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2026 IL App (3d) 250360-U

Order filed August 26, 2026

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2026

<i>In re</i> ESTATE OF RICHARD	)	Appeal from the Circuit Court
MUELLER,	)	of the 13th Judicial Circuit,
	)	Bureau County, Illinois.
Deceased	)	
	)	
(Jared Mueller,	)	
	)	
Petitioner-Appellant,	)	Appeal No. 3-25-0360
	)	Circuit No. 19-P-33
v.	)	
	)	
Lance Leslie, Mark Leslie, and Brett	)	
Leslie,	)	The Honorable
	)	James A. Andreoni,
Respondents-Appellees).	)	Judge, Presiding.

JUSTICE PETERSON delivered the judgment of the court.
Justices Anderson and Bertani concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly granted respondents' motion for summary judgment on petitioner's amended will and trust contest petition. Affirmed.
- ¶ 2 Petitioner, Jared Mueller, filed an amended petition to contest the will and trust of his late father, Richard Mueller, alleging that the will and trust were the product of undue influence.

Respondents, Richard's three step-children—Lance, Mark, and Brett Leslie—filed a motion for summary judgment on the amended petition. Petitioner filed a response opposing the motion for summary judgment, and respondents filed motions to strike portions of the exhibits that petitioner had submitted with his response. Following multiple hearings, the trial court granted respondents' motions to strike in part and also granted respondents' motion for summary judgment. Petitioner appeals both rulings. We rule only upon the trial court's grant of respondents' motion for summary judgment and affirm that ruling because, even if we assume that respondents' motions to strike should have been denied, we still conclude that respondents' motion for summary judgment was properly granted.

¶ 3

I. BACKGROUND

¶ 4

Richard and Teresa Mueller were married in 1975 and lived initially in Ohio, Illinois, in Bureau County. They had three children: Melanie, born in 1977; Megan, born in 1980; and Jared, born in 1981. Prior to Jared's birth, in 1981, Teresa filed for divorce. In 1984, Teresa and the children moved to Chebanse, Illinois, approximately a one-hour drive from where Richard lived in Bureau County. Richard and Teresa's divorce was finalized the following year.

¶ 5

In 1989, Richard married Carole Leslie, who became Carole Mueller. Richard and Carole did not have any children together. However, Richard had three children from his prior marriage to Teresa, and Carole had three children from her prior marriage (or a prior relationship)—the three respondents: Lance, Mark, and Brett Leslie. After Richard's marriage to Carole, his relationship with his own children dwindled, and, over the course of several years, his contact with them became sporadic.

¶ 6

In 1997, Richard executed a will, which was prepared by attorney Michael English. In the will, Richard expressly disinherited his three children, even though two of the children were still

minors and the other child was 20 years old. In so doing, Richard specifically stated in the will that he was not providing for his children through the will because he had already provided for his children by obtaining a \$100,000 life insurance policy for their benefit.

¶ 7 In February 2007, Richard was involved in an accident with his tractor and was severely injured. He spent time in the hospital and was in a nursing home from approximately February to June or July 2007. Also in June 2007, Richard executed a power of attorney for property naming Carole as his agent and one of respondents, Richard's stepson, Lance, as his successor agent. Despite continued treatment for his injuries, Richard's condition deteriorated, and he had to have surgery at the end of 2008 and again in the early part of 2009 to have a portion of his right foot amputated.

¶ 8 In August 2009, Richard executed his most recent will and trust, which were also prepared by attorney English. In the 2009 will, Richard again expressly disinherited his three children, stating that he had adequately provided for them during his life. Richard left his personal property to Carole and left the residue of his estate to his trust. In the 2009 trust, Richard again expressly disinherited his three children and again made the same statement that he had adequately provided for his children during his life. The trust gave Carole all of Richard's personal property, lifetime use of her and Richard's home, and lifetime income from the trust estate. If Carole died before Richard, the trust gave the balance of the trust estate, which included the Mueller family farm (the farm had been deeded into the trust), to Carole's three children (respondents) and not to Richard's own children.

¶ 9 In December 2015, Carole passed away. Richard died more than two years thereafter, in March 2018. Approximately one year later, in March 2019, Richard's 2009 will was admitted to probate and Richard's stepson, Lance, was named as independent executor of Richard's estate.

Less than six months later, in September 2019, Richard’s son, Jared (petitioner) filed a petition to contest the 2009 will and trust, alleging that they were the product of undue influence.

Respondents filed a motion to dismiss the petition, and the petition was subsequently amended based upon the trial court’s ruling on that motion.

¶ 10 In April 2020, petitioner filed an amended will and trust contest petition, the operative pleading in this case. In the amended petition, petitioner alleged that over the course of several years, Carole had isolated Richard and prevented him from seeing his children. Petitioner also alleged that the 2009 will and trust were the product of Carole’s undue influence over Richard. Petitioner set forth several examples in the amended petition of instances where Carole allegedly isolated Richard or prevented him from seeing his children.

¶ 11 In May 2024, after most or all of the discovery had been conducted, respondents filed a motion for summary judgment on petitioner’s amended petition and a memorandum of law in support of the motion. Respondents asserted in the motion that summary judgment should be granted in their favor because there was no evidence to support petitioner’s claim of undue influence. Petitioner filed a response and opposed the motion for summary judgment.

¶ 12 The parties attached numerous supporting documents/exhibits to their summary judgment filings in support of their respective positions. Some of the supporting documents that were submitted were Richard’s 2009 will and trust and his 2007 power of attorney; the deposition testimonies of Teresa, Richard’s three children, and attorney English; the affidavits and/or deposition testimonies of some of Richard’s friends and acquaintances—Carl and Georgiana Grossman, Delbert Zimmerlein, Nancy Brandau, and Molly Watson; the deposition testimony of Carole’s niece, Lisa Emerson; the affidavit of Jeff Bloomquist, the ex-husband of Richard’s daughter, Melanie; and the report, curriculum vitae, and deposition testimony of petitioner’s

expert witness, forensic psychiatrist Dr. Stephen Raffle. In addition to establishing some of the background information set forth above, the evidence contained in the supporting documents can be summarized as follows.

¶ 13 Teresa Mueller testified in her deposition that she and Richard were married in 1975 and initially lived on the Mueller family farm in Ohio, Illinois, and later in Walnut, Illinois. During the course of the marriage, Teresa and Richard had three children: Melanie (now Melanie Bloomquist), Megan, and Jared. In 1981, Teresa filed for divorce, and Richard moved out of the home. From that point forward until about August 1984, Teresa and the children continued to live in Walnut. During that time period, Richard would pick up the two girls almost every week and take them out to dinner and to the home of his parents, Martin and Mildred Mueller. Richard may not have taken Jared, however, because Jared was only a baby and it was difficult for Richard to carry all three children.

¶ 14 In August 1984, Teresa moved with the children about an hour away to Chebanse because she got a teaching job in that location. When the move occurred, Melanie was in first grade, Megan was in preschool, and Jared was almost three years old. After the move, the time that the children were able to spend with Richard changed somewhat because of the distance. Approximately every other month, whenever there was a long weekend off of school, Teresa would take the children over to Richard's parent's house for a visit with Richard. In addition, Richard would come pick the children up for a weekend three or four times per year and would take the children for a week or 10 days during the summer. Richard and Teresa's divorce was finalized in 1985, and in 1987, she and the children moved to Bourbonnais, Illinois. Also in 1987, Richard's father passed away.

¶ 15 In approximately the summer of 1989, Richard told the children that he was getting married to Carole and asked the children to be part of the wedding. The children were very excited, but, as the wedding day got closer, Teresa did not hear anything about what the children would need for the wedding. A day or two before the wedding, Melanie called Richard to find out that information. After talking to Melanie, Richard asked to talk to Teresa. When Teresa answered the phone, Richard asked the children not come to the wedding. Teresa could hear Carole in the background telling Richard that the children were not to be at the wedding. Teresa responded that she would not bring the children anywhere that they were not wanted and did not take the children to the wedding.

¶ 16 After the wedding, it did not seem to Teresa that the children were as welcome to visit or stay with Richard. From September 1989 to approximately September 1994, Teresa continued to take the children to Richard's parent's house every other month so they could visit with Richard. There were a few times in 1990, however, when Teresa called and told Carole that she was going to bring the children to Richard's parents' house, but it did not seem that Richard had been given the message. After those few times, Teresa told Richard's mother instead, and Richard's mother acted as the go-between and told Richard.

¶ 17 In addition to Teresa bringing the children to Richard's parents' house, during that same time period (1989 to 1994), Richard continued to come to Bourbonnais three to five times per year to visit or pick up the children. The number of times that Richard did so, however, was less during that timeframe than during the prior years. Richard came for Melanie's softball tournament, to take the children to a boat show and to the mall. Carole generally did not come with Richard on those visits and would only come for big events, like confirmations or graduations.

¶ 18 In summer 1994, when the children were staying with Richard and Carole for an extended period of a week or two, an issue came up over Melanie possibly taking classes at the junior college. The children were approximately 17, 14, and 13 years old at the time. Richard called Teresa and told her that he had lost the children. When Teresa asked what had happened, Richard stated that the children had run away. The children were later found at a neighbor's home. Teresa went to the neighbor's home, and, when she arrived, the children were inside and were angry or upset. Richard and Carole arrived at the neighbor's home a short time later. Richard was very unhappy, and Carole was irate. Carole was yelling about how disrespectful the children were and kind of lunged at or over the hood of Teresa's car. Richard remained quiet, stood in the background, and did not interfere. Teresa told Richard that he needed to spend more time with the children, and Carole responded that Richard did not have time for the children or something to that effect. Although the visit was not supposed to end that day, Richard and Carole brought the children's things with them and ended the visit. Teresa learned later from the children that an issue had arisen over whether Richard would pay for Melanie's college classes. Carole had thrown a checkbook on the table (not at the children) and said that she and Richard did not have any money to pay for college. After that incident, Richard did not pay for any of Melanie's college classes or for Melanie to get a car.

¶ 19 Richard's mother, Mildred, passed away in the summer of 1995. Following Mildred's death, Teresa stopped taking the children every other month to see Richard because she no longer had a neutral place (Richard's parents' home) to bring the children for Richard's visits. According to Teresa, Richard could have asked to see the children or could have picked up the children if he wanted to see them. Teresa acknowledged, however, that she did not call Richard

and offer to bring the children to Richard's home after Mildred passed away and did not ask Richard if he wanted to pick up the children and spend some time with them.

¶ 20 In 1996, Jared was going to be confirmed in the area where Teresa and the children lived. Richard was invited and initially said that he would come to the event. Later, Carole told Teresa that she and Richard were not going to attend the confirmation because they had signed up to serve cookies at their church. Teresa told Richard and Carole that they should be there because confirmation was an important event in the Lutheran church and Richard wanted the children to be raised Lutheran. Teresa contacted the minister of Richard's church and arranged for someone else to serve the cookies. She also bought cookies and took them to a friend's house in the area so that they could be delivered to the church. Teresa then contacted Richard and told Richard and Carole that she had taken care of the matter so that he could attend the confirmation. Richard attended the confirmation, but Carole did not.

¶ 21 In Teresa's opinion, Carole was not very receptive to the children. The children were never invited to Richard and Carole's home and never felt that they were welcome in the home with Carole there. According to Teresa, Carole never stated that she did not want to see the children or to have the children come visit, but there would always be some little problem or difficulty that would arise when Richard and Carole had the children. Teresa did not talk to Richard about any of those little problems or difficulties or about whether the children were welcome in Richard and Carole's home because she did not want to interfere with Richard's marriage. Richard still seemed happy to see the children and never told Teresa to stop bringing the children over or that he did not want to see the children.

¶ 22 Melanie Bloomquist, Richard's and Teresa's oldest daughter, provided testimony in her deposition that was similar to Teresa's testimony regarding the relationship between Richard and

the children when the children were younger. The children saw Richard four or five times per year when Teresa brought them to Richard's parent's house and also saw Richard a few other times each year when Richard would come to visit them or would pick them up and take them places. According to Melanie, however, after Richard started a relationship with Carole, it was as if "everything hit the brakes," and the children's relationship with Richard went "in the toilet" in a hurry. The children never spent holidays, birthdays, or Father's Day at Richard and Carole's house and were never invited to do so.

¶ 23 As an adult, Melanie's relationship with Richard was only sporadic—there were periods where Melanie saw and talked to Richard frequently and periods where she did not see or talk to Richard very much or at all. Melanie had little or no contact with Richard from approximately 1996 to 1998 because he did not approve of her living with and planning to marry her boyfriend. Richard did not approve because she was only 18 at the time. After Melanie had her son in 1998, she saw Richard approximately three times per year. There were some years, however, when Melanie barely saw Richard at all.

¶ 24 In approximately 2003 or 2004, when Melanie became engaged to Jeff Bloomquist, she reached out to Richard so that Richard could be part of the wedding. For the next several months, Melanie talked to Richard almost every week and Richard and Carole came to the rehearsal dinner and to the wedding. In approximately July 2005 or 2007, however, the communication ended, and Richard stopped returning Melanie's calls. Melanie did not hear back from Richard for about a year, which hurt Melanie's feelings.

¶ 25 In 2007, when Richard had the tractor accident, Melanie was approximately 29 or 30 years old. Melanie did not go to see Richard in the hospital because she did not find out about the accident until later. From July 2008 until 2015 when Carole passed away, Melanie's contact with

Richard was sporadic. During that period, Melanie only saw Richard or talked to him on the phone a few times. When Melanie visited Richard later in life and went to the family farm, Carole would find reasons not to be around. Carole made the meals and did the dishes, and then spent time with her friends, while Melanie spent time with Richard. According to Melanie, Carole was not her friend and did not act like a stepmother to her or her siblings.

¶ 26 After Carole's death, Richard continued to live independently in his own home and took care of himself until shortly before his death in 2018. When Melanie was asked during her deposition if there was anything that prevented Richard from changing his will or estate plan after Carole died, Melanie stated that Richard would not go against Carole and that Carole may have been gone in body but was not gone in spirit. Melanie stated further that Richard was very stubborn and that if he felt he owed a person, he would not go against that person.

¶ 27 Melanie's ex-husband, Jeff Bloomquist, made statements in his affidavit that corroborated Melanie's testimony and provided further details as to what Richard and Melanie's relationship was like around the time of Jeff and Melanie's marriage. In addition to Melanie's deposition testimony, Jeff stated in his affidavit that prior to the marriage, Richard asked if he could invite some of his friends to the wedding. Jeff and Melanie agreed to that request. Richard stated that he wanted to invite four to six couples and that he would give Melanie and Jeff \$1,000 to cover the extra cost of having those people at the wedding. When Richard made the statement about giving Melanie and Jeff money, Carole became very upset. Carole did not say anything, but her face said it all. Carole would subsequently get angry every time the \$1,000 would come up in conversations.

¶ 28 Richard and Carole both attended the wedding. The next morning, Melanie and Jeff had a post-wedding breakfast with Richard, Carole, Megan, and petitioner. Richard specifically asked

that petitioner come to the breakfast. Petitioner was reluctant to do so, because on many prior occasions, he would begin talking to Richard, and then Richard would disappear. Despite his reluctance, however, petitioner agreed to attend the breakfast.

¶ 29 At the breakfast, Melanie and Jeff left seats open so that Richard and Carole could sit with Melanie, Jeff, Megan, and petitioner. Richard and Carole, however, sat at the other end of the table, away from Richard's children. Jeff was surprised because Richard was the one who wanted to have the breakfast so that he could be with his children.

¶ 30 After the wedding, Melanie made plans to meet with Richard to go over the wedding photos. Melanie called Richard repeatedly to try to set a date to do so, but each time, she got the answering machine or spoke to Carole, and Richard would never return her calls. Melanie was very saddened that the opportunity to restart a relationship with Richard had been lost.

¶ 31 At some point thereafter, Jeff attempted to call Richard, and, after several tries, Richard finally answered the phone. In that conversation, Richard told Jeff in a whispered voice that Carole was angry about the \$1,000 that Richard had given them to pay for his friends coming to the wedding. Jeff responded that Melanie was upset about what had happened. Richard told Jeff that Carole was very upset, that he needed her not to be upset, and that he needed time to deal with Carole. Melanie continued to call and send cards to Richard but gave up doing so four to six months later.

¶ 32 Richard and Teresa's second child, Megan Mueller, provided testimony in her deposition that was similar to the testimony of Teresa and Melanie with regard to Richard's relationship with the children when the children were younger. Among other things, Megan confirmed that the children did not spend holidays, birthdays, or Father's Day with Richard and were not invited

to do so. According to Megan, Richard and Carole would usually have other plans on those days and would never include Megan and her siblings in those plans.

¶ 33 Like Melanie, Megan's relationship with Richard after she became an adult was only sporadic. Megan did not remember how often she saw Richard or if she saw Richard at least once per year from the time she was 18 years old (1998) until when she was 22. At approximately age 22, Megan moved to North Carolina where she lived for 10 years. After the first few years, Megan came back home for a week most years to see her mother, siblings, and Richard. Megan did not remember how often she talked to Richard on the phone when she was in North Carolina.

¶ 34 Megan stated that she did not have any issues with Carole when she was growing up or over the years. Carole was generally nice to her. At times during the farming season, Megan would be at the farm helping Richard. Carole would make a big meal for them and would then go lay down. Richard and Megan would then spend some time together. Megan did not know what her siblings' relationship with Carole was like.

¶ 35 In 2012, Megan moved back to Illinois. She did not remember how often she saw Richard after she moved back until Richard's death, but stated that it was more often after Carole had died. Megan talked to Richard on the phone or social media during that period, maybe once or twice per week.

¶ 36 Megan was not aware of any evidence that Carole had ever managed Richard's personal or financial affairs. Like Melanie, Megan also testified that after Carole died, Richard was still able to live in his own home and take care of himself. Megan added that Richard even continued farming or had farming operations for a number of years right up to when he passed away.

¶ 37 Petitioner, Jared Mueller, Richard and Teresa's youngest child, provided testimony in his deposition that was similar to the testimony of Teresa and of petitioner's siblings regarding the children's relationship with Richard when they were younger. According to petitioner, however, after Richard began his relationship with Carole, the children's visits with Richard went down to about once per year, not counting the times when Teresa took the children to Richard's mother's house to visit with Richard. Petitioner confirmed that when he and his siblings were younger, they did not spend holidays (on the actual day), birthdays, or Father's Day with Richard. The children did send presents to Richard at times (that Teresa had purchased) and would occasionally call Richard on Father's Day, but most of the calls went unreturned. Petitioner did not know from memory the date or month of Richard's birthday. Petitioner confirmed that the yearly visits with Richard stopped in 1994. Petitioner was 13 or 14 years old at the time. Richard's mother died the following year, and the children went to the funeral. Petitioner estimated that between 1994 and 1999 (petitioner graduated from high school in 1999), he had seen Richard approximately 20 to 30 times on various occasions, such as at the nursing home with Mildred, at Mildred's funeral, and at petitioner's and his siblings' confirmations and graduations.

¶ 38 Like his siblings, however, petitioner's relationship as an adult with Richard was only sporadic. From 1999 to 2015, petitioner only saw Richard two times—at Melanie's wedding and unexpectedly at a tractor show. Also during that time period, petitioner did not talk to Richard at all on the phone, did not send Richard any cards or letters, and did not try to establish a relationship with Richard because, according to petitioner, his relationship with Richard had been severed. Petitioner stated further that after he became an adult, he did not reach out to

Richard because of the pain—over the years, petitioner and his siblings would have a great relationship with Richard but then would not hear from him and would not be able to reach him.

¶ 39 In December 2015, Carole passed away. Richard invited petitioner and his siblings to Carole's funeral and also invited them to his house after the funeral. Petitioner also saw Richard a few times in 2016 and 2017. Like his siblings, petitioner testified in his deposition that Richard continued to live on his own and take care of himself after Carole's death and continued to manage his own affairs.

¶ 40 Petitioner was not aware of any evidence that Richard was dependent upon Carole for his personal or financial affairs. Petitioner believed, however, that Carole had indirectly prevented Richard from exercising his own free will in deciding to whom to leave his estate. According to petitioner, Carole had only married Richard to get the Mueller family farm. Petitioner also believed that Carole was present at the attorney's office on the same day that Richard's 2009 will (and trust) were signed and that Carole had signed documents for the same attorney and/or other people on that same day. Petitioner did not know whether Carole was in the room with Richard when Richard signed his will (and trust).

¶ 41 When asked further in his deposition about Carole's influence over Richard, petitioner agreed that he was not directly aware of any evidence that Carole had somehow prevented Richard from exercising his own free will in deciding to whom to leave his estate or that Carole had forced or coerced Richard to leave his estate to her and respondents. According to petitioner, the facts that he had to support his claim that Carole had unduly influenced Richard were that Carole had kept petitioner and his siblings away from Richard starting at the wedding to which Carole had disinvited Richard's children, that Carole had told her family that her intention was to get Richard's farm, that Carole had kicked Richard's mother out of the house that Richard's

parents had built for their retirement, that Carole had kicked petitioner and his siblings out of the family and forbid them to see Richard, and that Carole had controlled what payments Richard could make for certain things. After Richard passed away, petitioner went to attorney English's office to obtain some information. Before he learned the details of Richard's estate plan, petitioner believed he was probably going to be disinherited because he did not have a good relationship with Richard for the past 20 years.

¶ 42 Carl Grossman stated in his affidavit and/or later deposition that he had been friends with Richard for over 50 years and had seen Richard at least once every few months since the 1950s. According to Carl, Richard was always easygoing, agreeable, and easy to get along with person. Carl noticed a change in Richard, however, beginning in the late 1980s and early 1990s, around the time that Richard married Carole.

¶ 43 Between 1980 and approximately 2005, Carl and Richard would occasionally travel together to attend farm equipment sales. On one particular trip in approximately 1992, Carl and Richard were sitting in a truck talking because it was cold outside. While they were talking about Carl's son, Richard confided in Carl that he missed his own children very much. Carl noticed that Richard had tears in his eyes when he made that statement. Carl asked Richard why he could not see his children, and Richard responded that "Carole was a strong-willed person." Carl knew Richard to be a person who was uncomfortable with conflict and who was not readily able to disclose his personal feelings very often and believed, therefore, that the conversation was particularly difficult for Richard to have. Carl stated in his affidavit that he directly understood Richard's statement about Carole being strong-willed to mean that it was Carole's desire that Richard's children not be around. Carl acknowledged during his deposition, however, that he did

not know what Richard meant when Richard made that statement and that he was just assuming what Richard meant.

¶ 44 In the 1990s, Richard's house burned down completely in a fire when Richard was out of town. Carl visited Richard shortly after the house was rebuilt and specifically recalled that the interior of the home was now decorated mostly with photos of Carole and her family and not with photos of Richard and his family as it had been before. Carl thought the lack of photos of Richard's family was odd and that it appeared as if only Carole's pictures had survived the fire. At one point in the 1990s, Carl wanted to buy one of Richard's tractors, but Richard declined and stated that he wanted to give the tractor to his son, Jared, the petitioner in this case.

¶ 45 In about 1998, Richard, Carole, Carl, and Carl's wife, Georgiana, went to dinner. During the dinner, Richard was very quiet, and Carole did all the talking. After dinner, Carl and Georgiana discussed how it appeared that Carole had a lot of control over Richard.

¶ 46 Following Richard's tractor accident in 2007, Carl offered to mow Richard's lawn every other week because Richard was physically unable to do so. During the mowing visits, Carole was always present, and it appeared to Carl that she was watching carefully what Richard said. In addition, Richard seemed to be withdrawn and unusually subdued in what he stated as if he had something on his mind. Richard told Carl that he was taking a lot of pills after the accident and that he wished that he could get off some of them. Carl's wife, Georgiana, went with Carl on some of the mowing visits, and, immediately after at least one visit, told Carl that it felt like "cold weather" at Richard and Carole's home. Carl took Georgiana's statement to mean that Carole's presence was chilling whatever Richard wanted to say. At some point after the 2007 accident, Richard told Carl during a conversation that he wanted to be closer to his own children.

The conversation took place in Richard and Carole's home, and only Richard and Carl were present when the conversation occurred.

¶ 47 In about 2007 or 2008, Richard invited Carl to a small party at a restaurant in Ladd, Illinois, which Carl and Georgiana attended. During the party, Carole did not acknowledge Carl or Georgiana's presence, and it seemed that Carole was attempting to keep Richard from them. It appeared to Carl that Richard wanted to talk to him about his marriage and other troubles but was being kept away by Carole. At another mowing visit in approximately 2012, when Richard and Carl were riding around the property in a golf cart, Richard stated to Carl that he missed his own children. Carl told Richard that he needed to call the children, but Richard did not respond.

¶ 48 According to Carl, a few months after Richard's funeral, petitioner came to see Carl to discuss certain things about Richard's estate—that petitioner and his sisters were not included in Richard's will or trust. At some point thereafter, petitioner returned and asked Carl to provide an affidavit for this case. Petitioner told Carl that he hated to see his grandfather's legacy be lost and that he thought that he, and not respondents, should get the Mueller family farm. Carl felt the same way about his own land—that it should go to his son and grandson as a legacy and not to his wife's children. Carl received the affidavit in the mail later and signed it in January 2022.

¶ 49 In his affidavit, Carl stated that it was his opinion, based upon his long history of knowing Richard and his interactions with Richard over the years, that Carole did not like Richard's children and that she purposefully kept Richard from the children. Carl believed that Richard was controlled and dominated by Carole and that Richard did things that Carole wanted to do even if Richard did not want to do them. In his deposition, however, Carl was questioned further about those statements, and he acknowledged that he did not know what Richard's relationship with the children was like after Richard and Teresa's divorce, that he did not think

that Richard had seen his own children in the 15 years prior to his death, and that Richard never told Carl why his relationship with the children was not good. Carl further stated that Richard never discussed with Carl whether Richard was going to leave anything in his will or his trust to the children, that he had no knowledge why Richard made the decisions that he made with respect to his estate plan, that he was not aware of any evidence that Carole had in any way influenced Richard's estate planning decisions, and that no one had ever told Carl that Carole had done so or that Carole had prevented Richard from seeing his children. Carl also stated in his deposition that there was no time in either 1997 (when Richard's first will was executed) or in 2009 (when Richard's second will and his trust were executed) when he saw Richard and thought that Richard was not able to make his own decisions.

¶ 50 Carl's wife, Georgiana Grossman, provided statements in her affidavit and her deposition that corroborated Carl's statements about the mowing visits and the party that she and Carl attended in 2007 or 2008. With regard to the mowing visits, Georgiana had the same impression as Carl—that Carole was watching what Richard said to Carl. As for the party, Georgiana stated the Carole's facial and body expressions gave Georgiana the impression that she and Carl were not welcome at the party. Georgiana admitted in her deposition, however, that she did not know Richard or Carole very well.

¶ 51 Delbert Zimmerlein stated in his affidavit and/or later deposition that he was good friends with Richard, that he had known Richard since childhood, and that he had lived within seven or eight miles of the Mueller family farm for 69 years. Zimmerlein's family went to the same church as Richard's family when Zimmerlein was growing up and purchased farm equipment from Richard and his father. Zimmerlein had known Richard to be an easygoing person who would try to avoid conflict. After marrying Carole in the late 1980s, however, Richard changed

and appeared to be less happy than he was before. Zimmerlein had personally observed the way that Carole spoke to Richard on many occasions over the years and believed from those observations that it was clear that Carole was the boss of Richard.

¶ 52 According to Zimmerlein, Richard would talk about his children at times and would state that he wanted “the world and all” for his children. In the late 1990s, Zimmerlein and Richard were traveling to a farm equipment auction, and Zimmerlein asked Richard how things were with Richard’s children. In his affidavit, Zimmerlein stated that Richard responded that every time he set up times for his children to visit, things would go to “yu[c]k.” Richard then began tearing up and stated that Carole did not want him to see his children. When Zimmerlein was asked about that conversation during his deposition, he provided additional details and stated that Richard told him that every time he tried to make a deal to get the children to come over for a visit, Carole would go ahead and okay the visit, and then at the last minute, something would come up, and the children would not be able to come. Richard teared up at that point and stated that everything turned to “yuck” and that it was just not good. According to Zimmerlein, that happened at least one or two times. Zimmerlein acknowledged during his deposition, however, that he did not know how old the children were at the time, what Richard’s relationship with the children was like prior to that point, or the specific reason why the visits were called off. Zimmerlein stated in his affidavit that it was his opinion that Carole’s desire to isolate Richard was the reason that Richard was unable to see and have a relationship with his children.

¶ 53 Following Richard’s tractor accident, Zimmerlein visited Richard at the nursing home approximately every two weeks. No one else was at the nursing home visiting Richard at those times. According to Zimmerlein, Richard was not in a good mental state, seemed depressed and confused, and was not himself. When Richard later got out of the nursing home, he seemed to be

doing all right mentally, but Zimmerlein did not think that Richard was ever up to par after the accident occurred and for the rest of his life, including in 2009—the year that Richard executed his most recent will and trust. Zimmerlein did not believe, however, that Richard was mentally incompetent during that period. Richard was still living his life, running his business, and knew what was going on around him, but he was not the same person mentally or physically after the accident occurred.

¶ 54 Zimmerlein did not remember ever seeing any of the children with Richard in the 15 years before Richard passed away. Zimmerlein met respondents, Richard’s stepchildren, a few times and thought that Richard got along with them all right. Zimmerlein had seen respondents at Richard’s farm from time to time. Zimmerlein stated in his affidavit that it was his opinion, based upon his interactions with Richard and knowing Richard as a friend for several years, that Richard would not have given his farm to his stepchildren, if not for Carole directing him to do so. When Zimmerlein was asked further about that statement in his deposition, however, he confirmed that he was not positive of “anything like that,” but stated that it seemed from everything that it was Carole’s wish to “zonk” the children out and to get her side in. When Zimmerlein was asked what factual basis he had to support that conclusion, he stated that it was “just [a] sneaking suspicion.” Zimmerlein thought that Richard was coerced into leaving his estate to Carole and her children but was not aware of any facts or evidence of Richard being coerced. As far as Zimmerlein knew, there was nothing that prevented Richard from changing his will after Carole died. Zimmerlein had seen Richard several times after Carole died, and Richard was living on his own in his own home and taking care of himself until shortly before he passed away.

¶ 55 According to Zimmerlein, in about January 2021, petitioner talked to him about signing an affidavit for this case. Petitioner told Zimmerlein that he was not going to get Richard's farm and that he was thinking about filing a lawsuit against respondents. The last time that Zimmerlein had seen petitioner before then was at the church for either Richard's or Carole's funeral and, prior to that, was probably more than 20 years earlier when petitioner was a child. Petitioner's attorney later sent the affidavit to Zimmerlein to sign and get notarized.

¶ 56 Molly Watson stated in her affidavit and/or her later deposition that her parents owned farmland near the Mueller family farm and that her family had known Richard's family for three generations. Until his untimely passing in 1999, Watson's father would buy and sell equipment with Richard at farm equipment sales, and he and Richard would help load and unload equipment at each other's farms. From 1987 to 1993, Watson lived in Quincy, Illinois. During that time period, Watson still saw Richard several times a year when she would come home to visit her family or to attend various events. Watson probably saw Carole about the same number of times during that period as well. From 1993 to 2004 or 2005, Watson lived in Pearl City (presumably, Pearl City, Illinois). She still saw Richard and Carole about four times per year during that time period for the same type of circumstances. Watson never had any problems with Richard or Carole.

¶ 57 In 2004 or 2005, Watson moved back to the Ohio, Illinois, area. After Watson did so, the number of times that she saw Richard increased to 6 to 12 times per year because Watson was spending more time with her mother and was at her parents' farm more often following her father's death. Watson saw Carole a few times less than she saw Richard because Richard would be by himself sometimes when Watson would see him. After Watson moved back to the area, she and her mother, Winifred, frequently socialized with Richard and would go out to dinner

with him. Carole would occasionally join them. Richard would also come to Winafred's house and speak with Watson and Winafred. Watson and Winafred met with Richard about once a week until his death. Watson stated in her affidavit that frequently, when Richard was at Winafred's house visiting, Carole would call after about 15 minutes and urge Richard to come home, and Richard would often do so. When Watson was asked further about the matter in her deposition, however, she stated that Richard and Winafred were lifelong friends, that Richard would often lose track of time when he was talking to Winafred, and that Carole would call Richard to remind him that they had something to do and that he needed to come home.

¶ 58 Watson stated in her affidavit that from 2004 to 2015, when she would ask Richard about his children, he would cry and say that he was not allowed to see them. That was the only time that Watson would see Richard cry, and it happened every time his children were brought up. When Watson was asked further about those incidents in her deposition, she stated that such discussions occurred at least a couple of times per year in the 11-year period specified. During the discussions, Watson could tell that Richard was upset and that he wanted to end the conversation about the subject. Watson had no knowledge as to why Richard was not allowed to see his children. Richard never went into more details about the matter and no one ever told Watson why Richard was not allowed to see his children. Richard was a reserved person and did not show his feelings very often so Watson did not want to pry and ask additional questions when Richard was upset. Watson also testified in her deposition that she was paraphrasing in her affidavit when she stated what Richard said about the matter and that she did not remember whether Richard stated that he was not allowed to see the children, that he was unable to see the children, or something else to that effect. According to Watson, Melanie and Megan came to visit Richard occasionally during that time period, but Watson did not know if petitioner had

done so and had no evidence to dispute petitioner's testimony that he made no effort to see Richard.

¶ 59 After Carole died in 2015, Richard continued to live in his home by himself, take care of himself, manage his farm, and was still able to drive. Watson continued to see Richard about once a month for the same type of occasions as before (going out to dinner and other socializing). According to Watson, there was one time after Carole died when Jared called, and Richard asked, "Jared who?" because Richard knew three Jareds and did not know which one was on the phone. She believed that the incident upset both petitioner and Richard. Watson knew about the incident because Richard told her about it.

¶ 60 When Watson and her mother found out that Richard had disinherited his children, they were shocked. Watson would have expected Richard to leave the farm to his children because it was the family farm. It belonged to Richard's parents before Richard. That was normally the way things were done and was consistent with how Watson had seen things done in that area, even if the children had not worked on the farm as adults. That was what had happened with Watson's family farm—Watson's mother had inherited the farm from her own father, and Watson inherited the farm from her parents. Watson acknowledged during her deposition testimony, however, that she never had any discussions with Richard about what he was going to do with his estate or what was in his will or trust and did not know anyone who had discussed that with Richard. Watson was also not aware of any evidence that Carole or anyone else had influenced Richard in how to dispose of his estate.

¶ 61 Based upon her conversations with Richard, Watson believed that Richard and the children's relationship was strained and that there was not a lot of visits or communication between Richard and the children. Watson knew that Richard wanted to see the children because

he talked about the children at least two or three times per year, especially at holidays, and said that he wanted to see them. Watson was not aware of anytime that Richard expressed disappointment that his children did not call him. According to Watson, whenever anyone asked Carole if the children had been in contact with Richard, Carole would change the subject. Richard was present during those times as well and would not provide an answer to the question. The fact that Richard wanted to see his children, that he never expressed disappointment that the children did not call him, and that Carole would change the subject whenever the matter came up, made Watson think that possibly Carole was not allowing Richard to see his children or that she was keeping Richard from visiting with his children. Watson acknowledged during her deposition testimony, however, that Richard never told her that Carole had prevented him from seeing his children and that Carole had never told her that she did not want Richard seeing his children.

¶ 62 Nancy Brandau testified in her deposition that she was 80 years old and that she had known Richard since they were in both in grade school. Richard was five years younger than Brandau—the same age as Brandau’s younger brother. When Brandau and Richard were growing up, their families lived in close proximity to each other and went to the same church. Brandau also knew Richard’s mother, Mildred, and had known Mildred for most of Brandau’s life.

¶ 63 During the late 1980s to early 1990s, Brandau occasionally called Mildred and visited Mildred once or twice per month at the Mueller family farm. Mildred initially lived in the newer home on the farm property but had moved into the old farmhouse on the property at some point after Richard and Carole were married. When Brandau visited with Mildred, Mildred would cry and say that Richard and Carole made her live in the old farmhouse. Brandau had no firsthand

knowledge, however, of how that actually came about. For all Brandau knew, Mildred could have made the decision on her own to move out so that Richard and Carole could have their privacy in the newer home.

¶ 64 During Brandau and Mildred's conversations, Mildred also discussed how it bothered her that Richard's children (her grandchildren) were unable to come visit. Mildred stated that she really missed her grandchildren and that she just could not figure out why they could not come to see her. The children were young at that point—maybe 10 or 12 years old. Mildred cried easily, and anytime anyone said anything about her grandchildren, she would cry. When Brandau asked Mildred why the children could not visit, Mildred signaled and motioned her head toward the newer home on the farm where Richard and Carole lived but did not say anything or give an explanation so Brandau did not know what Mildred was thinking or what she meant. Brandau did not have any firsthand knowledge as to why Mildred did not get to see her grandchildren very often and would only be speculating as to what Mildred meant when she signaled and motioned her head during their conversations. Mildred's inability to see her grandchildren was all the time after Richard and Teresa divorced and got worse after Richard married Carole because Richard's time would be filled up with Carole in addition to his other commitments.

¶ 65 According to Brandau, Richard was a strong-willed person, at times, if he knew what he was going to do, but was not strong-willed if he actually had to make a decision. Brandau was not aware of any evidence that anyone influenced Richard's decision as to whom to leave his estate but was of the opinion that Carole manipulated and dominated Richard. When asked what facts she based that opinion on, Brandau stated that she just felt that Carole was the type of person who was friendly to a person's face but was not friendly toward that person after he or she had left. Brandau had talked to Carole many times and would always feel that she was not

the person to whom Carole wanted to be talking. Brandau did not believe that Carole viewed her as a friend but did not know why Carole might have felt that way.

¶ 66 Lisa Emerson testified in her deposition that she was 51 years old, that she was Carole's niece, and that her mother was Carole's sister. In Emerson's opinion, Carole was a stern woman. When asked what facts she had to form that opinion, however, Emerson stated that she honestly did not have anything to say as to why she would characterize Carole that way, just that Carole was stern in her demeanor. Emerson also felt that Carole could be a vindictive person. The last time that Emerson saw Carole was in about 2006 at a birthday party.

¶ 67 According to Emerson, Richard and Carole would never bring up Richard's children in a conversation. Emerson's mother would occasionally ask how Richard's children were doing, and Richard and Carole would respond that the children were unruly and that the reason that Richard did not have a relationship with the children was because of problems that Richard and Carole had with Teresa (the children's mother). There were two conversations to that effect over the years that Emerson could remember. The conversations took place 25 years ago in Emerson's grandmother's house at the kitchen table and were between Emerson's mother and Carole. Emerson's grandmother was also present for those conversations.

¶ 68 Emerson testified further that after Richard and Carole's honeymoon, there was a conversation that took place in her grandmother's kitchen between Carole, Emerson's mother, and Emerson's grandmother where Carole stated something to the effect that she was not going to marry Richard unless Richard put her on the farm. Emerson did not participate in the conversation and was sitting in the den but could hear the conversation because the den shared an open wall with the kitchen. Carole and the others were talking about Richard or Mildred's farm, which Emerson believed was a normal conversation. Emerson thought that it was "rotten" that

Mildred had to move out of her house and into the old farmhouse. When asked if she had any facts to support her opinion on that issue, Emerson stated that there were no facts to support anything.

¶ 69 Attorney Michael English testified in his deposition that he had been a practicing lawyer in Princeton, Illinois, for the past 40 years. The first time that English had met Richard was in December 1996. Richard had come to English's office because he wanted a will prepared. English had no independent recollection of that meeting, but his notes for that meeting indicated that he and Richard discussed who Richard's family was; the birth dates of Richard's children, Carole's children, and Richard and Carole; and what Richard wanted to do in his will. English believed based upon looking at his time sheet for that meeting that only Richard was present for the meeting and that Carole was not present.

¶ 70 English's memory of Richard and Carole over the years was that when Richard came in to do business, he came by himself; that when Carole came in to do business, Richard was often with her; and that Carole was not present when Richard came in to talk about wills and trusts. English's memory in that regard was based upon his personal recollection and a review of his time records. English typically kept contemporaneous time records of who was in the room during meetings, but it was possible that he had not done so in this case and that Carole was present in the room when the December 1996 meeting occurred. About a year after the December 1996 meeting, Richard signed the will that English had prepared (the 1997 will) and paid English for his work. The initial meeting in December 1996 and the second meeting the following year when Richard signed the will were the only two times that English met with Richard about the 1997 will.

¶ 71 Although English had a conversation with his clients about their estate planning, he typically did not ask them questions specifically intended to probe their mental ability to enter into an estate plan and did not ask such questions of Richard with regard to the 1997 will. English would only ask those type of questions if they appeared to be warranted, which was not usually the case.

¶ 72 English was sure that in preparing the 1997 will, he would have asked Richard about why Richard was disinheriting his minor children, but English did not have any specific recollection of doing so. English acknowledged that it was somewhat of a red flag for an estate planning attorney when a person was disinheriting his children. English did not remember specifically whether Carole came into the office with Richard when Richard signed the 1997 will, but English did not think that Carole had done so.

¶ 73 In 2007, Carole hired English to do some work relating to a farm parcel in DeKalb County, Illinois (not the Mueller family farm). That was the first time that English met Carole. Later that same year, Carole hired English again to prepare her estate plan. English already had an attorney-client relationship with Richard at that time. English had prepared Richard's 1997 will, and other attorneys in English's law firm had represented Richard in some collection work and in his prior divorce and postjudgment proceedings. When Carole came to the office in 2007 for estate planning, Richard came with her. English did not prepare any estate planning documents for Richard at that time but still considered Richard to be a client of his.

¶ 74 In 2009, Richard came back to see English and wanted to have his will and his estate plan reviewed. Carole had executed a revocable trust in 2007, and Richard thought he wanted to move in that direction. English prepared a new will for Richard and also prepared a trust. According to English, when the 2009 will and trust were executed, Richard appeared to be the same person

that English had known for the past 14 or 16 years and also appeared to be of sound and disposing mind and memory. Richard came into the office by himself, English and Richard went over the estate planning documents, and Richard confirmed that was what he wanted. There was no indication that Richard was incapable or even wavering in what he wanted to do.

¶ 75 During the 14 to 16 year period that English had known Richard prior to the execution of the 2009 will and trust, English had personally spoken to Richard 15 to 20 times. When Richard would come into the office to conduct business with one of the other attorneys or when Carole was getting her estate plan prepared, Richard and English would talk briefly. English saw both Richard and Carole fairly regularly at his office between 2007 and 2009.

¶ 76 After Carole died (in 2015), English's firm handled the administration of Carole's trust. That was probably the last thing that the law firm actively did for Richard. After Richard died (in 2018), English became aware that Richard had a prior trust agreement that was executed in 1989. English did not know that the 1989 trust existed when he prepared Richard's 1997 will.

¶ 77 According to English, Richard was consistent in his position that his children were not to be included as beneficiaries of his estate. All of Richard's estate planning documents that English prepared contained that provision. English had no understanding, other than the statement in Richard's estate planning documents, as to why Richard was making the decision not to leave any of his estate to his children. English had no information that indicated anyone was influencing Richard to disinherit his children. English had interacted with Richard and with Carole over the years and had no reason to believe that Carole had unduly influenced Richard's decisions regarding disinheriting his children. According to English, Richard came into English's office with a very specific idea in mind as to what he wanted to do. Richard wanted to take care of his children, as he was obligated to do through his divorce decree. He faithfully carried that

intention out by keeping his life insurance in effect until he died, which he was not required to do. It was clear from 1997 on, however, that Richard knew what he wanted to do with his property, and that was what Richard did. English had no concerns when either the 1997 or the 2009 estate planning documents were executed about Richard's ability to freely dispose of his estate as he chose. To the best of English's recollection, Carole was never present with Richard in English's office when English and Richard were discussing Richard's estate planning needs.

¶ 78 Dr. Stephen Raffle's report and curriculum vitae showed that he was a board-certified psychiatrist and forensic psychiatrist who had been practicing for over 50 years. Raffle had rendered his forensic opinion in over 5,000 matters and had provided expert opinion testimony in more than 800 trials and depositions. Raffle was hired by petitioner as an expert witness to review many of the relevant discovery materials in this case and to produce a report pertaining to the issue of undue influence. More specifically, Raffle's task was to determine whether medical factors existed in this case from an undue influence standpoint that could have contributed to Richard disinheriting his three natural children. The materials that had been submitted to Raffle to review in conducting his evaluation and preparing his report included most of the affidavits and depositions set forth above, except for Teresa's deposition, which had not yet been taken; Richard's 1997 will¹; Richard's 2009 will and trust; the deposition of one of Richard's additional friends; the deposition of one of the respondents; some of Richard's medical records; and some of the other discovery materials. Raffle indicated in his report that after reviewing the submitted materials, he would assess the information he was allowed to consider (by statute or case law) and use his education, training, and experience to decide "whether or not the preponderance of

¹Throughout his report, Raffle incorrectly referred to the 1997 will as the 1997 will and trust, incorrectly referred to the 2009 will and trust as the 2008 will and trust or the 2007 will and trust, and incorrectly referred to Richard's 2007 tractor accident as the 2006 accident. To avoid confusion, we have corrected those errors in setting forth the contents of Raffle's report.

the medical evidence exist[ed] for the presence of direct or indirect indicators of [u]ndue [i]nfluence.”

¶ 79 At the outset of his report, which was dated December 2023, Raffle provided some background information relative to the issue of undue influence. Raffle set forth some of the different definitions of undue influence and stated, among other things, that undue influence usually “[came] down to one person’s will or judgment being substituted for another person’s.” Raffle noted in his report that the psychological framework for undue influence commonly included one or more of the following characteristics: isolation, dependency, emotional manipulation and/or exploitation of vulnerability, acquiescence, loss, susceptibility, confidential relationship, active procurement, monetary loss, vulnerability, performing intermittent acts of kindness, and keeping (the testator victim, presumably) unaware. Raffle noted further in his report that significant medical or psychiatric problems could also contribute to a victim’s susceptibility to being unduly influenced or to being able to correct the circumstances which existed as a consequence of having been unduly influenced in the past and stated that in this particular case, Richard had both medical and psychiatric disorders.

¶ 80 After conducting his review in the instant case, Raffle formed several opinions, including that: (1) medical evidence existed to support allegations of undue influence as referenced in petitioner’s allegations; (2) deposition testimony indicated evidence of intentional isolation of Richard’s children from their father by his wife, their step-mother, Carole; (3) evidence existed in the medical records and other reviewed materials that Richard did not have a close relationship with his stepchildren after he met Carole, married her in 1989, and executed his 1997 will and subsequent testamentary documents in 2009; (4) evidence existed in the same records that Richard had a close relationship with his biological children post-divorce from their

mother, although his job interfered with weekly custody, until he met and became married to Carole; (5) Richard's children, as minors and thereafter, repeatedly tried to have a close and loving relationship with their father; (6) Richard was a close, loving, and supportive father given the opportunity such as during the period of his daughter Melanie's nuptials to her husband, Jeff; (7) Richard expressed to others regrets that he was not as emotionally close to his children as he wanted to be; (8) following Richard's tractor accident and amputation in 2007, and afterwards, he was more reliant on Carole for his physical needs and emotional support and also became depressed; and (9) the above medical evidence supported Raffle's medical opinion that prior to Richard's will being executed in 1997 and 2009 (will and trust), Carole isolated Richard from his children, created dependence, emotionally manipulated him, and caused him to feel that his relationship with the children was lost.

¶ 81 As part of his ninth opinion listed above, Raffle also opined that Richard was susceptible to Carole's influence and that Richard's depression and alienation from his children interfered with his ability to change the beneficiaries of his 2009 will and trust after Carole's death. Raffle went on in his report to explain the bases for each of his opinions at length. The bases were generally the affidavits and deposition testimonies that had been provided. In addition to the above, Raffle stated in the conclusion of his report that "[m]edical evidence and sworn testimony identif[ied] medical indicia of [u]ndue [i]nfluence by [Carole] which was sufficient to cause [Richard] to become alienated from his children and influence his testamentary decisions."

¶ 82 A few months after he issued his report, Raffle was deposed and was questioned at length about the opinions he had formed and the bases for those opinions. Raffle noted in his deposition testimony that he was offering a medical opinion in this case on whether Richard was susceptible to undue influence and that he was not offering any legal opinions as to whether undue influence

had occurred. Raffle acknowledged during his testimony that if the facts that he had relied upon to support his opinions were inaccurate, his opinions could be inaccurate as well, but commented that it was also possible in that scenario that the weight of the evidence that he had considered would still support his opinions. Raffle pointed out that his opinions contained in his report were based not only upon the facts established but also upon his education, training, and experience.

Raffle stated that he was just looking at medical indications that Richard was susceptible to undue influence. Raffle acknowledged, however, that whether someone was susceptible to a condition (such as undue influence) and whether that condition actually occurred were two different things.

¶ 83

Before respondents filed a reply in support of their motion for summary judgment, they filed motions to strike several portions of the exhibits that petitioner submitted in opposition to summary judgment. Among other things, respondents sought to strike portions of: (1) Carl Grossman's affidavit and deposition, (2) Delbert Zimmerlein's affidavit and deposition, (3) Jeff Bloomquist's affidavit, (4) Molly Watson's affidavit and deposition, (5) Georgiana Grossman's affidavit and deposition, (6) Teresa Mueller's deposition, (7) Lisa Emerson's deposition, (8) Nancy Brandau's deposition, (9) Melanie Bloomquist's deposition, (10) Megan Mueller's deposition, (11) petitioner's deposition, and (12) Dr. Raffle's report and opinions. Respondents asserted that the portions of the exhibits that they were seeking to strike contained improper conclusions that were lacking in factual support, did not constitute proper state of mind evidence or lay opinion testimony (asserted in respondents' first reply), were barred by the Dead Man's Act (735 ILCS 5/8-201 (West 2018)), and/or contained improper or unsupported expert opinion. Petitioner filed responses opposing the motions to strike, and respondents filed replies in support of the motions.

¶ 84 In November and December 2024 and May 2025, the trial court held hearings on the motions to strike. After listening to the oral arguments of the attorneys, the trial court granted the motions to strike in part and denied the motions to strike in part. Written orders were subsequently issued to that effect. Following the rulings on the motions to strike, respondents filed their reply in support of their motion for summary judgment.

¶ 85 In June 2025, the trial court held a hearing on respondents' summary judgment motion. After listening to the oral arguments of the attorneys, the trial court found that petitioner had failed to establish a genuine issue of material fact as to undue influence and granted respondents' motion on that basis. Petitioner appealed.

¶ 86 II. ANALYSIS

¶ 87 On appeal, petitioner argues that the trial court erred in granting respondents' motions to strike in part and in granting respondents' motion for summary judgment. As noted above, we address only the second issue. As to that issue, petitioner asserts that the trial court should have denied the motion for summary judgment because petitioner presented sufficient evidence to establish his claim of undue influence under both an actual and a presumed undue influence theory. First, as to his actual undue influence theory, petitioner contends that respondents' summary judgment motion should have been denied because: (1) the circumstantial evidence presented in the summary judgment proceeding showed that Carole had isolated Richard from his children for over two decades, starting when the children were minors; (2) it can be inferred from that evidence and the other evidence presented that Carole had engaged in actual undue influence in procuring Richard's estate plans to benefit herself and her own children; and (3) evidence of secret influences, such as Carole's influence over Richard in the present case, has been found to be sufficient in the case law decisions to defeat a motion for summary judgment

on the issue of undue influence. Petitioner maintains that the trial court reached the wrong conclusion on actual undue influence because the trial court erroneously accepted respondents' possible innocent explanations for Carole's conduct, instead of viewing the facts in the light most favorable to petitioner; erroneously made inferences in favor of respondents, rather than taking all reasonable inferences in favor of petitioner; and erroneously believed that petitioner was required to show that Carole's conduct was directed at the execution of the will, contrary to the case law decisions on that issue. Second, as to his presumed undue influence theory, petitioner contends that respondents' motion for summary judgment should have been denied as well, because petitioner presented sufficient evidence in the summary judgment proceeding to establish all four elements required to establish a presumption of undue influence, including the fourth element—that Carole participated in the preparation or procurement of the 2009 will and trust. More specifically as to that element, the element that the trial court found had not been established, petitioner maintains that the circumstantial evidence presented supports a finding that Carole was instrumental in procuring the 2009 will and trust because the evidence showed that the drafting of the 2009 will and trust was a "team effort" with attorney English having multiple meetings with both Richard and Carole. For all of the reasons stated, therefore, petitioner asks that we reverse the trial court's grant of respondents' motion for summary judgment and that we remand this case for further proceedings.

¶ 88 Respondents argue that the trial court's ruling was proper and should be upheld. Respondents assert that the trial court correctly determined that petitioner failed to present sufficient evidence of undue influence, under either an actual or a presumed undue influence theory, to survive a motion for summary judgment. More specifically, as to petitioner's actual undue influence theory, respondents contend that summary judgment was correctly granted

because no evidence, circumstantial or otherwise, exists in this case to establish that any alleged undue influence by Carole was directly connected to the execution of Richard's 2009 will or trust, that the alleged undue influence was operative at the time the 2009 estate planning documents were made, or that the alleged undue influence was directed toward procuring the will or the trust in favor of a particular party or parties, as was required under the law to establish a claim of undue influence. In making that contention, respondents point out that: (1) petitioner admitted in his deposition testimony that he was not aware of any evidence to that effect and acknowledged that he had virtually no relationship with Richard; (2) attorney English, a well-respected local attorney with over 40 years of experience, unequivocally testified that Richard was of sound and disposing mind and memory when the 2009 documents were executed and that he did not believe that anyone had influenced Richard's decision; and (3) there is no evidence in this case of any misrepresentations that Carole made to Richard (other than perhaps saying that the children were unruly or not well-behaved, which was a statement that Richard had also made) such as occurred in the case law decisions on secret influences that petitioner cites in support of his position. As to petitioner's presumed undue influence theory, respondents contend that summary judgment was correctly granted as well because no evidence exists that Carole had prepared or procured the 2009 will or trust as was necessary to support a presumption of undue influence. In making that contention, respondents again point to attorney English's testimony and maintain that English unequivocally testified that Richard would always come into English's office alone when Richard wanted to conduct business and that Carole was not present at any time when Richard discussed his estate planning. Respondents also note that the courts in some of the case law decisions have expressed caution over applying presumed undue influence against a testator's spouse. For all of the reasons provided, therefore, respondents ask that we

affirm the trial court's grant of respondents' motion for summary judgment on petitioner's amended will and trust contest petition.

¶ 89 The purpose of summary judgment is not to try a question of fact, but to determine if one exists. *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 42-43 (2004). Summary judgment should be granted only where the pleadings, depositions, admissions on file, and affidavits, when viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact and that the moving party is clearly entitled to a judgment as a matter of law. See 735 ILCS 5/2-1005(c) (West 2024); *Adams*, 211 Ill. 2d at 43. Summary judgment should not be granted if the material facts are in dispute or if the material facts are not in dispute but reasonable persons might draw different inferences from the undisputed facts. *Adams*, 211 Ill. 2d at 43. A plaintiff is not required to prove his case to survive a motion for summary judgment, but, rather, must present a factual basis that would arguably entitle him to a judgment in his favor, which includes presenting some evidence to support each element of his cause of action. See *Bruns v. City of Centralia*, 2014 IL 116998, ¶ 12; *First Midwest Bank v. Ottawa Regional Hospital & Healthcare Center*, 2023 IL App (3d) 220008, ¶ 28. If a plaintiff fails to do so, summary judgment is properly granted for the defendant. *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). Although summary judgment is to be encouraged as an expeditious manner of disposing of a lawsuit, it is a drastic measure and should be allowed only where the right of the moving party is clear and free from doubt. *Adams*, 211 Ill. 2d at 43. A trial court's grant of summary judgment is subject to a *de novo* standard of review on appeal. *Id.* When *de novo* review applies, the appellate court performs the same analysis that the trial court would perform. *Direct Auto Insurance Co. v. Beltran*, 2013 IL App (1st) 121128, ¶ 43. A trial court's grant of

summary judgment may be affirmed on any basis supported by the record. *Home Insurance Co. v. Cincinnati Insurance Co.*, 213 Ill. 2d 307, 315 (2004).

¶ 90 Undue influence is the improper persuasion of a pressing or urgent nature that overpowers a person's will and induces that person to do an act that he would not do, or to refrain from doing an act that he would do, if he had been left to act freely.² See *In re Estate of Coffman*, 2023 IL 128867, ¶ 46 (citing *In re Estate of Hoover*, 155 Ill. 2d 402, 411-12 (1993)). More simply stated, undue influence is influence exerted at any time upon the decedent which causes the decedent to make a disposition of his property that is not his free and voluntary act. Illinois Pattern Jury Instructions, Civil, No. 200.09 (approved Dec. 8, 2011) (hereinafter IPI Civil No. 200.09). Undue influence is generally thought to be influence that is excessive, improper, illegal, or wrongful. *In re Estate of Glogovsek*, 248 Ill. App. 3d 784, 792 (1993). Our supreme court has stated that undue influence is a species of fraud. *Flanigon v. Smith*, 337 Ill. 572, 577 (1929). The acts or conduct that will constitute undue influence cannot be defined in fixed words and will depend upon the totality of the facts and circumstances of each individual case. See *Coffman*, 2023 IL 128867, ¶ 46 (citing *Hoover*, 155 Ill. 2d at 411-12). Proof of undue influence may be made by direct evidence or by evidence that is entirely inferential and circumstantial. *Id.*

¶ 91 To set aside a will on the basis of undue influence, the influence must be of such a nature as to destroy the testator's freedom regarding the disposition of his estate and to render his will that of another. See *id.* The petitioner (the will contestant) must also show that the undue influence was directly connected with the execution of the will, was operative at the time the will

²The same rules and legal principles on undue influence generally apply when a petitioner seeks to set aside a trust based upon undue influence as when a petitioner seeks to set aside a will based upon undue influence. See 19 Robert S. Hunter, Illinois Practice, Estate Planning and Administration § 225:16 (4th ed. Oct. 2025 Update) (indicating that the same principles that govern the rescission of any other transfer of property due to undue influence govern a proceeding to set aside a trust on that ground).

was made, and was directed toward procuring the will in favor of a particular party or parties.

Peters v. Catt, 15 Ill. 2d 255, 263 (1958); *In re Estate of Baumgarten*, 2012 IL App (1st) 112155,

¶ 13. That requirement, however, may be satisfied by circumstantial evidence in certain circumstances—in what our supreme court has described as “secret influences” cases. See *Hoover*, 155 Ill. 2d at 414.

¶ 92 In a secret influences case, the petitioner alleges a subtle, invidious kind of undue influence, usually as the result of the beneficiary’s misrepresentations to, or concealment of facts from, the testator—a controlling force that operates secretly on the testator’s mind. See *id.* at 413-14; *Sterling v. Kramer*, 15 Ill. App. 2d 230, 237 (1957). According to our supreme court, in such a case, it may seem as if the testator is directed and guided by his own agency, but the testator’s agency may have actually been overpowered by the alleged secret influences. *Hoover*, 155 Ill. 2d at 414. In a secret influences case, therefore, the petitioner may present circumstantial evidence to establish that the undue influence was connected with and operative when the will was executed and was directed toward procuring the will in favor of the beneficiary. *Id.*

¶ 93 Undue influence may generally be shown in one of two ways: (1) by proof of specific conduct that constitutes actual undue influence (an actual undue influence theory), or (2) by proof of a fiduciary relationship and other elements that together create a presumption of undue influence, which the proponent of the will must then rebut (a presumed undue influence theory). See 19 Robert S. Hunter, *Illinois Practice, Estate Planning and Administration* § 200:4 (4th ed. Oct. 2025 Update); IPI Civil No. 200.04. With regard to the second method, a rebuttable presumption of undue influence will arise if a petitioner can establish the following four elements: (1) that a fiduciary relationship existed between the testator and another person who received a substantial benefit under the will (as compared to other persons who have an equal

claim to the testator's bounty), (2) that the testator was in a dependent situation in which the substantial beneficiary was in a dominant role, (3) that the testator reposed trust and confidence in the substantial beneficiary, and (4) that the will was prepared or procured and executed under circumstances in which the substantial beneficiary was instrumental or participated. See *Coffman*, 2023 IL 128867, ¶ 47; IPI Civil No. 200.03. If the petitioner is successful in establishing all four elements, the burden of production shifts to the respondent (the proponent of the will) to produce evidence to rebut the presumption. *Franciscan Sisters Health Care Corp. v. Dean*, 95 Ill. 2d 452, 462 (1983). The burden of persuasion, however, remains with the petitioner the entire time. *Id.*

¶ 94 In the present case, after reviewing petitioner's amended petition, the materials submitted in support of and in opposition to respondents' motion for summary judgment, and the legal principles set forth above, we conclude that the trial court correctly determined that petitioner had failed to establish a genuine issue of material fact as to undue influence and properly granted respondents' motion for summary judgment on that basis. We reach that conclusion for two reasons. First and foremost, although petitioner asserts that this case is a secret influences case, he failed to present any evidence to establish that Carole had done anything nefarious, such as lying or making misrepresentations about the children to Richard or concealing important facts from Richard. See *Hoover*, 155 Ill. 2d at 412-15 (finding that summary judgment should not have been granted for the defendants on the undue influence count of the plaintiffs' complaint in a will contest case where the pleadings and supporting documents established genuine issues of material fact as to whether the defendants had made a series of lies, misrepresentations, and omissions to the testator about the character and actions of one of the plaintiffs that struck at the core of the testator's ethical code of conduct and destroyed that plaintiff's relationship with the

testator); *DeHart v. DeHart*, 2013 IL 114137, ¶ 28 (finding that the plaintiff's will contest complaint was sufficient to state a claim of undue influence where the plaintiff, a person who the decedent had held out to be his biological son for nearly 60 years, alleged, among other things, that he had been cut out of the testator's will after the will proponent, the testator's new wife, had made several misrepresentations to the testator about the plaintiff and his character and had kept from the testator cards and letters that plaintiff and other family members had sent to the testator); *In re Estate of DiMatteo*, 2013 IL App (1st) 122948, ¶¶ 67-71 (finding that the petitioner's will contest petition was sufficient to state a claim of undue influence where the petitioner, a neighbor and longtime friend of the testator, alleged, among other things, that he had been cut out of the testator's will after the will proponent, a casual acquaintance of the testator, had repeatedly made false statements to the testator about the petitioner, which characterized the petitioner as greedy and the will proponent and his family as victims of the petitioner's greed).

¶ 95 Instead, the evidence presented, viewed in the light most favorable to petitioner and with all reasonable inferences taken in petitioner's favor, showed that Carole did not want Richard's children around; that she did not want to spend money, especially on, or related to, Richard's children; and that she made it emotionally difficult in her and Richard's relationship for Richard to have significant contact with his children. None of the evidence presented, however, showed that Carole's conduct deprived Richard of his own free will with regard to seeing his children or with regard to forming his estate plan, and Richard was free to make his own decisions. Unfortunately for the children, there is evidence that when Richard was faced with Carole's controlling behavior, he chose to appease Carole, rather than to have a close relationship with his children. Although Carole may have had influence over Richard, as any spouse in a marriage does, her conduct in this case did not constitute undue influence. See *Hoover*, 155 Ill. 2d at 411

(indicating that to set aside a will on the basis of undue influence, the influence must be of such a nature as to destroy the testator's freedom regarding the disposition of his estate and to render his will that of another); *Blackhurst v. James*, 293 Ill. 11, 28 (1920) (stating that persuasion that leaves the testator free to adopt his own course is not undue influence and that the undue influence that will avoid a will must deprive the testator of his free agency); see also *Coffman*, 2023 IL 128867, ¶ 75 (citing *Glogovsek*, 248 Ill. App. 3d at 790-91) (recognizing that the presumption of undue influence must be applied with caution as to marital relationships because of the unique relationship between spouses and the importance of marriages in our society).

¶ 96 Second, petitioner failed to present any evidence to show that Carole had prepared or procured Richard's 2009 will and trust, an element that petitioner was required to plead and prove to establish undue influence under either an actual or a presumed undue influence theory. See *Peters*, 15 Ill. 2d at 263 (indicating that a petitioner in a will contest must show, among other things, that the undue influence was directly connected with the execution of the will, was operative at the time the will was made, and was directed toward procuring the will in favor of a particular party or parties); *Baumgarten*, 2012 IL App (1st) 112155, ¶ 13 (same); *Coffman*, 2023 IL 128867, ¶ 47 (recognizing that one of the elements that a petitioner must establish to give rise to a presumption of undue influence is that the will was prepared or procured and executed under circumstances in which the substantial beneficiary was instrumental or participated). Instead, English's testimony established with near unequivocal certainty that Carole was not present when Richard went to English's office to discuss wills and trusts, that Richard had not been influenced, that he had gone into English's office with a clear plan in mind of what he wanted to do with his estate, and that he carried out that plan. Although English lacked a specific memory of some of the details and had to acknowledge at least a possibility that Carole could have been

present when he met with Richard for the 1997 will, his testimony established with certainty that Carole was not present for English's consultation with Richard on the 2009 will and trust or when the 2009 will and trust were executed. In addition, as noted above, and contrary to petitioner's argument on appeal, this is not a secret influences case where the influencing party concealed facts or misled the testator such that the preparation or procurement element of undue influence should be inferred. See *Hoover*, 155 Ill. 2d at 412-15; *DeHart*, 2013 IL 114137, ¶ 28; *DiMatteo*, 2013 IL App (1st) 122948, ¶¶ 67-71. No witness in this case testified or attested that Carole had deprived Richard of his own free will in making his estate planning decisions or that he was not of sound mind. Even plaintiff's expert witness, Dr. Raffle, had to concede in his deposition testimony that he could only opine that Richard was susceptible to undue influence and that he could not opine that Richard had actually been unduly influenced by Carole to disinherit his children. In addition, the evidence showed that Richard had over two years after Carole's death, while he was of sound mind, to change his estate plan if he wanted to do so. The fact that Richard chose not to do so is significant.

¶ 97 In sum, even if we assume that the trial court should have denied respondents' motions to strike portions of petitioner's summary judgment exhibits, we still must conclude that the trial court properly granted respondents' motion for summary judgment on petitioner's amended will and trust contest petition. Spouses often have influence on their partner, however, "undue influence" has a specific meaning under Illinois law. Petitioner failed to establish a question of material fact that Carole had destroyed Richard's freedom in making his estate planning decisions or that Carole had prepared or procured Richard's 2009 will and trust. Accordingly, we affirm the trial court's ruling granting respondents' motion for summary judgment.

¶ 98

III. CONCLUSION

¶ 99

For the foregoing reasons, we affirm the judgment of the circuit court of Bureau County.

¶ 100

Affirmed.