshall, II (Howard Senior).

Defense attorney Rusty Hardin cut to the chase when he attacked Vickie's attorneys' attempts to question Howard Senior's estate planning. "If they're not in the will or trust (Vickie is not mentioned in either) and don't have an oral contract, it (discussing the value of the estate) is all irrelevant," said Hardin. "Yes," Hunter answered.

"It doesn't matter what its worth, they don't get any," said Hardin. "Yes," said Hunter again.

Hunter made it clear that all his work was at the direction of his client, Howard Senior. Under questioning by defense attorney Don Jackson he repeatedly told jurors that Howard Senior was aware of each step in the estate planning process, approved each step and was competent and mentally alert enough to make decisions about his estate.

Vickie's attorneys struck out completely when they tried to claim that a decision to make Howard Senior's living trust irrevocable was an attempt to prevent him from providing money to his young wife. Hunter explained that making the trust irrevocable was part of an effort to protect Howard Senior should he and Vickie ever divorce. Hunter said Howard Senior could have wound up owing his ex-wife millions of dollars if he used income generated during their marriage (generally considered community property) to pay off debts that were liabilities specifically attributable to his separate property. Making the trust irrevocable solved that potential problem.

Hunter said that Howard Senior did not trust the people around his new wife and also wanted to make sure they could not use her to try to take over his estate. Hunter said making the trust irrevocable, "protected his estate plan." It was also a vote of confidence for his son, Pierce, and an attempt to make him more comfortable with the marriage. Hunter testified Howard Senior could provide income for Vickie by taking out loans, which he did, or asking the trustees of the trust to provide it for her. There is no testimony that Howard Senior ever made any such request.

Hunter indicated that Howard Senior willingly turned control of his estate over to "the two people he trusted the most," his son, Pierce, and accountant Finley Hilliard. Hunter said Howard Senior was so confident in his son and Hilliard, his long time business associate, that he knew they would allow him to do whatever he wished with his trust even if it meant giving money to Vickie. He pointed to the fact that Pierce had offered to sell assets to cover a check his father had written to purchase jewelry for his young wife. Howard Senior did not want to sell any assets and insisted Vickie return the jewelry instead. "This was his separate property," said Hunter, "he was doing what he wanted to do with it."

Hunter described Vickie, who has only a ninth grade education, as unsophisticated in business. She fought with her husband over a lien placed on a ranch he provided for her, not understanding that the lien would protect the ranch from her creditors. Hunter said Howard Senior had plans to fund a company, Compaigne Victoire, Inc., to further his young wife's career with deals for perfume, a clothing line and other businesses. But he said Vickie never signed the papers. Hunter said Howard Senior foresaw a bright future for his wife. He felt she would be able to support herself through Compaigne Victoire. Hunter said Howard Senior never indicated he had any interest in including Vickie in his estate plan or providing her with access to stock in his family company, Marshall Petroleum, Inc. Hunter said Howard Senior had always said he wanted the MPI stock to go to Pierce and that all of the estate planning and transactions accomplished that goal.

Hunter insisted that Howard Senior knew exactly what he was doing during each step of the estate planning process and agreed with attorney Jackson that Howard Senior's wishes should be respected by the court.

Vickie's attorneys must also overcome the fact that after weeks and weeks of testimony not a single witness has said that Howard Senior ever told them he wanted to include Vickie in his estate plan or leave her any stock in the family company. And, each witness has said that Howard Senior was competent to make that decision about his separate property.

As for the "Miss Cleavage" remark, Hunter testified that the memo he wrote using that term was for his own use and was never, or intended to be, sent to Howard Senior or anyone else. He admitted he would not have used the term in a memo to his client but added, "I still would have thought it."

Vickie's attorneys have tried to imply that Howard Senior would have been insulted by the remark. They seem to have forgotten that they showed jurors a video of Howard Senior reciting bawdy limericks. No one who knew him has suggested Howard Senior would have found the remark offensive.

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Monday, November 13, 2000

Jurors in the trial are watching the legal version of what salesmen call the "Encyclopedia Close." The object is to keep the prospective customer answering "yes" to seemingly innocent questions until they get so used to saying "yes" that they forget to answer "no" to the question that closes the sale.

In this case, Vickie's attorney asks a series of questions. "Did Mr. Marshall (Howard Senior) love Vickie?" "Was he proud of her?" "Did he want to help with her career?" Witnesses all agree that the answer to these questions is, "Yes." Then, Vickie's attorney throws in the closer, "Shouldn't we respect that choice?"

However, testimony so far has clearly demonstrated that Howard Senior, after lavishing between \$6 and \$8 million on his young wife, decided to leave his separate property to charity and his son, Pierce. Shouldn't we respect that choice, too?

Testimony so far in this case shows that the choice Howard Senior made was not one Vickie and her attorneys want the jury to affirm. To date, no witness has suggested that Howard Senior ever told them to change his estate plan to include his young wife in his will or trusts.

Testimony shows Howard Senior gave his young wife millions in cash, cars, homes and even a ranch. Yet, so that Vickie could receive even more money, her attorneys continue to imply that Pierce and Howard Senior's attorneys should have scrapped a decade-old effort to plan for an orderly disposition of Howard Senior's estate.

Attorney Edwin Hunter sparred with Vickie's attorneys. Hunter confirmed previous testimony by Pierce Marshall and Harvey Sorensen that transactions in the estate plan were designed to increase Marshall Senior's available cash. At one point Hunter accused Vickie's attorney of "twisting information" in an attempt to mislead the jury about testamentary documents. Hunter testified that Howard Senior was willing to give up control of his assets to avoid probate and increase his spendable cash. But no increase in his cash flow could match the amount of money he spent on his young wife.

Jurors have learned that Pierce did not object to his father's spending on Vickie until Howard Senior wrote a check for almost \$1 million dollars that the bank returned for insufficient funds.

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Wednesday, November 8, 2000

Attorneys for Vickie Lynn Marshall (stage name: Anna Nicole Smith) have repeatedly told jurors their client was "the light of the late J. Howard Marshall, II's (Howard Senior's) life." But jurors learned today from Glenn H. Johnson, an attorney appointed by a Houston probate court to examine the need for a guardian for

Howard Senior, that Vickie did not even visit her husband during the last 30 days of his life, and hurt him deeply when she did visit him.

Vickie would upset her elderly husband by bringing other men with her when she came to visit. According to testimony heard today, Howard Senior's nurse tried to stop the practice. Jurors learned that Vickie brought other men to her husband's home and to his hospital room when he was sick. At one point nurses caught one of Vickie's male companions videotaping her with Howard Senior at 2 a.m.

Howard Senior's nurse requested the following special language from Glenn H. Johnson in a letter to the probate court that read:

"Because of Mr. Marshall's pride and its adverse effect on it, Mrs. Marshall (Vickie) is required not to be accompanied by any adult male while visiting the Marshall residence."

The nurse also requested language that banned Vickie from feeding her husband after he almost choked to death while she was feeding him soup, against the nurse's recommendations.

Johnson jumped to conclusions and took sides without obtaining relevant facts according to testimony today in Judge Mike Wood's Probate Court. Johnson met with Vickie Lynn Marshall and her attorneys and even had dinner in San Antonio with one of Vickie's attorneys before he ever had a meeting with E. Pierce Marshall. Rather than acting as the eyes and ears of the probate court, testimony showed that Johnson became an advocate for Vickie and her attorney.

Johnson admitted he did not know that off-duty Houston police officers that provided security at Howard Senior's home had been hired at the request of his nurse and not Pierce. He testified he had been told that by Diana Marshall, one of Vickie's attorneys. Johnson admitted becoming angry with Pierce when the guards would not admit him to the home. "I was very upset. I got angry," he said.

"Had you ever met Pierce Marshall," asked attorney Rusty Hardin? "No, I hadn't," said Johnson.

Johnson acknowledged that Vickie Lynn Marshall's attorneys, who apparently had not warned anybody they were coming, had arranged the meeting. He later testified that the guard helped him reach Pierce by telephone and that Pierce arranged for him to be admitted to the home. Johnson also complained that the guard stayed in the room during the visit. However, he acknowledged that the guard stood more than 20 feet away, did not interfere with his visit, and that Howard Senior never asked the guard to leave.

Johnson admitted he was confused because he thought that Vickie lived with her husband. In fact, she had never lived at Howard Senior's home and, according to testimony, was rarely in Houston.

Johnson also blamed Pierce for visitation limits that were ordered by a physician for Howard Senior. Johnson, who has no medical background, felt the restrictions were unnecessary. He said the initial meeting with Howard Senior and Vickie had to be arranged quickly because Vickie was going out of town. He acknowledged that, because she was rarely in Houston, she was not a logical guardian for her elderly husband.

More from November 8, 2000

A U.S. Bankruptcy Court misinterpreted a key document when it sided with Anna Nicole Smith (the stage name used by Vickie Lynn Marshall for her modeling work). In its memorandum the court cites a December 23, 1992 memo written by attorney Harvey Sorensen as justification for making the large award to Vickie Lynn Marshall. But the court's memorandum does not track with Sorensen's description of the memo in testimony before a Houston probate court and in his prior depositions. Sorensen and other key defense witnesses were not permitted to testify in the bankruptcy case, resulting in what defendant Pierce Marshall has called a Star Chamber proceeding that invented facts and law and maliciously excluded relevant evidence to create a predetermined outcome.

The bankruptcy court decision reads in part:

"In December, 1992 J. Howard (Howard Senior) instructed Harvey Sorensen, an attorney who represented him from time to time, to arrange a gift to Vickie, 'his future wife,' of a half interest in his 'new community.' Pierce fired Sorensen and conspired with Hunter to prevent the drafting and execution of the documents that would have accomplished the gift that J. Howard (Howard Senior) directed."

Sorensen provided a completely different interpretation of the memo to the Houston jury, as well as in testimony available to the bankruptcy court. Sorensen testified that the plan outlined in the "new community" memo was studied by his law firm and found to be unworkable because it could not be accomplished without triggering additional taxes. Witnesses have all agreed that avoiding paying taxes was a key element of every aspect of Howard Senior's estate planning. Sorensen testified that Howard Senior dropped the idea when he was told a month later that it was unworkable.

Sorensen reaffirmed that Howard Senior never indicated that he wanted Vickie to own any stock in the family's business, Marshall Petroleum, Inc. (MPI), which owned the family's largest asset, shares in Koch Industries. "He wasn't willing to give her MPI shares, that just wasn't on the table," said Sorensen. In fact, the new community memo only called for Smith to share in the appreciation of Koch stock following her marriage to Howard Senior.

Sorensen also testified the memo, which was written in "contemplation of Vickie marrying Howard Senior, contradicts Vickie's claim that Howard Senior intended to give her half of his wealth following their marriage," Sorensen said. He testified that Howard Senior simply said, "okay," when told the plan would not work and never mentioned the idea again.

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Tuesday, November 7, 2000

On his last day on the witness stand Attorney Harvey Sorensen shot down one of the plaintiffs' key strategies in their attempt to overcome the fact that J. Howard Marshall II (Howard Senior) did not name Vickie Lynn Marshall in his will or trusts.

The plaintiffs have relied on a document referred to in court as the "New Community Memo." Written in December 23, 1992 by attorney Harvey Sorensen, it states:

"JHM (Howard Senior) has asked me to assist him in achieving a personal goal of his. He would like to provide his future wife, Vickie, with a gift of a half interest in his 'new community' without triggering any gift tax and in a legally enforceable way."

Howard Senior provided the information Sorensen used to write the memo the day before he (Howard Senior) signed a new will and living trust that did not name Vivki Lynn Marshall as a beneficiary indicating clearly that he did not intend to provide her with a share of his estate.

Sorensen testified that the plan outlining in the "new community" memo was studied by his law firm and found to be unworkable because it could not be accomplished without triggering additional taxes. Witnesses have all agreed that avoiding paying taxes was a key element of every aspect of Howard Senior's estate planning. Sorensen testified that Howard Senior dropped the idea when he was told a month later that it was unworkable.

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Sorensen also testified the memo, which was written in "contemplation of Smith (Vickie) marrying (Howard Senior), contradicts Smith's (Vickie's) claim that Howard Senior intended to give her half of his wealth following their marriage. "That was never on the table," Sorensen said. He testified that Howard Senior simply said "okay," when told the plan would not work and never mentioned the idea again.

More, from November 7, 2000

J. Howard Marshall III's (Howard Junior's) mother was so incensed that Howard Junior sued Harvey Sorensen that she intervened in the lawsuit to "set the record straight."

Attorneys for Pierce Marshall suggested that Howard Junior was also planning to sue his mother's estate when she died. In previous testimony the jury heard a description of Howard Junior yelling at his elderly mother in a mountain home the family shared, and refusing to allow her to leave as he demanded access to her will and other documents. His mother was so upset by the incident that she refused to meet with Howard Junior to discuss the issue again, sending attorney Harvey Sorensen in her place.

Sorensen testified that the former Mrs. Marshall was concerned that her son Howard Junior would launch another legal assault on Sorensen and her estate after she died.

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Monday, November 6, 2000

Attorneys were told this morning that jurors are tired of hearing the same old thing over and over again. But attorneys for Howard Junior apparently didn't get the message. Instead they plowed old ground with witness Harvey Sorensen who again contradicted key parts of their case.

Attorney Harvey Sorensen reiterated that Howard Senior could read and was in complete control of his faculties when he decided to write Howard Junior out of a series of wills beginning in 1982. Sorensen told Howard Junior's lawyers that Howard Senior made his decision because Howard Junior, "refused to agree to vote his (Koch Industries) shares the way your client wanted him to," in a 1980 attempt to take over the company. "(Howard Senior) asked (Howard Junior) to vote with management," Sorensen said describing Howard Senior's request to his son. "(Howard Junior) said, 'no, he wouldn't.' He (Howard Junior) betrayed him (Howard Senior)," Sorensen added.

Sorensen testified that he never heard -- from defendant E. Pierce Marshall or anybody else -- about an alleged oral contract Howard Junior claimed to have with his father, that he would be treated equally in estate matters.

Sorensen testified that he met with Howard Senior at least 250 times to discuss legal issues, including estate planning. Sorensen testified he met alone with E. Pierce Marshall only three times during the same period 1983-1993. This is significant because Howard Junior alleges that Sorensen conspired with Pierce Marshall to prevent him from inheriting anything from Howard Senior. Both Sorensen and Pierce Marshall emphatically deny the allegations, and both say Howard Senior did what he wanted with his estate.

Sorensen also reminded jurors that Howard Junior wasn't owed anything by his father. "Nobody has an entitlement to anything," Sorensen said. "He (Howard Senior) didn't want to give him (Howard Junior) anything," Sorensen added.

Inexplicably, Howard Junior's attorneys also asked Sorensen to repeat some of the strongest testimony obtained by Pierce Marshall's attorneys during their examination. Sorensen disputed the claim that he conspired with Pierce Marshall, and testified once again that he was always Howard Senior's attorney.

Sorensen testified that he met alone with Pierce Marshall only three times between 1983 and 1993, but met 250 times with Howard Senior either alone or in the company of others.

More from Monday, November 6, 2000

J. Howard Marshall II (Howard Senior) intended to support Vickie Lynn Marshall, if they married but never intended to leave her any stock in the family business.

Attorney Harvey Sorensen testified that Howard Senior had him prepare a prenuptial agreement in anticipation of his marriage to Vickie. The agreement said Howard Senior would support Vickie during their marriage so long as she continued to cohabit with Howard Senior and maintained her marital fidelity.

Pierce Marshall has testified that Vickie Lynn Marshall left his father on the day of her wedding to return to California with her bodyguard. He further testified that Vickie Lynn Marshall rarely saw Howard Senior and once refused to allow Howard Senior to sleep in her bed.

The prenuptial agreement is significant because it was drawn up at the same time Howard Senior reviewed and signed new will and trust documents in 1992. Attorneys noted that Howard Senior had made no provisions to provide for Vickie Lynn Marshall in that will. Sorensen testified that Howard Senior never discussed giving Smith half his estate or putting her in his will or trusts. Sorensen testified that Howard Senior never gave any gifts that would involve stock in Marshall Petroleum Inc. (which held the family's interest in Koch Industries) to anyone except his son, Pierce, or his grandchildren.

-30-

Monday, October 30, 2000

Today, jurors saw what may be one of the most expensive paragraphs ever written. It is contained in Howard Senior's 1984 will and makes it clear that he has disinherited his oldest son, Howard Junior.

"to affirm that J. Howard Marshall III (Howard Junior) is not omitted from my will in error. I have specifically and intentionally provided that J. Howard Marshall III or his issue are to receive nothing under the terms of this will."

1984 Will of J. Howard Marshall, II (Howard Senior)

Howard Junior and his wife sat stone faced in court as the provision of the will that cost them millions of dollars was read to the jury.

Attorney Harvey Sorensen, who wrote the wills for Howard Senior and his wife testified that both Howard Senior and his wife, Bettye, were adamant that Howard Senior's oldest son not receive any inheritance. He said Howard Senior even rejected his advice to leave the son a small amount of money that he would lose if he contested the will.

Sorensen said Howard Senior told him that his oldest son (Howard Junior) wanted to "kick out management, kick out the board and take over Koch Industries and refused to change his position despite pleas from his father who served on the Koch board."

"His son stabbed him in the back and twisted the knife," Sorensen testified.

Howard Junior's attorneys pressed Sorensen on why he did not keep notes of his meetings with Howard Senior concerning his will, write memos to the file or tape the signing of the will. Sorensen testified that the signed will and trusts clearly showed his client's intentions.

Vickie Lynn Marshall did not appear in court today, missing testimony from Sorensen concerning how her late husband (Howard Senior) sued the family of the late Lady Walker for return of millions of dollars in gifts when he discovered that she had cheated on him.

-30-

Thursday, October 26, 2000

There was a delicious irony as attorney Harvey Sorensen spent his second day on the witness stand. Attorneys for Howard Junior, who hope to make millions from this case, sarcastically questioned Sorensen about invoices he sent to his client, Howard Senior, for estate planning for a few thousand dollars.

Howard Junior's attorneys are forcing jurors to sit through a review of more attorneys' bills than the average American sees in an entire lifetime. They are trying to show that Sorensen, a highly respected Wichita, Kansas, attorney, conspired with other defendants to interfere with their client's inheritance. The problem is that every witness who has testified so far and all of whom have been called by the plaintiffs, have testified that Howard Junior's father decided, on his own, to disinherit his older son and never changed his mind. Jurors have heard four witnesses testify that Howard Senior became enraged when his oldest son sided with a dissident group that wanted to take control of the board of Koch Industries against his father's wishes and didn't even tell his father of the betrayal.

In a strategy that can best be described as over-promise and under-deliver, Howard Junior's legal team has claimed that meetings in the early 1980s concerning estate planning for Howard Senior between a Koch Industries executive, Sorensen, accountant Finley Hilliard, and E. Pierce Marshall, demonstrated a conspiracy to deprive their client of his inheritance. Earlier testimony has established that Howard Senior first disinherited his son in 1982 and maintained that decision through a series of wills until his death in 1995, long after Sorensen had been replaced as his attorney.

Sorensen, and every other witnesses, has testified that Howard Senior asked his younger son, Pierce, to be involved in the estate planning process. Each witness has also explained that the estate planning issues involved tax issues and not who should receive money from the estate. That decision rested solely with Howard Senior. Sorensen and three other witnesses, all called by the plaintiffs, have explained that the Koch Industries executive, Don Cordes, was involved only because the corporation's board of directors would have to sign off on Howard Senior's estate plan because it called for the transfer of company stock to a new corporation. According to Sorensen, Koch Industries had the right of first refusal to buy back the shares if they changed hands.

In another Alice and Wonderland moment, Howard Junior's attorneys criticized Sorensen's decision to save documents, depositions and notes, which he termed "evidence of Howard Junior's betrayal," because he correctly predicted there would be a lawsuit over his client's 1984 will. "From 1983 forward, the whole time you were planning his estate, you were confident there would be a lawsuit," puffed Howard Junior's attorney. "We knew some lawyer some place would be glad to take this case and run with it," said Sorensen.

Sorensen also testified, as did other witnesses, that the work on the estate plan involved creating a structure to allow Howard Senior's estate more time to pay estate taxes and did not involve telling Howard Senior who he should name as beneficiaries of his estate. All four witnesses who have testified so far, indicated that Howard Senior made that decision on his own. Sorensen confirmed that much of the early work on the estate plan was done before he first met Howard Senior in person, but said that Howard Senior confirmed, in person, the decision to leave control over the Koch Industries stock to his son, Pierce, when the two did meet.

To date, there has been no one to explain to the jury why the alleged conspirators, all successful and experienced professionals and business executives, kept careful records of their meetings and preserved evidence if they were engaging in a clandestine conspiracy that they feared would eventually lead to litigation.

Tuesday, October 24, 2000

Pierce Marshall laughed for the first time in court today as he watched a videotape of his late father reciting limericks in 1994. J. Howard Marshall, II (Howard Senior) looked alert and in good health as he told stories and recited the limericks that he always enjoyed.

The introduction of the video, by Vickie Lynn Marshall's attorneys, illustrates the dilemma facing the two sets of plaintiffs in this case. Attorneys for J. Howard Marshall, III (Howard Junior) are trying to convince the jury that Howard Senior had a drinking problem and was impacted by a stroke to bolster their claim that he was tricked into disinheriting his oldest son (Howard Junior). But that testimony undermines Vickie Lynn Marshall's claim that her husband knew what he was doing when he married her and provided millions of dollars in gifts.

Although the tape was introduced by Vickie Lynn Marshall's attorneys, Pierce Marshall's attorneys used it to bolster their claim that Howard Senior was in complete control of his affairs when he moved his stock holdings into a living trust in 1984. The trust created separate property seven years before he ever met Vickie and according to Pierce Marshall is not considered part of the estate.

According to Pierce Marshall's attorneys, the separate property is not part of Howard Senior's estate. Marshall Petroleum Inc., in turn, owns the family's stock in Koch Industries, which Pierce Marshall has testified made up the bulk of his family's wealth.

Pierce Marshall testified that he sent Vickie Lynn Marshall thousands of dollars to pay her bills after his father died. Responding to claims by her attorney that Pierce stopped paying the bills on the home where "she and her son lived," Pierce Marshall pointed out that he simply asked Vickie to begin reviewing invoices and writing checks to cover the bills with money he was supplying. Asked why he didn't call Vickie to discuss the issue Pierce Marshall testified, "We could never find Vickie. Dad couldn't find her when he tried to call her at night."

Jurors have also heard a sharp contrast in how Vickie Lynn Marshall and Pierce Marshall dealt with security issues. Vickie's attorneys have disparaged Marshall's decision to hire off-duty Houston police officers to provide security at his father's home. Vickie's attorney claimed the officers "intimidated" his client and were used to keep their client from seeing her elderly husband. Pierce Marshall responded, "No armed guards were ever hired to keep Vickie and Dad apart." Vickie's attorneys suggested the officers should have been made to stay outside. When Pierce Marshall testified the officers needed to be in the house at times to stay out of the elements, Vickie's attorney replied, "They were just like the dogs." Vickie Lynn Marshall, on the other hand, had a bodyguard when Howard Senior went to visit her in California. The contrast between the off duty police officers Pierce Marshall hired at his father's home and the security guard Vickie hired in California could not be more striking. Jurors have learned that the bodyguard Vickie hired had a long criminal record and have heard a tape of the bodyguard threatening her when he was eventually fired.

Tuesday, October 17, 2000

Former Koch Industries executive, Don Cordes, strongly disputed claims by J. Howard Marshall, III's (Howard Junior) attorneys that he and other dissident shareholders never intended to gain control of the company when they sponsored a resolution to dissolve the company's board of directors in 1980. Cordes testified that the additional board members the dissidents wanted could have been added to the existing board in a special election. "You kick everyone off," he said, "if you want to gain control."

Cordes testified that the dissident board members lied about the resolution they were sponsoring during the takeover attempt, which ultimately failed. Cordes acknowledged working with J. Howard Marshall, II (Howard Senior) on his estate planning, noting that Koch offered the same assistance to all board members after some expressed concerns about estate planning and liquidity issues. Cordes, who served as vice president of legal affairs for Koch was an expert in estate and tax planning. However, he stated clearly that his work only involved helping devise a plan to allow Howard Senior's family to pay estate taxes over a 15 year period as opposed to the nine month period usually required by the IRS. Cordes said he never suggested to whom Howard Senior should leave his money. "Who he left it to made no difference," said Cordes, who noted that the Howard Senior estate did not contain any Koch Industries voting stock.

Cordes testified that he accompanied Howard Senior on a trip to California to buy back stock from Howard Junior, because he was concerned that Howard Senior could be accused of interfering with an agreement between Howard Junior and the dissident shareholders. It turned out no such agreement existed. Noting the lack of such an agreement, Pierce Marshall's attorney, Lee Ware, called the dissidents the "Larry, Moe and Curly of the takeover world."

Cordes said that Howard Senior found it hard to believe his oldest son had sided with the dissidents. He quoted Howard Senior as saying, "no way my sons are going to vote against me." Cordes said Marshall (Howard Senior) later told him on the way to California, "I'm going to buy the that kid's stock. I'm going to offer him \$8 million." Howard Senior ultimately purchased back for \$8 million dollars the voting shares of Koch Industries stock he had given Howard Junior as a wedding present.

Howard Junior's attorneys have claimed that Pierce Marshall was jealous of Howard Junior. But Cordes testified that at a dinner with Howard Senior and Howard Junior, it was Howard Junior who complained that his father didn't pay attention to him and favored his younger brother Pierce. Cordes suggested Howard Junior was trying to "lay a guilt trip" on his father, to justify his siding with the dissidents.

Cordes also refuted claims from Howard Junior's attorneys that his father had a drinking problem. Cordes said Howard Senior liked to drink wine at appropriate times but did not appear to have a problem with alcohol.

Howard Junior's attorneys are claiming that Pierce Marshall conspired with Koch Industries to deny Howard Junior an inheritance from his father. Testimony to date has shown that Howard Senior was incensed and heartbroken when Howard Junior sided with a group of dissident Koch shareholders using stock Howard Senior had given him as a wedding present. Jurors were told that the decision to write Howard Junior out of his father's will was made by Howard Senior, who was described as a man who didn't take orders from anyone.

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Friday, October 13, 2000

Pierce Marshall told jurors that he hired private detectives to follow his father while he visited Vick Lynn Marshall at her California home because he was told Vickie employed a bodyguard with a criminal record. While questioning Pierce Marshall, Vickie's attorney derided the surveillance, referring to the private investigators as "gumshoes" and attacking Pierce Marshall for not reading their reports. It turns out the bodyguard had a long and violent criminal record. He received a six-year sentence after pleading guilty to five counts of armed robbery in California and plead guilty to assault with a deadly weapon. The body guard was also convicted of forgery and other charges.

Pierce Marshall told jurors, "he was very concerned for dad's safety," when he hired the private detectives.

Pierce Marshall also testified that Vickie apparently spent almost no time with her husband but was often with the bodyguard, once greeting him in her driveway in her underwear. The private detectives never saw

Vickie Lynn Marshall go out with her husband, but did see the bodyguard who showed up several times after his father had gone out to dinner with Vickie's son and other relatives.

Pierce Marshall testified that his father gave Vickie Lynn Marshall approximately \$8 million in cash, gifts, homes and cars during their relationship, but added that his father never left Vickie any money in his wills or separate property trusts. "Did he ever talk to you about doing so?" asked attorney Rusty Hardin. "No," Pierce said. "Dad told me he was going to take care of Vickie while he was alive but not change his estate plan to include her," Pierce Marshall testified.

Hardin also pointed out that during a 1995 deposition Vickie said she did not know what a check register was. "Can you conceive of any time in your father's life he would have wanted to give Koch stock to someone who doesn't know what a check register is?" Hardin asked. "No," Pierce Marshall answered.

Howard Senior Told Others Why He Would Disinherit His Older Son (Howard Junior)

Pierce Marshall also testified this week that Howard Senior knew he paid a "blackmail price," when he bought back Koch stock given to Howard Junior for \$207 a share in 1980. Marshall testified his father cried over Howard Junior's betrayal and lost sleep over the incident.

Jurors also learned this week that Howard Senior shared his plans to give his Koch stock to his son, Pierce, with officials of his alma mater, Haverford College. College officials met with Howard Senior on numerous occasions in an effort to obtain a \$25 million donation to the school. They wrote detailed memos describing the meeting for college files. In a memo dated August 1, 1988, a college official described in detail Howard Senior's plan to leave his Koch stock (which makes up the bulk of his wealth) to his son Pierce and outlined Howard Senior's reasons for leaving his son, Howard Junior out of his will.

"He wants to transfer ownership of his Koch stock to his son, Pierce. Those of you who have been studying this saga over the years remember that his other son (Howard Junior) attempted to sell Koch shares which Howard Senior had given him, and it took a lot of work for Howard Senior to get those shares back, which he had to do by paying his son much more for the stocks than they were worth when he gave them to him. Howard Senior wants to transfer ownership of the stocks to Pierce, and he is trying to persuade his attorneys to do so through the device of a corporation, in which he and Pierce would be officers. Pierce Marshall testified his father later established Marshall Petroleum, Inc. as the corporation described in the memo.

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Tuesday, October 10, 2000

Attorneys for Vickie Lynn Marshall (whose stage name is Anna Nicole Smith) described their client as intimidated by Houston police officers providing routine security at her husband's home, and unable to pay routine bills despite testimony that she received millions of dollars from her late husband, J. Howard Marshall, II (Howard Senior).

Vickie's attorney asked Pierce Marshall why he decided to begin sending bills directly to his client (Vickie) in California when they had been paid in the past at Marshall Petroleum. Pierce Marshall testified that Vickie generated "an extraordinary number of bills" which were creating problems for the staff at his late father's company. "Somebody needed to approve whether these bills were valid or not," Pierce Marshall testified. Pierce disputed claims that Vickie could not pay her utility bills at her California home. He noted that in addition to sending the bills, the company also sent Vickie tens of thousands of dollars to pay the bills. He said the payments stopped when she sued the estate for still more money.

In addition to these payments, jurors have also been told that the Howard Senior provided millions of dollars to Vickie in the form of [cars](#), [homes](#) and [money](#).

The list presented to the jury included:

- Cash -- \$725,000
- L.A. House -- \$597,000
- Jewelry -- \$2,804,000
- Living Expenses -- \$318,000
- Modeling/Acting Clothes -- \$699,000
- Ranch -- \$693,000
- Ranch Furnishings -- \$230,000
- Toyota -- \$20,000
- Mercedes -- \$82,000
- Misc. Disbursements -- \$439,000
- **Total -- \$6,607,000**

Vickie's attorneys have maintained that defendant, Pierce Marshall, used "armed guards" to prevent Vickie from seeing her husband, Howard Senior, while he lay ill in his Houston home. Pierce Marshall testified that the guards were hired at the request of Howard Senior's nurses because extensive publicity was bringing strangers to Howard Senior's door. "Don't you think that would have been intimidating to Vickie," asked her attorney. "No," responded Pierce Marshall, who described the off duty officers as polite. Vickie's attorneys never explained why their client would find Houston police officers intimidating.

Pierce Marshall's attorney, Lee Ware, introduced evidence that it was a physician who imposed the visitation limits following Howard Senior's discharge from the hospital. Vickie's attorneys have claimed it was Pierce Marshall who imposed the restrictions.

Pierce Marshall never lost his temper despite days of intense and often hostile and insulting questioning by Vickie's attorney. Pierce's attorneys took a low key approach as they allowed their client to refute charges that he wanted to tie the hands of doctors and nurses at a local hospital so that his father would die by signing a Do Not Resuscitate Order. Vickie's attorneys implied the order would prevent physicians from attempting to save Howard Senior if he so much as choked. But Ware presented evidence that the order meant not to attempt to revive Howard Senior if he suffered cardiac arrest.

Pierce Marshall's attorney, Lee Ware, introduced evidence that Howard Senior had signed an identical order during a previous hospital stay as well as medical records indicating he told his physicians he did not wish to be kept alive by machines.

Hospital records also show that Vickie brought along a photographer when she visited her husband in the hospital.

Pierce Marshall returns to the stand tomorrow.

Friday, October 6, 2000

Defense attorney Rusty Hardin complimented his client, Pierce Marshall, for not responding in kind to vicious attacks by his brother's attorney. Marshall continued to restrain himself as Howard Junior's attorney suggested he signed a Do Not Resuscitate Order while his father was in the hospital because Pierce Marshall would owe \$7 million dollars if his father lived through 1996.

Pierce replied, "I wished he had lived. I would have been glad to pay the money." Marshall testified that he was following his 90-year-old father's wishes when he signed the order. In fact, jurors have been shown a similar order signed by Pierce's father during a previous hospital stay.

In opening statements, Pierce Marshall's attorneys painted his brother, Howard Junior, as the greedy son, who forced his father to pay \$8 million dollars to buy back stock he had given his son Howard Junior as a wedding present, and constantly berated his mother for more money from her estate.

Jurors were told that Howard Junior betrayed his father by siding with a dissident group that wanted to oust the board of Koch Industries. When Pierce Marshall was asked to take the same stand against his father he said, "There is not an amount of money that could make me betray my father."

Howard Junior's attorneys lost another round when they told jurors that Howard Senior had died from a choking incident. The judge told jurors to disregard the statements after attorneys for Pierce Marshall, pointing out that it was unsupported by any evidence. "Statements by counsel are not evidence," said Judge Mike Wood. "They are to disregard the statement of counsel?" asked defense attorney Rusty Hardin, "Yes, the judge responded."

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Tuesday, October 3, 2000

Opening Statements

In opening statements today, defense attorney Rusty Hardin said this case is not about whether J. Howard Marshall (Howard Senior) loved Vickie Lynn Marshall (stage name: Anna Nicole Smith). But rather, whether she loved him and how she treated her elderly husband. He acknowledged that the Houston oilman called his young wife "the light of my life," but promised to present ten witnesses who would paint a darker side of the relationship in direct conflict to the love story portrayed by her attorneys in their opening statements.

Hardin described a wife who would not allow her own husband to sleep next to her during a visit he made to California and said Marshall Senior's interest in marriage stemmed from wanting to avoid taxes on the millions of dollars in gifts he had given Vickie. Hardin said she agreed to the marriage because her career was on a downturn and she was gaining weight and had other problems.

Hardin told jurors witnesses would describe conversations in which Howard Senior screamed at Vickie on the phone for demanding still more money and that she screamed back in return. "This is not a woman who loved him," he said, "but a woman who took tremendous advantage of him."

Hardin noted that Howard Senior purposely left her out of his will when he discovered that she had an insatiable appetite for money. He quoted one person as saying, "I can't train her, she doesn't understand, she just spends."

"No one resented the fact that he loved her," said Hardin. "What they didn't appreciate is the way she treated him."

Defense attorney Jeff Chambers described another incident when Vickie left her new husband crying in his wheelchair after the wedding and left immediately for California on their wedding night with her bodyguard.

Chambers told jurors that Howard Senior told an independent guardian appointed by the court, that he was happy with his estate plan and never mentioned any wish to provide Vickie with half his wealth or to adopt her son.

Hardin told jurors that Howard Senior's gifts to Vickie got so out of hand that by 1994 he had exhausted a \$15 million line of credit to Marshall Petroleum.

"J. Howard Marshall (Howard Senior) did not have funds sufficient to sustain her insatiable appetite for jewelry, cars and money," he added.

Hardin concluded by telling jurors that Vickie didn't see her husband during the last month of his life.

Attorney Don Jackson told jurors that Vickie received more than \$6.6 million dollars in gifts and cash during her relationship with Howard Senior. He said almost half a million dollars was in miscellaneous gifts. Other gifts included \$725,000 in cash as well as homes, cars and a small ranch. "He provided for her the way he intended to," said Jackson.

Jackson also noted that Vickie's claim that she was promised half of everything Howard Senior owned did not surface until three years after his death. In a 1995 interview on the Howard Stern show played for jurors, Vickie told the radio host, "I've got to fend for myself."

"You're not getting a million?" asked Stern. "Nothing," she replied. Jackson also noted that she did not list an interest in the estate in a sworn statement concerning her assets. Her first claim concerning the promise didn't come until 1998, Jackson noted.

Hardin told the jurors that evidence will show nobody but Vickie ever heard the alleged promise from her husband. "She has no witnesses, nothing in writing, no evidence. She has only her contention that she was offered half. She has nothing, nada."

Jackson noted that Howard Senior wanted to provide for Vickie and said that he did, but he said he never intended for her to have any of his Koch or MPI (Marshall Petroleum) stock. In fact, Jackson noted that Koch stock remained his separate property after his second marriage to Bettye, to whom he was married for thirty years.

"He provided for her (Vickie) the way he intended to," said Jackson, "and when he selected his heir it was Pierce."

Attorney Jeff Chambers told the jury that the evidence will show that Howard Senior became disillusioned with Vickie, even refusing her last phone call and telling a long time employee, "I made a mistake."

Opening Statements Regarding Claims by J. Howard Marshall, III

"J. Howard Marshall (Howard Senior) considered his involvement in Koch Industries to be his crowning achievement," noted attorney Rusty Hardin in his opening statement to the jury. Hardin said that Howard Senior had always intended to treat both his sons, Pierce and Howard Junior equally until Howard Junior betrayed him by backing an attempt by dissidents to take Koch Industries public in 1980.

Hardin said that Howard Senior backed Charles Koch and his brother David who utilized the company's profits to invest in building a larger company. "He (Howard Junior) got in bed with the dissidents," Hardin said. Howard Senior wrote, "I asked Howard to stand with me. He flatly refused."

In contrast, Hardin noted the evidence would show that Pierce Marshall sided with his father in the dispute, even though it meant relatively small dividends for Koch stockholders. Howard Senior had given both sons stock in Koch and asked them to "stand with me" against the dissidents. "I asked Howard (Howard Junior) to stand with me, he flatly refused," Howard Senior noted.

Pierce Marshall, on the other hand, stood with his father. Jurors were told they would hear testimony indicating that Pierce said, "They could never offer me enough to vote against my father and the best interests of the company."

The dissidents lost the vote, and Howard Senior then went to California to buy back the stock he had given Howard Junior as a present. According to attorney Don Jackson, Howard Senior paid Howard Junior \$8 million for stock that was worth approximately \$1 million dollars.

Hardin told jurors some of the most powerful evidence in the case will be the testimony of Howard Junior's own mother. She wrote his father that, "Howard Junior was wrong. He was faced with a moral issue and decided wrongly." Hardin said the mother would testify that she told Howard Junior, "Don't you understand

your father is leaving you nothing?" Yet Howard Junior did nothing to address the issue during the 15 years his father was alive, and, according to Hardin, only brought up an alleged oral promise to share in the estate and estate planning after his father died.

Hardin also told jurors why Howard Senior continued to sit on the board of his oldest son's company even though he had disinherited him. "It is better to know your enemy," Howard Senior is quoted as saying.

Hardin noted that beginning in 1982, Howard Senior specifically excluded Howard Junior from his wills. Attorneys for Pierce Marshall told jurors the decision to disinherit Howard Junior was supported by his mother and stepmother, Bettye Marshall. Bettye reportedly said, "I always warned you about that greedy SOB," referring to her stepson (Howard Junior).

Hardin told jurors they would also see evidence that Howard Senior intended to leave his Koch stock to Pierce following the 1980 incident. He quoted a memo from the headmaster of The George School, a college preparatory school which Howard Senior attended, who had discussed estate planning as part of any effort to obtain a donation. "He (Howard Senior) wants to transfer ownership of his Koch stock to his son Pierce," the letter states.

Hardin scoffed at claims that Pierce had talked his strong willed father into leaving him the Koch Industries stock. "You didn't talk J. Howard, II into squat," said Hardin.

Attorney Jeffrey Chambers told jurors that Howard Junior bragged about how smart a deal he made when his father paid him \$8 million dollars for stock worth approximately \$1 million. He noted that the deal would raise his (Howard Junior's) dividend income from approximately \$39 thousand a year to almost \$900 thousand from interest on the money if it were invested in government bonds. Pierce Marshall received no money at the time his brother received the \$8 million dollars.