

1 IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

2 BARBARA J. HUMPHREY,) CASE NO. CI18-9530
3 PLAINTIFF,)
4 vs.) DEPOSITION OF
5 EDWARD J. SMITH, DORA) BARBARA HUMPHREY
6 PROSOLOW, JOHN DOE AND) TAKEN ON BEHALF OF
7 DEFENDANTS.) DEFENDANT

8
9
10 DEPOSITION OF BARBARA HUMPHREY taken before Susan
11 M. McKenzie, Court Reporter and General Notary Public within
12 and for the State of Nebraska, beginning at 1:05 p.m. on the
13 29th day of May, 2020, at Saatfhoff Law Group, 440 Regency
14 Parkway Drive, Suite 132, Omaha, Nebraska.

A P P E A R A N C E S

FOR THE PLAINTIFF:

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FOR THE DEFENDANT (appearing pro se):

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ALSO PRESENT: DORA PROSOLOW

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S T I P U L A T I O N S

It is stipulated and agreed to by and between the parties hereto:

1) That the deposition of BARBARA HUMPHREY may be by Susan McKenzie, CCR and General Notary Public for the State of Nebraska, at the time and place set forth on the title page hereof, and later transcribed outside the presence of said witness;

2) Notice of the time and place of the taking of the deposition is not waived;

3) That the signature of said witness to the transcribed copy of said deposition is waived;

4) That all objections will be reserved until time of trial, except those related to form and foundation of the question and responsiveness of the answer;

5) That the original deposition will be delivered to Mr. Edward Smith;

6) That sections 8(A) and 8(C) of the Nebraska Discovery Rules are waived.

1 (Whereupon, the following proceedings were had, to
2 wit:)

3 BARBARA HUMPHREY

4 having been first duly sworn,
5 was examined and testified as follows:
6 (Exhibit Nos. 20-22 marked for identification.)

7 DIRECT EXAMINATION

8 BY MR. SMITH:

9 Q. Are you a deceptive person?

10 MR. SAATHOFF: Objection, form and foundation.

11 Q. (By Mr. Smith) Do you think you're a deceptive
12 person?

13 MR. SAATHOFF: Same objection.

14 Q. (By Mr. Smith) Have you ever practiced deception to
15 get things done?

16 MR. SAATHOFF: Same objection.

17 Q. (By Mr. Smith) Do you practice deception to get
18 things done?

19 MR. SAATHOFF: Same objection.

20 MR. SMITH: What's wrong with the form and
21 foundation of that, Matt?

22 MR. SAATHOFF: I'm not going to tell you how to ask
23 your questions or how to run your deposition.

24 Q. (By Mr. Smith) Barb, you've given me e-mails where
25 you've asked me not to tell your husband things; is that

1 correct?

2 A. Yes, when he's in a condition like (indicating) this
3 in the hospital.

4 Q. Okay. I'm actually glad you pulled that up. When
5 you look at that picture, you sent that to all the people
6 whose names are at the top of that page; is that correct?

7 A. Yes.

8 Q. When you look at that picture, you claim Don is
9 eating again; is that correct?

10 A. Yes.

11 Q. Was he eating with the use of his right hand?

12 A. He has a fork in his left hand.

13 Q. Was he eating with a fork in his right hand?

14 MR. SAATHOFF: Form and foundation.

15 A. The picture shows the left hand.

16 Q. (By Mr. Smith) Do you see tubes in his right arm?

17 A. Yes.

18 Q. Okay. So he can't reach that -- from where the
19 plate is sitting in that picture, he can't use his right arm
20 or right hand to reach that plate; is that correct?

21 MR. SAATHOFF: Form and foundation.

22 A. He is a left-hander.

23 Q. (By Mr. Smith) Don used both hands.

24 Can Don reach his plate with the use of his right
25 arm?

1 MR. SAATHOFF: Form and foundation.

2 Q. (By Mr. Smith) Did Don reach that plate with the
3 use of his right hand?

4 MR. SAATHOFF: Form and foundation.

5 A. I don't know.

6 Q. (By Mr. Smith) Do you see the fork in his left
7 hand?

8 A. Yes.

9 Q. Did he eat with his left hand at the moment you sent
10 that picture?

11 MR. SAATHOFF: Form and foundation, relevance.

12 Q. (By Mr. Smith) Was he using the fork in his left
13 hand to eat?

14 A. Looks like it.

15 Q. No. You was sitting in room with him.

16 A. Okay. Yes.

17 Q. Was he using his left -- okay.

18 A. Yes.

19 Q. Do you remember what was on the plate that he ate?

20 A. No.

21 Q. And you're sure he was using his left hand to eat?

22 A. It looks like it.

23 MR. SAATHOFF: Objection, form and foundation, asked
24 and answered.

25 Q. (By Mr. Smith) Did he use his left hand to eat what

1 was in that plate?

2 A. Yes.

3 Q. He's got a cover over his chest; is that correct?

4 A. Yes.

5 Q. To keep food from dropping on him; is that
6 correct?

7 A. Looks like it, yes.

8 Q. And that cover has a string attached to it; is that
9 correct?

10 A. Looks like it.

11 MR. SAATHOFF: The picture speaks for itself.

12 Q. (By Mr. Smith) Is that correct?

13 A. Looks like it, yes.

14 Q. I need yes-or-no answers without the "looks like,"
15 and all that.

16 A. Yes.

17 Q. Now, if he was eating at the moment you took that
18 picture -- is that what you're saying? was he eating at the
19 moment you took the picture?

20 MR. SAATHOFF: Objection, form, foundation,
21 relevance. The picture speaks for itself.

22 MR. SMITH: This picture is very relevant in this
23 case, Matt, very relevant.

24 A. The food is in front of him --

25 MR. SAATHOFF: There's no question pending.

1 Q. (By Mr. Smith) The strap that's on that cover ties
2 around his neck; is that correct?

3 MR. SAATHOFF: Form, foundation, relevance. The
4 picture speaks for itself.

5 Q. (By Mr. Smith) If he was eating with his left hand
6 like you claim, why is the string that ties around his neck
7 on the outside of his left hand?

8 MR. SAATHOFF: Same objection. Add competence.
9 She's not a medical provider.

10 Q. (By Mr. Smith) If he was eating with his left hand,
11 should that string be on the outside of his hand?

12 MR. SAATHOFF: Same objection.

13 Q. (By Mr. Smith) Ms. Humphrey, apparently we're going
14 to have to cut this short until we get to the court where I
15 can ask questions or have another attorney to ask those
16 questions.

17 What is your case based on, ma'am?

18 A. What is my case based on?

19 Q. Yeah. What is it based on?

20 We're going to cut this short.

21 A. The fact that I own a major portion of the house
22 that you're living in.

23 Q. And what tells you that you own a part of that
24 house?

25 A. My name is on the deed.

1 Q. Because you put it on there.

2 what tells you that you own a part of that house?

3 MR. SAATHOFF: Objection, asked and answered, legal
4 conclusion. She answered your question.

5 Q. (By Mr. Smith) why did you put your name on that
6 deed?

7 A. Because in the State of Nebraska, a husband and wife
8 share the property.

9 Q. I've explained to you that Don had forgiven the
10 loan; is that correct?

11 A. No, absolutely not correct.

12 Q. I've never mentioned that to you?

13 A. Several times. But it's not accurate.

14 Q. You just said I didn't.

15 A. No.

16 Q. You just said that I didn't. "Absolutely not" was
17 your words.

18 MR. SAATHOFF: Mr. Smith, please ask the questions.
19 Don't badger my witness.

20 Q. (By Mr. Smith) why is your name on my deed?

21 A. I already told you.

22 MR. SAATHOFF: Objection, form and foundation,
23 argumentative, the document speaks for itself.

24 Q. (By Mr. Smith) Did Donald Humphrey forgive the
25 loan?

1 A. No.

2 Q. But you agreed that it was a loan?

3 A. It definitely was a loan to you, yes.

4 Q. But you're saying that Don was co-owner of the
5 property.

6 A. Exactly.

7 Q. So which is it?

8 A. Well, husband and wife in the State of Nebraska --

9 Q. Which is it?

10 A. Both of us own the house.

11 Q. You and Don?

12 A. After he died, it goes to me.

13 Q. You had no right to that property.

14 A. Yes, I do.

15 MR. SAATHOFF: Again --

16 Q. (By Mr. Smith) What gives you the right to that
17 property?

18 MR. SAATHOFF: Please ask the questions.

19 MR. SMITH: I'm asking the questions. You're
20 interrupting me. This can be solved, Matt, without your form
21 and foundation crap. This can be resolved. She had no right
22 to that property. Don had no right to that property,
23 absolutely none, whatsoever. And that's why papers were
24 being made.

25 Now, she filed this claim because of a payment

1 schedule.

2 Q. (By Mr. Smith) Am I correct?

3 A. There was a payment schedule.

4 Q. And that was your main basis for filing this claim.

5 A. No. I followed the monthly payments with you. You
6 paid every month faithfully, and then when Don died, you
7 stopped paying it.

8 Q. What was I paying, rent?

9 A. No. It was a mortgage payment, a loan payment. Don
10 acted as the bank for you. He put in \$25,000 for you.

11 Q. I could care less what he put in.

12 A. Obviously.

13 (Exhibit No. 23 marked for identification.)

14 Q. (By Mr. Smith) Let's go to page --

15 MR. SAATHOFF: Actually, it's already marked as
16 Exhibit No. 3.

17 Q. (By Mr. Smith) Let's to go page 4.

18 A. Page what?

19 Q. Four.

20 A. Four?

21 Q. Well, where you say "unjust enrichment." Not the
22 first page. Where it says "unjust enrichment."

23 A. Okay. Number 30.

24 Q. You just said I wasn't paying rent.

25 A. I didn't say that. I said you were making mortgage

1 payments. Don was like the bank. We were like the bank to
2 you.

3 Q. I was paying loan payments.

4 A. A loan is not the same as rent.

5 Q. That document says -- No. 31 says that I was paying
6 rent.

7 MR. SAATHOFF: I'm going to object, form and
8 foundation, legal conclusion. This is an alternative cause
9 of action.

10 Q. (By Mr. Smith) Do you have any documents stating
11 that I was paying a mortgage?

12 A. Yeah. At the bottom of your check, we had written
13 on there -- it says "loan payment" on the left-hand lower
14 corner of each check.

15 Q. Loan.

16 A. "Loan payment," which means we were loaning you
17 money to get the house.

18 Q. No.

19 A. Yes. \$25,000 is what Don put on there.

20 Q. Loan payments is different from mortgage payment.

21 A. Not really. You weren't dealing with a bank. You
22 were dealing with us. We were like a bank to you.

23 Q. No, you wasn't.

24 MR. SAATHOFF: We're not going to --

25 MR. SMITH: She's the one starting this, Matt, so I

1 don't want to hear that.

2 THE WITNESS: He wouldn't have this house if it
3 wasn't for Don.

4 MR. SAATHOFF: Answer only his questions. Don't
5 answer any more than his questions. Answer only his
6 questions.

7 Q. (By Ms. Smith) Does that document say I was paying
8 a mortgage?

9 MR. SAATHOFF: Objection, form and foundation. The
10 document speaks for itself.

11 Q. (By Mr. Smith) That document says I was paying
12 rent.

13 MR. SAATHOFF: Same objection.

14 Q. (By Mr. Smith) Am I correct?

15 MR. SAATHOFF: Same objection.

16 (Exhibit No. 24 marked for identification.)

17 Q. (By Mr. Smith) You've consistently stated,
18 Ms. Humphrey, that your case was based upon that document.

19 MR. SAATHOFF: Form and foundation, misstates the
20 evidence.

21 Q. (By Mr. Smith) Does that document show that I still
22 owe you \$16,000?

23 MR. SAATHOFF: Form and foundation. The document
24 speaks for itself.

25 A. It's a loan repayment plan.

1 Q. (BY Mr. Smith) But not a mortgage repayment plan;
2 correct?

3 MR. SAATHOFF: Objection, form, foundation.

4 A. It's not rent. It was a loan repayment plan.

5 Q. (By Mr. Smith) You just stated a mortgage repayment
6 plan.

7 A. Well, mortgage. To a bank, it would be a
8 mortgage.

9 Q. Your attorney is not letting me switch words like
10 that, but you're allowed to sit there and switch your words;
11 is that correct?

12 MR. SAATHOFF: Objection, form and foundation,
13 argumentative.

14 MR. SMITH: So what I've learned is no matter how I
15 reword this, it's going to be form and foundation. Okay?

16 So I know I've got to pay your boss, the full two
17 hours. That won't be a problem.

18 But what I will be able to do is get you in that
19 courtroom and let you form and foundation me there. Okay?
20 Now, I've sat down and -- and I'm talk directly to you,
21 Matthew Saathoff, or whatever your name is. I've sat and
22 reworded these documents in a way that I wouldn't have to
23 deal with that form and foundation crap. Okay? I have the
24 proof to prove that this lady is deceptive, and I have the
25 proof --

1 MR. SAATHOFF: Sir, are you going to ask questions
2 of my client today?

3 MR. SMITH: No. I'm going to give it up and see you
4 in court.

5 MR. SAATHOFF: So I want to make sure the record is
6 a hundred percent clear.

7 You understand we have a court order giving you two
8 hours of time today; correct?

9 MR. SMITH: I do understand that, sir.

10 MR. SAATHOFF: And that's Exhibit No. 20 in the
11 court deposition file. And you're voluntarily and freely
12 giving up your right to take my client's deposition?

13 MR. SMITH: I'm not voluntarily and freely doing
14 anything of the such. What I'm volunteering to do is get
15 away from your form and foundation, because no matter how I
16 write this up, I'm going to run into problems with you. And
17 I can understand that because you're her attorney, and the
18 form and foundation is coming in because she can't answer the
19 questions truthfully.

20 I'm asking her was a mortgage or a loan. She says,
21 a loan; then she says, I'm paying rent; then she says, I'm
22 paying mortgage. And it's all form and foundation to you,
23 sir.

24 MR. SAATHOFF: Well, and I'm not going to tell you
25 how to take your deposition. Are you going to continue to

1 ask my client questions or not?

2 Q. (By Mr. Smith) Are you a liar, Ms. Humphrey?

3 MR. SAATHOFF: Form and foundation, argumentative.

4 MR. SMITH: You see what I'm saying? That's a
5 simple question.

6 MR. SAATHOFF: Right. And you don't understand --

7 MR. SMITH: That's a simple question that would be
8 asked in court.

9 MR. SAATHOFF: No, that would not be allowed to be
10 asked in court. It's argumentative. It's not my fault you
11 don't understand the rules of evidence or the rules of
12 discovery and how to complete a deposition or what to do when
13 someone makes an objection. So we're here today again with
14 the exact same issues we had last time.

15 MR. SMITH: Form and foundation, the way I'm wording
16 my questions.

17 MR. SAATHOFF: I'm not going to tell you how to take
18 your depositions.

19 MR. SMITH: I'm not asking you to do that.

20 MR. SAATHOFF: Ask your questions, or we're going to
21 sit here until your time runs out.

22 MR. SMITH: Okay. Well, we'll just sit here and
23 look at each other, or look down at the table. I won't deal
24 with it. I refuse to deal with it. So we'll sit here and
25 look down at the table and think about it.

1 MR. SAATHOFF: Well, we could probably save time --
2 if you're going to stop your deposition --

3 MR. SMITH: I'm not stopping my deposition. I'm
4 here for two hours.

5 MR. SAATHOFF: Okay.

6 MR. SMITH: And I'm going to spend that two hours.

7 THE WITNESS: Do I have to pay for the two hours?

8 MR. SAATHOFF: The court reporter is paying for --

9 MR. SMITH: I'm paying for it. It's my two hours.

10 MR. SAATHOFF: Okay. I mean, we'll sit here for two
11 hours, and you can do what you need to do. But as soon as
12 the two hours is up, I'm going to take Ms. Prosolow's
13 deposition.

14 MR. SMITH: That's fine.

15 MR. SAATHOFF: And I'm wondering if we can start her
16 deposition early.

17 MR. SMITH: No.

18 MR. SAATHOFF: Okay. Well, if you don't have any
19 questions --

20 MR. SMITH: I'll ask them when I feel like asking
21 them.

22 MR. SAATHOFF: Very good. We'll sit here and -- I
23 would ask the court reporter to designate the time between
24 the last question and the next question so the record is
25 clear of how long we had to sit between questions.

1 Q. (By Mr. Smith) Ms. Humphrey, are you prepared to go
2 to court?

3 MR. SMITH: Is that form and foundation, Matthew?
4 Is that a form and foundation question?

5 MR. SAATHOFF: I'm not going to --

6 Q. (By Mr. Smith) Ms. Humphrey, are you prepared to go
7 to court?

8 A. Yes.

9 Q. Are you prepared to lose this case?

10 A. No.

11 MR. SAATHOFF: Objection, form foundation,
12 relevance.

13 A. No.

14 Q. (By Mr. Smith) Do you know this is a frivolous
15 lawsuit?

16 MR. SAATHOFF: Objection, form, foundation,
17 argumentative.

18 Q. (By Mr. Smith) Did you know this is a frivolous
19 lawsuit?

20 MR. SAATHOFF: Same objection.

21 Q. (By Mr. Smith) Do you know this lawsuit is based
22 upon that schedule you're looking at right there?

23 MR. SAATHOFF: You can answer the question if you
24 know the answer.

25 A. It's not based on this schedule, no, because you

1 changed the schedule several times, so I didn't rely on that
2 very much. I just went -- every month you would pay us,
3 every month. And you did that for several years, probably --
4 almost three years. But I didn't pay that much attention to
5 the amortization schedule.

6 Q. (By Mr. Smith) Is that your schedule?

7 A. Well, they were submitted to us --

8 MR. SAATHOFF: I'm going to object. There's a
9 number of amortization schedules in there. We don't know
10 which one you're asking about.

11 A. Yeah. Like I said, I didn't pay that much attention
12 to these, Mr. Smith, because I knew you were paying me every
13 month. So I knew it was like a five-year or six-year
14 payment.

15 Q. (By Mr. Smith) Do you want it in the record that I
16 was paying you?

17 A. You were paying me.

18 Q. Do you want it -- it's a yes-or-no question,
19 Ms. Humphrey.

20 A. It's in the record.

21 Q. Do you want it in the record that I was paying
22 you?

23 A. It's in the record.

24 Q. Answer my question, please.

25 A. Yes.

1 Q. Do you have any check payments -- do you have five
2 payments from me in your name?

3 MR. SAATHOFF: Objection, form and foundation.
4 Exhibit 10 speaks for itself.

5 Q. (By Mr. Smith) Do you have ten payments where I
6 paid my house payment that was in your name?

7 MR. SAATHOFF: Objection, form, foundation.
8 Exhibit 10 speaks for itself.

9 A. I don't have an exact number of how many checks you
10 gave us. But they're all --

11 Q. (By Mr. Smith) You've got that in front of you.
12 Look through them and tell me how many are in your name.

13 MR. SAATHOFF: Objection, relevance. It's a marital
14 estate. Husband and wife are the same person.

15 Q. (By Mr. Smith) Did you give me the \$25,219.92?

16 MR. SAATHOFF: Objection --

17 Q. (By Mr. Smith) Yes or no.

18 MR. SAATHOFF: With all due respect, sir, allow me
19 to get my objections on the record.

20 MR. SMITH: Matthew, she is telling me -- she's
21 stating for the record that her and Don loaned me the
22 \$25,219.92.

23 (By Mr. Smith) Is that correct, Ms. Humphrey?

24 A. Yes.

25 MR. SMITH: I don't have the folder here with me,

1 but it will come out in court, a tape-recording where Don was
2 asking for his money back, the whole thing.

3 Q. (By Mr. Smith) Is that correct, Barb?

4 MR. SAATHOFF: Objection, form and foundation. She
5 doesn't know what conversations you might have had or the
6 authenticity of the recording.

7 Q. (By Mr. Smith) Did you and Elizabeth confront
8 Donald Humphrey for loaning me the money?

9 A. Did we confront Donald Humphrey?

10 Q. Were you angry with Donald Humphrey?

11 A. Yes.

12 Q. So that says -- your answer says that he was not a
13 party to loaning me that money; is that correct?

14 MR. SAATHOFF: Objection, form and foundation,
15 misstates the evidence, calls for a legal conclusion.

16 MR. SMITH: My apologies.

17 Q. (By Mr. Smith) Do you admit that you and your
18 daughter was angry with Mr. Humphrey for loaning me the
19 money?

20 A. Yes.

21 Q. On the tape-recording -- go ahead. You was about to
22 say something.

23 A. For the record, my name is on some of these checks.
24 It's "Donald/Barbara Humphrey".

25 Q. I didn't ask you about "some." Your attorney

1 objected to me asking about five or maybe ten.

2 A. I'm just telling you, my name is on some of these
3 checks.

4 Q. What dates are on the checks you're looking at?

5 MR. SAATHOFF: Exhibit 10 speaks for itself.

6 MR. SMITH: So you don't want her to answer the
7 question?

8 MR. SAATHOFF: Sir, you don't know the rules of
9 discovery --

10 MR. SMITH: I don't. But I do know she's lying.

11 MR. SAATHOFF: Sir, you have to allow me to complete
12 my sentence --

13 MR. SMITH: I apologize.

14 MR. SAATHOFF: -- which you're not very good at, and
15 we're going to have a very poor record.

16 MR. SMITH: We'll have the record I need. That I
17 promise you.

18 Q. (By Mr. Smith) Ms. Humphrey, the dates on those
19 checks are in 2018; is that correct? The checks with your
20 name on it?

21 A. 2017. June, July, August, September, 2017.

22 Q. June, July, August. When did Donald Humphrey first
23 take ill? Did it go back that far?

24 A. Yes. It was in 2017.

25 Q. And your name was placed on the checks because Don

1 couldn't get to the bank; is that correct?

2 MR. SAATHOFF: Objection, form and foundation.

3 with all due respect, how would she know why you
4 wrote the checks to one person or another?

5 MR. SMITH: Because the only reason I wrote her the
6 checks was because Don could not get to the bank. That's why
7 her name is on the checks.

8 MR. SAATHOFF: So let me ask you a hypothetical
9 question, sir.

10 MR. SMITH: Okay.

11 MR. SAATHOFF: If she doesn't have a loan, then why
12 would you ever pay money to her?

13 MR. SMITH: Because she was the one putting the
14 check in Don's name -- Don's name and her name is on that
15 this check.

16 Q. (By Mr. Smith) Am I correct, Ms. Humphrey?

17 MS. PROSOLOW: Isn't it a joint account?

18 THE WITNESS: Yes.

19 Q. (By Mr. Smith) Thank you. That's why I paid it to
20 him.

21 MR. SAATHOFF: We're going to make a record.

22 You're not able to ask any questions at this point
23 in time. If you speak up again, I'm going to ask the Court
24 to sanction you.

25 Q. (By Mr. Smith) Was Donald Humphrey able to get to

1 the bank to deposit those checks?

2 MR. SAATHOFF: Form and foundation.

3 Q. (By Mr. Smith) Do you want to answer that,
4 Ms. Humphrey?

5 THE WITNESS: Can I answer?

6 MR. SAATHOFF: (Nods head.)

7 A. We deposited these checks from home, e-deposits.

8 Q. (By Mr. Smith) I didn't know that. Okay? I
9 thought that he went to the bank. And that's why I put your
10 name on there, because he couldn't get to the bank.

11 MR. SAATHOFF: Move to strike as not a question.
12 Statements are not allowed, as the Court's directed you in
13 the past.

14 Q. (By Mr. Smith) Take a look at No. 24 again. Look
15 at -- right after that first page, take a look at the next
16 three pages. All the way at the top in the left-hand corner,
17 you will see some dates up there. Do you see those? Those
18 dates are when the document was created.

19 MR. SAATHOFF: Hold on a second. Stop.

20 Exhibit No. 24 has a number of different
21 amortization schedules on it. For the record --

22 MR. SMITH: I'm getting to that. Would you let me
23 finish, Matt?

24 MR. SAATHOFF: All right.

25 Q. (By Mr. Smith) Did you see the three pages after

1 that very first page, Ms. Humphrey?

2 A. Yes.

3 Q. Can you tell me what the dates are at the top of
4 those three pages?

5 MR. SAATHOFF: The document speaks for itself.

6 Q. (By Mr. Smith) Do you notice all three of those
7 pages were created on the same day, on the same evening, two
8 of them is for one -- well, all three of them were just
9 created together. Do you see that?

10 A. Yes.

11 MR. SAATHOFF: Form and foundation.

12 Q. (By Mr. Smith) Look at the next three pages.

13 MR. SAATHOFF: Well, you didn't answer the question,
14 so I need to clear up your record, because it's not clear --

15 MR. SMITH: You're not allowing her to answer them.

16 MR. SAATHOFF: Sir, she doesn't know who drafted
17 these documents. I'm assuming these are your schedules; is
18 that correct?

19 MR. SMITH: Guess what, Matt? If she doesn't know,
20 how were they able to create that first page? They said that
21 these were my creations. You said that it was my creation --

22 MR. SAATHOFF: I'll ask you not to point at me.

23 MR. SMITH: I apologize.

24 MR. SAATHOFF: I take that as a threat. And I'll
25 ask the record to reflect that you --

1 THE REPORTER: Stop.

2 MR. SAATHOFF: The record will reflect that you
3 pointed at me, and I take that as a threat in an aggressive
4 manner.

5 MR. SMITH: Well, your pen is pointing at me. And I
6 take that as a threat in an aggressive manner.

7 MR. SAATHOFF: Very good. Duly noted.

8 The question is simply, did you create pages 2, 3
9 and 4 of Exhibit 24?

10 MR. SMITH: The question is, who created page No. 1?

11 MR. SAATHOFF: You've never asked that question.

12 MR. SMITH: I'm asking it now.

13 Q. (By Mr. Smith) who created it, Barb?

14 MR. SMITH: I asked it a little bit earlier, and you
15 cut her off.

16 A. I don't know.

17 Q. (By Mr. Smith) How did your attorney get it?

18 A. I didn't pay much attention to these amortization
19 schedules, because I didn't use them. I only used the
20 monthly payments that you made for those three years. And
21 sometimes it was written as a five-year, sometimes it was
22 written as a six-year. And I thought, to heck with it, I'll
23 just wait until we're done with the payments, and then the
24 house will be yours. But you weren't done with the
25 payments.

1 Q. Please answer my first question. How did your
2 attorney get that first page?

3 A. I don't know.

4 Q. Who created that first page?

5 A. I don't know. It wasn't me.

6 Q. Your attorney sent that to my ex-attorneys, my
7 former attorneys. Why did he do that?

8 MR. SAATHOFF: Objection, form and foundation.

9 MR. SMITH: I know the time frame it takes to create
10 one of those schedules.

11 MR. SAATHOFF: Are you going to ask a question or
12 are you going to make a statement again?

13 MR. SMITH: I'm fixing to ask a question.

14 Q. (By Mr. Smith) I want to know, Ms. Humphrey, who
15 created that document?

16 MR. SAATHOFF: Asked and answered.

17 A. Yeah, I already answered that.

18 Q. (By Mr. Smith) Does it look similar to the
19 remainder of the documents behind that first page?

20 A. These are different.

21 Q. Thank you.

22 A. They're different. I mean, it could have been on
23 somebody else's computer. I don't know. I didn't create it.
24 I don't know.

25 Q. Your case is built on fraud.

1 MR. SAATHOFF: Objection --

2 Q. (By Mr. Smith) Is your case built on fraud?

3 MR. SAATHOFF: Form and foundation, argumentative.

4 You can answer the question.

5 A. Absolutely not.

6 Q. (By Mr. Smith) But it's totally built on what you
7 say I owed you.

8 A. It's built on what you owe us in the remaining loan
9 payments --

10 Q. Why are you saying "us"?

11 MR. SAATHOFF: Sir, allow her to finish her answer
12 before you start asking another question. With all due
13 respect, when she starts to give you an answer you don't
14 like, you immediately cut her off.

15 MR. SMITH: Don't you have your fingers pointed at
16 me, Matt?

17 MR. SAATHOFF: I do not.

18 MR. SMITH: You had all five of them pointed at me.

19 Q. (By Mr. Smith) So I will stick with this, Barb. Do
20 you believe that those documents are legit documents?

21 MR. SAATHOFF: Form and foundation. She doesn't
22 know --

23 Q. (By Mr. Smith) Do you want to answer that?

24 MR. SAATHOFF: She's already told you she doesn't
25 know who --

1 MR. SMITH: I'm talking about all of the documents.
2 Because the first document --

3 Q. (By Mr. Smith) Do you believe -- not the first
4 page, but the remainder of the pages in that, do you believe
5 those were created by me?

6 MR. SAATHOFF: Form and foundation.

7 A. I don't know who created these. It wasn't me. It
8 wasn't Don. I would imagine it was you then. But I didn't
9 pay any attention to these things, Edward.

10 Q. (By Mr. Smith) I don't want to hear that.

11 A. Well, I'm telling you, I didn't pay attention to
12 those.

13 Q. Yet you entered it into evidence.

14 A. Well, it was part of your program for your
15 amortization schedule. So, hey --

16 Q. Did you enter all of these pages?

17 A. I don't remember.

18 Q. Every page there, other than the police report,
19 which is the last page, did you enter all of those pages into
20 evidence with your attorney?

21 MR. SAATHOFF: Form and foundation.

22 Q. (By Mr. Smith) Would you like to answer that?

23 MR. SAATHOFF: If you know, you can answer it.

24 A. This one doesn't look familiar to me, this
25 particular page (indicating). So I don't know.

1 Q. (By Mr. Smith) But the rest of them do?

2 A. Apparently so. Yes, I guess.

3 Q. Do you remember how many of those documents you gave
4 to your attorney?

5 MR. SAATHOFF: Objection, form and foundation.
6 calls for information probably protected by attorney/client
7 privilege.

8 MR. SMITH: I don't mean to run you ragged, Susan,
9 but when you get frustrated with lies, it's a totally
10 different ball game.

11 And yes, I said that.

12 MR. SAATHOFF: So I want to make sure I'm
13 understanding. You're accusing my client of being a liar?

14 MR. SMITH: Did I say your client? I'm asking you,
15 did I call your client by name and say she's a liar?

16 MR. SAATHOFF: It's not my day to answer questions,
17 sir.

18 MR. SMITH: But you're asking me questions.

19 MR. SAATHOFF: Are you going to continue to ask
20 questions?

21 MR. SMITH: I'm asking them.

22 (Exhibit No. 25 marked for identification.)

23 Q. (By Mr. Smith) Ms. Humphrey, in that document
24 you're looking at, there was a property there that's valued
25 at -- number one, did you ever live at this property?

1 MR. SAATHOFF: Objection, form and foundation as to
2 what is "this property."

3 Q. (By Mr. Smith) This property is located at 12716
4 Calhoun Frontage Road in Omaha, Nebraska.

5 Did you ever live at that property?

6 A. I lived at that property, but I think the address is
7 12706 Calhoun Road.

8 Q. Well, I'm going by --

9 A. But I did live in that property, yes.

10 Q. Okay. The picture points that out to you?

11 A. Yes.

12 Q. Okay. Now, this house, its estimated value is
13 \$289,213. Is that approximately what you would consider the
14 value at?

15 MR. SAATHOFF: Relevance.

16 Q. (By Mr. Smith) Do you still own this property?

17 MR. SAATHOFF: Relevance.

18 A. No.

19 Q. (By Mr. Smith) When was it sold?

20 A. (No audible response.)

21 Q. Well, let's skip that.

22 Was it a rental?

23 A. We owned the house.

24 Q. Did CPM or Wistar have anything do with this
25 property as far as management?

1 MR. SAATHOFF: Relevance.

2 A. No.

3 Q. (By Mr. Smith) Thank you.

4 The next picture is a property located at 3520 and
5 3522 Webster Street in Omaha, Nebraska. It's an apartment
6 building. Do you recognize that building?

7 A. Yes.

8 Q. And you have how many units in there?

9 A. Twelve.

10 Q. Okay. And is CPM or Wistar managing this
11 property?

12 A. Yes.

13 Q. Do you still own this property?

14 A. Yes.

15 Q. Thank you.

16 The next document -- the next page, I should say, is
17 your own property; is that correct?

18 A. Yes.

19 Q. That's 3922 Terrance Drive. Do you have CPM or
20 Wistar managing that property?

21 A. No.

22 Q. You own that property?

23 A. Yes.

24 Q. Okay. The following property is 702 North 76th
25 Street in Omaha, Nebraska. Now, your daughter lives there,

1 Donna; right?

2 A. Yes.

3 Q. Does she pay rent there?

4 A. Yes.

5 Q. So you do still own that property?

6 A. Yes.

7 MR. SAATHOFF: Relevance.

8 MR. SMITH: It's relevant, Matt.

9 Q. (By Mr. Smith) The next property is 6508 Wirt
10 Street; is that correct?

11 A. Yes.

12 Q. This property is estimated at \$98,700 approximately;
13 is that correct?

14 A. Yes.

15 Q. And you still own that property?

16 A. Yes.

17 Q. The next property is 8621 Templeton Drive; is that
18 correct?

19 A. Yes.

20 Q. Do you recognize that as being your property?

21 A. Yes.

22 Q. And it's valued at \$156,000; is that correct?
23 Approximately?

24 A. It seems a little high. But okay. It's a rental
25 house.

1 Q. But you do still own that?

2 A. Yes.

3 Q. And the next property is 7205 North Ridge Drive; is
4 that correct?

5 A. Yes.

6 Q. How many times have you ever been inside that
7 property?

8 MR. SAATHOFF: Objection, relevance.

9 Q. (By Mr. Smith) Have you ever been inside that
10 property?

11 MR. SAATHOFF: Same objection.

12 Q. (By Mr. Smith) Have you been inside that property
13 one time?

14 A. Yes.

15 Q. Have you been inside that property two times?

16 MR. SAATHOFF: Relevance.

17 MR. SMITH: It seems like to me, Matthew, if a
18 person owned the property, they would visit that property.
19 And when I asked her, has she been there one time, she said,
20 yes. And that was right before Don died. And I asked her,
21 was she in there two times --

22 MR. SAATHOFF: Are you going to ask questions?

23 MR. SMITH: I'm asking questions, sir. I'm giving
24 you the reasons why I'm asking the questions.

25 MR. SAATHOFF: I don't need your reasons.

1 Q. (By Mr. Smith) Have you been in that property
2 twice, Barbara?

3 MR. SAATHOFF: Objection, relevance.

4 Q. (By Mr. Smith) Would you like to answer the
5 question?

6 A. No. I think it's irrelevant.

7 MR. SAATHOFF: She can answer.

8 MR. SMITH: She's following your lead here, sir.

9 MR. SAATHOFF: I've not directed her not to answer
10 the question. She can answer.

11 A. I don't visit all my rental properties, Ed. I stay
12 out of their business.

13 Q. (By Mr. Smith) Have you ever received rent for this
14 property, 7205 North Ridge Drive?

15 MR. SAATHOFF: Form, foundation.

16 A. It's not rent. It's a loan payment.

17 Q. (By Mr. Smith) You used the term earlier
18 "mortgage."

19 A. Mortgage payment.

20 Q. On your document, your Complaint --

21 A. You're hung up on the word "mortgage" and "loan."

22 Q. No. You are twisting words, ma'am.

23 A. No, I'm not.

24 Q. On your Complaint for Partition, you used the term
25 "rent"; is that correct?

1 MR. SAATHOFF: Objection, the document speaks for
2 itself.

3 Q. (By Mr. Smith) Would you like to answer that?

4 MR. SAATHOFF: You can answer if you know, but the
5 document speaks for itself.

6 MR. SMITH: It's on the document. I'm trying to get
7 her to -- I'm trying to make sure it's clear with her what
8 she put on there.

9 A. You put on the checks "loan payment."

10 Q. (By Mr. Smith) Right. But I never put "rent" on
11 there.

12 A. Right. You didn't put "rent" on there. You put it
13 as a loan payment.

14 Q. So why did you use the term "rent" in that
15 document?

16 A. You're hung up on words.

17 MR. SAATHOFF: With all due respect, she didn't
18 draft the Complaint. The Complaint is drafted by an
19 attorney.

20 MR. SMITH: By you or by John? Or is that
21 attorney/client privilege?

22 MR. SAATHOFF: The document speaks for itself. It
23 says who drafted it.

24 MR. SMITH: It says "rent."

25 MR. SAATHOFF: Please ask a question.

1 Q. (By Mr. Smith) Ms. Humphrey, is my name on the deed
2 to that property, 7205 North Ridge Drive?

3 A. Yes.

4 Q. Have you ever known an owner to pay rent on his own
5 property?

6 MR. SAATHOFF: Objection, form and foundation.

7 Q. (By Mr. Smith) It's not funny to me. You can smile
8 if you like. I asked you a direct question.

9 A. You're hung up on the word "rent" --

10 Q. Answer my question, ma'am, yes or no. Have you ever
11 known an owner to pay rent on his own property?

12 A. Yes, actually. Rent to own, I have.

13 Q. And that's what Elizabeth confronted me with at your
14 house.

15 A. She didn't confront you. She brought it up.

16 Q. Yes, she did. She kept saying rent to own. She
17 kept trying to get me to sign a document for rent to own. Do
18 you remember that?

19 A. No, I don't remember that.

20 Q. In front of the attorney that you had before Matt,
21 John, when we went -- remember you had us to go to meet you
22 over at his office on 147th and Dodge. And she used the same
23 term there; am I correct?

24 MR. SAATHOFF: Form and foundation.

25 If you know. You can answer his question if you

1 know.

2 MR. SMITH: She knows.

3 A. The relevance isn't making sense to me.

4 Q. (By Mr. Smith) It didn't make sense to me that she
5 was trying to take my house.

6 A. She's not taking your house. My name is on the deed
7 also. My name, Barbara Humphrey, is on the deed, which you
8 can't seem to understand.

9 Q. (By Mr. Smith) Because you put it on there.

10 A. Yes, because Don died.

11 Q. Which are fraudulent texts?

12 A. No, absolutely not. No, never fraudulent. Just
13 real estate, Ed.

14 Q. And you never heard Don tell me that the loan was
15 forgiven?

16 A. No.

17 Q. And you never wrote me a \$10,000 check?

18 A. That check had nothing to do with the house. That
19 was for the truck.

20 Q. No, it wasn't.

21 A. Yes, it was. Oh, my, yes. I have the picture of
22 the truck.

23 Q. So do I.

24 A. Yes. Don wanted you to have his old golden
25 Silverado truck. And because it broke down, he said, we

1 can't give that truck to Ed. So I sold it for \$5,000.

2 Q. You sold it?

3 A. We sold it for \$5,000. I said to Don, here's \$5,000
4 for the truck, for his old truck, which he dearly loved. But
5 he wasn't going to give it to you in that bad a condition.

6 So then, when you came up with a picture of some
7 other truck that was more like 8,000 to \$9,000. So we wrote
8 a check then for \$10,000 for the truck. That check had
9 nothing to do with the house, Ed, nothing. You don't seem to
10 understand that.

11 Q. MR. SMITH: Matthew, do you mind if I say something
12 to counter what she's saying without your form and
13 foundation?

14 MR. SAATHOFF: Sure. You can say whatever you want
15 to say.

16 Q. (By Mr. Smith) Barb, you're claiming that the
17 \$10,000 was for a truck.

18 A. Yes.

19 Q. And you just said that I found a truck, you saw
20 pictures of it, and I bought the truck.

21 A. Yes.

22 Q. Okay. Don had already given me his old Silverado.
23 It was at my house when you and Joe sent the tow truck to
24 pick it up; am I correct?

25 A. No, you're not correct. Don did not give you that

1 truck. I had the truck. And when the diesel engine broke
2 down, then we said, we cannot give Ed this truck because
3 it -- you know it was causing trouble. It caused trouble at
4 the apartments, and the battery died, and all that it stuff.
5 You know that, because we had to get new batteries in that
6 parking lot at Webster Street, and Don was not going to give
7 you a bad truck.

8 Q. Let me ask you this. Three days before I took that
9 truck to my house, I had just put two batteries in that truck
10 that was over \$500; am I correct?

11 MR. SAATHOFF: Form and foundation.

12 Q. (By Mr. Smith) You sent me an e-mail directly after
13 I had put those batteries in the truck telling me, that's for
14 repairing the truck, who knew, wow. Those were your exact
15 words.

16 A. Let me correct that statement though. We paid for
17 the batteries.

18 Q. It doesn't matter.

19 A. Yes, it does matter.

20 MR. SAATHOFF: Don't argue. Just answer the
21 question.

22 A. We paid for the batteries. And I was grateful that
23 you put the batteries into the truck to make it work. But
24 that's not what the final problem was, because we took the
25 truck to Elkhorn and had a diesel engine fellow work on it

1 for \$600, and then it still wasn't right. And so Don said,
2 as much as he didn't want to part with the truck, he wasn't
3 going to give it to you in bad condition. So I sold it.

4 Q. (By Mr. Smith) He had already told you he was
5 giving me that truck; correct?

6 A. Yes.

7 Q. You visited my house for the very first time two
8 weeks before he died. And you sat there in my living room
9 and told both me and Lynn that Don was giving me the truck;
10 is that correct?

11 A. He wanted to give you the truck.

12 Q. I didn't ask you that.

13 A. But because it wasn't working properly, he changed
14 his mind and said, we can't give Ed a truck that's not
15 working right.

16 Q. I didn't ask you that.

17 You sat in our living room and told both me and Lynn
18 that Don was giving me the truck; is that correct?

19 A. We all knew that. Yes.

20 Q. I didn't ask you that.

21 A. Yes.

22 Q. Okay. And then you got up, and we both walked you
23 to the kitchen and let you look out in the backyard; is that
24 correct?

25 A. Yes.

1 Q. When I put the batteries in the truck, I cannot
2 understand -- when I put the batteries in the truck, was Don
3 planning on giving me the truck then?

4 A. I don't know the time frame. I just know that Don
5 wanted you to have his old truck when he died.

6 Q. And I had taken the truck over to my house; is that
7 correct?

8 MR. SAATHOFF: Form and foundation.

9 Q. (By Mr. Smith) You can answer it if you'd like.

10 A. I guess that's correct.

11 Q. Yes or no?

12 MR. SAATHOFF: She answered your question, sir.

13 MR. SMITH: It sounds like she said "I guess."

14 A. Okay. Yes.

15 Q. (By Mr. Smith) Thank you.

16 And you, Elizabeth and Joe sent a tow truck to my
17 house to pick that truck up; is that correct?

18 A. Because it wasn't working properly.

19 Q. Yes or no?

20 A. Yes. It was hauled away.

21 Q. I called Don and told Don that the truck wouldn't
22 start; is that correct?

23 MR. SAATHOFF: Objection, form and foundation.

24 A. I wasn't there. I don't know.

25 Q. (By Mr. Smith) You was there.

1 Anyway, I explained -- you answered the phone.
2 That's why I say you was there.

3 A. I don't remember.

4 Q. But I explained to Don that the only thing that was
5 wrong with the truck was the fuel pump. And I explained to
6 Don that I could lift the bed up on the truck -- and I said
7 the same thing to you -- and reach to the fuel pump -- I
8 mean, to the gas pump and put the fuel pump in there; is that
9 correct?

10 A. Yes. But it wasn't accurate. That wasn't the
11 problem. And you weren't the mechanic to fix a diesel truck.
12 So we took it to a diesel guy out in Elkhorn and got it
13 evaluated.

14 Q. So you're telling me -- or you want me to believe
15 that he wanted me to have a truck three days before you sold
16 the truck, he put new batteries in there so I could have it,
17 and then just up and sold the truck?

18 He asked you to write me a \$10,000 check; is that
19 correct?

20 A. I wrote the check.

21 Q. He asked you to write me the check; is that correct?
22 He was still alive then.

23 A. well, he didn't think he could find a truck for
24 \$5,000. And when I gave him the check from CarMax -- they
25 bought the truck for 5,000 -- he said, you can't hardly buy a

1 nice truck for \$5,000.

2 So yes, he said, write him some more money then.

3 Q. Ms. Humphrey, on the evening that we had the
4 gathering -- you remember that gathering; right?

5 A. I don't know which gathering you're talking about.

6 Q. Okay. It's the gathering where Mr. Humphrey, you,
7 me and Lynn were all at your house. It was the only time
8 that all four of us sat in the living room together. Do you
9 remember that?

10 A. Just before he died you mean?

11 Q. This was about a month and a half before he died.
12 This was about two, maybe three weeks before you put him back
13 in the hospital for the last time. Do you remember that?

14 A. Yes.

15 Q. On that evening, you got up to get yourself a glass
16 of water. And during that time, when you come back into the
17 living room, I had already been speaking with Don about the
18 truck; is that correct?

19 MR. SAATHOFF: Form and foundation.

20 Q. (By Mr. Smith) Don, in front of you, said to me
21 that he was giving to me the \$5,000 that you guys sold the
22 old truck for; is that correct?

23 MR. SAATHOFF: Form and foundation.

24 If you know.

25 A. I don't remember that. I remember him saying that

1 \$5,000 would not buy you a decent truck.

2 Q. (By Mr. Smith) Do you remember me saying that? I
3 stood there, Barb, in front of you and explained to Don --
4 now, I'm not trying to squeeze anything out of you. I just
5 want the truth.

6 I stood there in front of you when you come back out
7 of the kitchen and I explained to Don that I had witnessed
8 some of the loads that's he's hauled with the old truck.
9 Okay? And I stood there and told him that \$5,000 -- if he
10 wanted me to continue to help you, I explained to him that
11 \$5,000 was not going to buy another truck worthy of hauling
12 those types of loads. Am I correct?

13 A. Yes, because I think he thought the same thing. So
14 if the two of you exchanged those ideas, he pretty much
15 thought the same thing.

16 Q. I'm getting to a point here. Okay?

17 When I explained that to him, the first thing he
18 said was that we can afford to go up to ten; am I correct?

19 A. Yes.

20 Q. And it angered you?

21 A. Yes.

22 Q. The first words out of your mouth was, oh, so he's
23 got the house and he's getting a new truck. And with that,
24 you jumped up and you ran out the front door; am I correct?

25 MR. SAATHOFF: Listen to his question, and answer

1 his question.

2 A. I was upset with that statement, yes. I went to the
3 front door.

4 Q. (By Mr. Smith) You went out of the house?

5 A. I went out of the house, yes.

6 Q. And Lynn followed you out?

7 A. Yes.

8 Q. And when I got out there, you and Lynn were standing
9 in front of the garage, and you were crying; is that
10 correct?

11 A. I think Don thought that the rest of that money
12 towards the 5,000 to the 10,000 was going to be with you guys
13 helping me at the apartment building, so he was willing to go
14 up to \$10,000.

15 Q. You're constantly changing the questions.

16 A. Okay.

17 Q. You just got through saying that you explained to
18 Don that the 5,000 wasn't going to buy me a decent enough
19 truck.

20 A. Don had told me that, that five thousand -- you
21 can't buy a decent, heavy-duty truck.

22 Q. But it was my conversations that told him that, not
23 yours.

24 A. Well, whatever.

25 Q. You see? You're constantly changing your story,

1 Barb.

2 A. I don't remember any of that stuff.

3 Q. I remember clearly.

4 A. Obviously.

5 Q. When I got outside where you and Lynn was, you were
6 standing there in front of that garage, and you was crying.
7 And there was a water hose in front of the garage right on
8 the left side of you. Lynn was standing in front of you.
9 And I asked you, what's wrong. You still had tears coming
10 out of your eyes. I asked you, what's wrong. And your
11 answer was, oh, he don't know what he's talking about. You
12 were so upset, I picked the water hose up and took it around
13 to the back. You and Lynn both followed me back there. And
14 when we come back around, you were so angry, I didn't want to
15 interfere with anything, so Lynn and I got in the car and we
16 left; is that correct?

17 MR. SAATHOFF: Form and foundation. I'm not sure
18 what question she's supposed to answer in there.

19 MR. SMITH: well, I'm just trying to --

20 THE WITNESS: what does this have to do with the
21 house?

22 MR. SAATHOFF: No idea.

23 Q. (By Mr. Smith) It has to do with a lot, because I'm
24 trying to show that you're being untruthful about this whole
25 thing.

1 MR. SAATHOFF: We're going to take a break at this
2 point in time. We've been at it for over an hour.

3 (Recess taken 2:00 to 2:10 p.m.)

4 Q. (By Mr. Smith) Ms. Humphrey, have you been a
5 landlord for a long time?

6 A. Yes.

7 Q. And you know the rules about kicking someone out of
8 their home or your property?

9 MR. SAATHOFF: Form and foundation, relevance to
10 this matter.

11 Q. (By Mr. Smith) By law, you have to give a tenant 30
12 days' notice if they can't pay their rent; am I correct?

13 MR. SAATHOFF: Objection, form and foundation,
14 misstates the law.

15 Q. (By Mr. Smith) By law, if a tenant can't pay rent,
16 and you want to kick them out, do they get a 30-day notice?

17 MR. SAATHOFF: Same objection.

18 Q. (By Mr. Smith) Do you want to answer it?

19 A. It can be 30 days or it can be 14 days.

20 Q. Did you give me a 30-day notice?

21 MR. SAATHOFF: Objection, relevance.

22 Q. (By Mr. Smith) Since you claim I'm renting, did you
23 give me a 30-day notice?

24 MR. SAATHOFF: Objection, the record misstates the
25 testimony.

1 MR. SMITH: I'm stating what's on her Complaint for
2 Partition, No. 31 under --

3 MR. SAATHOFF: I understand. You understand there's
4 multiple causes of action, and another cause of action can be
5 in the alternative.

6 MR. SMITH: Meaning?

7 MR. SAATHOFF: I'm not going to tell you what it
8 means. I'm not your attorney. You're representing
9 yourself.

10 Q. (By Mr. Smith) Did you give me a 14-day notice?

11 MR. SAATHOFF: Objection, relevance.

12 Q. (By Mr. Smith) Have you given me a 14-day notice?

13 MR. SAATHOFF: Objection, relevance.

14 Q. (By Mr. Smith) Did you give me a 30-day notice?

15 MR. SAATHOFF: Same objection.

16 Q. (By Mr. Smith) Being a property owner, when you own
17 a property, you can put in, build up or tear down, and take
18 out anything in that property that you prefer to build in or
19 put in or take out; is that correct?

20 A. Yes.

21 Q. Do you remember ever putting anything or adding
22 anything to the property at 7205 North Ridge Drive?

23 A. Did I put anything in?

24 Q. Yes.

25 A. No.

1 Q. Did Don put anything in?

2 MR. SAATHOFF: Form, foundation.

3 A. He put in an additional part of your driveway. He
4 widened out the driveway. And I think there was a water
5 heater that may have been replaced in the basement.

6 Q. (By Mr. Smith) Did I pay Don for that water
7 heater -- I mean, for the driveway?

8 A. I don't remember.

9 Q. I put the water heater in, just so you know.

10 A. Okay.

11 Q. I put the air conditioning in, just so you know.

12 A. Okay.

13 Q. I put the furnace in, just so you know.

14 MR. SAATHOFF: Are you going to ask a question or
15 are you going to make a statement?

16 MR. SMITH: Will you allow me to get to my question,
17 sir, please? This is my home, Matt.

18 MR. SAATHOFF: Well, that's your opinion. This is
19 your time to ask questions, not make statements.

20 Q. (By Mr. Smith) Ms. Humphrey, let's look at your
21 properties again.

22 12716 -- yeah, the first one there.

23 Did you and Don do any repairs on that property?

24 MR. SAATHOFF: Relevance.

25 Q. (By Mr. Smith) If you'd like to answer?

1 A. Yes.

2 Q. Did you take pictures of it?

3 MR. SAATHOFF: Relevance.

4 A. Probably. He did work on every place that we've
5 ever lived in.

6 Q. (By Mr. Smith) And he took pictures of them?

7 A. Oh, I'm sure he did.

8 Q. Yes or no?

9 A. Yes.

10 Q. The Webster Street property, apartment building, he
11 took pictures of that work?

12 A. I probably took pictures.

13 Q. So all of the work that I was doing to that property
14 that he was taking pictures of and sending them to you, you
15 don't have any of those pictures?

16 A. I probably have them in my phone bank.

17 Q. And the Terrance Street Drive (sic), your own
18 residence, do you have pictures of any of the work done to
19 that property?

20 A. Yes.

21 Q. 702 North 76th Street, do you have any pictures of
22 that property being worked on?

23 A. Yes.

24 Q. 6508 Wirt Street, do you have any pictures of that
25 property being worked on?

1 A. Yes.

2 Q. 8621 Templeton Drive, do you have any pictures of
3 work being done on that property?

4 MR. SAATHOFF: Relevance.

5 Q. (By Mr. Smith) 7205 North Ridge Drive, do you have
6 just one individual picture of the work done on that
7 property?

8 MR. SAATHOFF: Relevance.

9 Q. (By Mr. Smith) If you'd like to answer it. Just
10 one?

11 A. I believe just the driveway when it was widened out.
12 But probably not.

13 Q. But none of the work inside?

14 MR. SAATHOFF: Objection, relevance.

15 A. The work was supposed to be done by you and Lynn in
16 the house, not by Don.

17 Q. (By Mr. Smith) And who made that decision?

18 A. We did.

19 MR. SAATHOFF: Objection, relevance.

20 Q. (By Mr. Smith) You and Don made that decision?

21 A. Yeah. we told you when you bought the house, that
22 if you fixed it up, it would be on you, not us.

23 Q. Barbara, I can see that this is going to go to
24 court.

25 MR. SMITH: If you want to take the rest of my time,

1 you're more than welcome.

2 MR. SAATHOFF: Are you done?

3 MR. SMITH: I'm done.

4 MR. SAATHOFF: You're not going to ask any more
5 questions?

6 MR. SMITH: No. Enough's enough.

7 (Discussion off the record.)

8 CROSS-EXAMINATION

9 BY MR. SAATHOFF:

10 Q. Ms. Humphrey, you understand you're under oath
11 today; is that correct?

12 A. Yes.

13 Q. And you understand that I'm going to ask you certain
14 questions about your Complaint for Partition and other
15 documents that are in this matter; is that correct?

16 A. Yes.

17 Q. So you retained an attorney to file a partition
18 action to regain possession or to sell real estate that you
19 own in Omaha, Nebraska, at 7205 North Ridge Drive, Omaha,
20 Nebraska 68112; is that correct?

21 A. Yes.

22 Q. Were you and Donald Humphrey married at the time
23 that the loan was given to Mr. Ed Smith to purchase that real
24 estate?

25 A. Yes.

1 Q. And you hired Mr. Chatelain to draft and file a
2 Complaint for Partition to get a judicial order so that house
3 can be partitioned out and the real estate can be -- your
4 interest can be paid back to you; is that correct?

5 A. Yes.

6 Q. And that's Exhibit No. 3 in the trial depositions;
7 correct?

8 A. Exhibit No. 3, yes.

9 Q. Okay. Exhibit No. 3 attaches to it a copy of a Real
10 Estate Transfer Affidavit transferring from Donald
11 W. Humphrey's estate to you his interest in that property; is
12 that correct?

13 A. Yes.

14 Q. So that was filed with the Register of Deeds; is
15 that correct?

16 A. Yes.

17 Q. And that was done after Donald Humphrey's date of
18 death; correct?

19 A. Yes.

20 Q. And you're aware of Exhibit No. 4 in the deposition
21 transcript, the purchase agreement between Fannie Mae, Donald
22 W. Humphrey and Edward J. Smith; is that correct?

23 A. Yes.

24 Q. And you're familiar with your late husband's
25 signature; is that correct?

1 A. Yes.

2 Q. And if we look at the purchase agreement, do you
3 notice initials on the bottom?

4 A. Yes.

5 Q. And is that his initials?

6 A. Yes, it is. He was a lefty.

7 Q. And you see his initials on the bottom of each page
8 of Exhibit No. 4; is that correct?

9 A. Yes.

10 Q. And is it your understanding that your husband and
11 you, through marriage, loaned Mr. Smith \$25,000 principal to
12 help finance this house so that he can purchase this
13 property?

14 A. Yes.

15 Q. Do you know if Mr. Smith had the financial
16 capability to purchase this house on his own?

17 A. He did not have that capability.

18 Q. And that's the reason why you guys agreed to loan
19 the money to him?

20 A. Yes.

21 Q. Has the loan been paid back in full?

22 A. No.

23 Q. And you were here for Mr. Smith's deposition; is
24 that correct?

25 A. Yes.

1 Q. And there's an amortization schedule that's Exhibit
2 No. 24 with several different amortization schedules attached
3 to it. Do you know who has created any of these amortization
4 schedules?

5 A. It wasn't me. It wasn't Don. It had to be
6 Mr. Smith.

7 Q. Okay. Or it could have been a family member that
8 tracks the money as well?

9 A. It might have been. I didn't pay that much
10 attention to the amortization schedules.

11 Q. Okay. And Exhibit No. 24, have you followed and
12 done the research to track the payment amounts according to
13 what was received by Mr. Humphrey and you?

14 A. I kept track of the rental payments that Mr. Smith
15 made each month, but I didn't follow an amortization schedule
16 because there were so many of them.

17 Q. Okay.

18 A. I just figured it's going to be a five-year loan or
19 a six-year loan, we'll come to that conclusion when the time
20 comes.

21 Q. But what I'm asking is, you've gone back and looked
22 at each payment that has been received by Mr. Smith and
23 compared it to the amortization schedule, and they match up;
24 is that correct?

25 A. Yes, pretty much. It started out at one amount, and

1 then it dropped to another amount, and then it dropped to
2 another amount, because he started paying real estate taxes,
3 like, twice a year. So that kind of changed the program.

4 Q. Okay. You actually went and hired a title company
5 to do a title search on the property, which is Exhibit No. 7,
6 which shows -- who is the vested title holder of this
7 property?

8 A. Barbara J. Humphrey and Edward J. Smith.

9 Q. Exhibit No. 10 is the payments that were received
10 from Mr. Smith to Mr. Humphrey and/or you as a married couple
11 for house payment/loan payment as outlined on Exhibit No. 10;
12 is that correct?

13 A. Yes.

14 Q. And there's been discussion about invoices that have
15 been received and paid.

16 Did you hire Mr. Smith and Ms. Prosolow to do work
17 on some of your properties?

18 A. Yes.

19 Q. And did they either provide you documents like
20 Exhibit No. 14 or verbally what work they did on the
21 properties?

22 A. Yes.

23 Q. And have all the invoices been paid? Has all the
24 work --

25 A. Yes. They got paid soon after they finished the

1 job. I always do that.

2 Q. Prior to the countersuit being filed, did you have
3 any knowledge that he believed that extra money was due and
4 owing on the -- strike that.

5 Before the counterclaim was filed against you, did
6 you have any knowledge or belief that you owed him extra
7 money?

8 A. No. They asked for \$15 an hour, and that's what
9 they got paid.

10 Q. And that was the agreed-upon amount?

11 A. Yes.

12 Q. And there's been some discussion about a retaining
13 wall. Did you buy the block for the retaining wall or did
14 Mr. Smith buy the block?

15 A. We bought the block from Watkins.

16 Q. And when you say "we," is that you and Donald
17 Humphrey?

18 A. Yeah, my husband and I.

19 Q. So Mr. Smith didn't pay for the block?

20 A. No.

21 Q. Did Mr. Smith ever pay for any materials that you
22 purchased for the use at your properties?

23 A. Say that again.

24 Q. Did he ever buy materials for the use at your
25 properties?

1 A. Oh, no. Don bought the materials, and Mr. Smith did
2 the labor.

3 Q. Mr. Smith asked you a question about the loan was
4 forgiven (sic). Do you believe the loan was ever forgiven?

5 A. No, it was not forgiven.

6 Q. Did you have specific conversations with Donald that
7 the loan was not forgiven?

8 A. Did I have specific discussion with Don about it?

9 Q. After the truck was gifted to Mr. Smith -- the
10 \$10,000 was given to Mr. Smith for the truck; is that a true
11 statement?

12 A. Yeah, he got a truck for \$10,000.

13 Q. At any point of time, did you and Don ever have a
14 conversation between the two of you that the loan was
15 forgiven?

16 A. No.

17 Q. Did Don ever tell you that the loan was forgiven?

18 A. No.

19 Q. Did Don ever tell you that the loan was still
20 outstanding, due and owing?

21 A. We both knew that it was outstanding, because Don
22 wanted the money to be kept being paid (sic). We didn't have
23 to discuss it. It was just a given thing that they would pay
24 every month. And they did pay every month between the 1st
25 and the 5th for several years, three years, I think. And

1 when Don died, they stopped about paying.

2 Q. And they actually made one more payment after Don's
3 death; is that correct?

4 A. Yes, September of 2018.

5 Q. Did you ever hear Don tell Mr. Smith the loan was
6 forgiven?

7 A. No.

8 Q. Did you have any reason to believe that
9 Mr. Humphrey, your late husband, would ever forgive this
10 loan?

11 A. No.

12 Q. Does the \$10,000 check have anything do with the
13 loan on the house?

14 A. No, it has nothing do with the house at all.

15 Q. Was it so Mr. Smith would have a truck to be able to
16 continue to complete jobs and work for you and your
17 husband?

18 A. Yes.

19 Q. It was going to be almost a work truck?

20 A. Yes.

21 Q. And him having a vehicle would also benefit you
22 because he could continue to do work for you guys?

23 A. That was the plan.

24 Q. And you admit that you were upset that your husband
25 was going to gift him so much money for a truck?

1 A. Yes, I admit that.

2 Q. But none of that had anything to do with this house
3 or the loan on the house?

4 A. That's correct.

5 MR. SAATHOFF: I have nothing further for this
6 witness.

7 Do you have any follow-up?

8 MR. SMITH: Who me? This is something that's going
9 to have to come out in court. It really is.

10 MR. SAATHOFF: That's fine. We're going to attempt
11 to get this cut off before we go to court.

12 MR. SMITH: Well, I'm going to put it this way.
13 You're asking her, your client, Ms. Humphrey, questions that
14 I am hearing a lot of false answers on, in fact, everything
15 that you asked her.

16 To start with the truck, she sat there and admitted
17 that she got angry when Don gave me the money. And it wasn't
18 for a truck. He gave me -- buying the truck was just what I
19 chose to do with the money, because I already had a truck.
20 Even though it was run down, I had already decided that I was
21 going to continue to use that truck. So when he gave me the
22 money, she was sitting there as close as Lynn and I are here
23 now, about two to three feet away from him. When she got up
24 to go in the kitchen, she got some water for him, she brought
25 the water back out, he had to eat and drink water through a

1 straw. When she brought it out and gave him some water, she
2 sat the water on the table. He forgave the loan at that
3 moment. It was mixed in with the conversation about us
4 talking about me continuing to help her. That's all he asked
5 me to do. He didn't say, this money is for a truck. I told
6 him that \$5,000 wouldn't buy a truck. Then he said, we can
7 go up to ten. She got angry. You've already heard her say
8 that. She got angry and rushed to the front door, opened the
9 door and she went outside. Lynn looked at me because she
10 couldn't figure out what was wrong. But Barb said, oh, he's
11 getting a house and a new truck? I have an e-mail where she
12 said, oh, hi new truck owner.

13 Let me ask you this, Matt. If I owed you \$16,000 --
14 now, the original loan -- and it was a loan. The original
15 loan started out \$25,292.92. She's claiming that I had it
16 paid down to 16,000. If you look in that orange folder,
17 you'll find a lot of documents in there where she's telling
18 me not to tell Don this, not to tell Don that. Don was doing
19 the identical same thing to her. He was using sweat equity
20 with my work to deduct a lot of that money because he knew he
21 was dying. He couldn't show up to the jobs no more. My
22 e-mails go back to July 9th of 2017 where she started telling
23 me, Don is going in the hospital tomorrow to have surgery.
24 On the 10th, the very next day, she sent me another e-mail
25 saying -- well, it's in the red folder -- saying that the

1 surgery went well for him. So from that point on -- well,
2 actually from before that, because you just don't take sick
3 and then you can't work no more. So months before that,
4 almost practically the entire year, Lynn and I was doing all
5 the work on all the properties without even having him
6 present. But in my counterclaim, she said he was there
7 supervising me like I was a complete idiot, that he was
8 supervising me the entire time. She knew this was false when
9 it was said.

10 So I put together all of these e-mails in this black
11 folder here if you want a copy of them. I put together these
12 e-mails to show her continuously -- I'm talking hundreds of
13 jobs, continuously e-mailing these job duties to me, because
14 Don couldn't get to the work site. The red folder shows
15 where Don was not able to get to the work site, where she was
16 constantly updating me on his condition, continuously. And
17 she knows this on both counts.

18 So the point is, when Don gave me that money, this
19 was for me, it was not for me to buy a truck, because I
20 already had that gray truck. I already had an old -- it was
21 a '92 Ford, but it was still running and working good. Okay?
22 It was my choice to buy a new truck, because they had taken
23 the truck that he had given to me, they had taken it and sold
24 it.

25 So my question to you is -- and I'm not pointing at

1 you. This is just the way I talk. My question is, why would
2 I start out owing them -- or owing Don -- she had no part in
3 it. And the tape recording, if you listen to 1A, you'll hear
4 that. We was talking about trying to get his money back.

5 Now, if she was involved, why would she give me --
6 or why would she and he give me the money on November 6th,
7 and then the very next week -- and you heard her say her and
8 Elizabeth was angry with him. If she was involved with
9 making the decision to help me buy that house, why would she
10 give me the money -- the loan on November 6th and then want
11 it back one week later? When I told Lynn about it, that Don
12 had informed me of this, the first thing she said is, I wish
13 you had taped it.

14 And so Don had me bring some rocks over to the house
15 from the Webster Street apartment, he was asking me to bring
16 some of the stones, because we was going to tear the wall
17 down. He brought them over to my house. And at that time, I
18 went in the house and I got the tape recorder that you saw me
19 with here and decided to record it, because Lynn didn't
20 believe he was doing that. And the entire tape recording is
21 about concerns -- well, it shows where I was applying for a
22 loan at Wells Fargo, he was applying for a loan down at First
23 State Bank down on South 84th Street. He even had me to come
24 in here to sit down with the guy at First State. And the
25 only reason -- the purpose was to get the loan back. We was

1 going to put the house up for collateral and get him his
2 money back to get Barb and Elizabeth off his back. That tape
3 proves that. For 34 minutes it proves that. So it was going
4 to get them off his back, and it was going to leave me owing
5 the bank instead of him, not Barb. But because I didn't have
6 credit at that time, we couldn't get the loan to do it.

7 And so these payment schedules were created as a way
8 of showing Barb and her daughter that I was actually paying
9 the money back, which I was. I gave him a hundred dollars
10 the first time. She was standing beside him. And her words
11 were -- I remember like it was yesterday -- oh, we need to
12 buy a house every day, knowing that she didn't mean nothing
13 like that, because this was, like, in March.

14 So anyway, I had already created these schedules.
15 And that's why, if you look at -- not the front page they
16 created. If you look at the following three pages, you'll
17 see they was created in January at the identical same time, I
18 think one minute apart, because I was creating them on the
19 screen as a way of trying to show her that I was going to pay
20 the money back. I created these three documents. And once I
21 created them, then I saved them all of the same time.

22 MR. SAATHOFF: Just so we're clear, you're talking
23 about Exhibit No. 24?

24 MR. SMITH: Yes. And then the following three pages
25 after that, the same thing. They was all created on the same

1 night right after each other. And that's where Barbara got
2 the four percent interest at, because one of those documents
3 say three percent interest, one of them say four percent
4 interest, because in my heart, I wanted to do this. But Don
5 never accepted any of those documents. He never accepted a
6 one of them. And that's why there was six of them created.
7 They took information off of those six and created one
8 document, and that's the document they submitted to you.

9 So no, Barbara Humphrey had absolutely nothing to do
10 with Don giving me that loan. But when I listen to her talk,
11 she's saying, we, we, we, over and over and over, throughout
12 their entire conversations. The money that he gave me, the
13 \$10,000, was not for the truck.

14 So where I want to go is asking you about the
15 25,000. Don loaned me \$25,219.92. The very next week he's
16 telling me that Barb and Elizabeth was angry with him and he
17 wanted to get the money back to get them off his back. And
18 that's when we went to the bank. But before his death, even
19 though I knew that the loan had been paid down to 8,000,
20 which he forgave before he died, she wrote me the \$10,000
21 check.

22 Now, if I owed you \$16,000, why would you write me
23 another \$10,000 and, then a month and a half later you say I
24 owe you \$16,000? It's just so confusing. It's just lie
25 after lie after lie after lie. And it's hard to keep up

1 with. And that's why you see me get so angry. And I don't
2 mean to get angry. I don't mean to point at people or
3 anything like that. I'm not that type of person. And that's
4 why they held on to us working for them for so long, because
5 I catch on to things so quick.

6 But they're saying that, oh, Don was there on the
7 job site supervising every job supervising him, as if I'm a
8 complete idiot, when Don was nowhere around. The final two
9 years of his life he was nowhere around. Everything that he
10 ate had to be put in a puree machine and fed to him out of a
11 straw. He couldn't even use his hands. They had to hold it
12 up to his mouth. Even when he was in the hospice house,
13 Elizabeth tried to get me to feed him, and I wouldn't,
14 because I felt bad for him. They couldn't get him to eat.
15 why would I?

16 My voice was the very last voice that man heard.
17 Every time I got off work, I would go by there and tell him
18 what I had done because I knew that's what he wanted to hear.
19 Joe, her son-in-law, told me, oh, if I was you, I wouldn't do
20 that anymore, because they was jealous of me because of the
21 closeness Don and I had.

22 When he went to North Carolina, he asked me to go
23 with him. I went down there and restored the house. He laid
24 on the kitchen floor. We went out to eat, Texas Roadhouse,
25 stuff like that. But he couldn't get his family, none of his

1 kids, to go with him.

2 So that's where the house came in. We was on our
3 way back to North Carolina -- and I'm just telling you like
4 it is. I know we're wasting a lot of time. But we was on
5 our way back from North Carolina, and we was approaching the
6 Kansas City (sic) state line from the east. Don asked me a
7 flat-out question that caught me off guard. He said, Ed, I
8 want to ask you something. He said, if you had a wish that
9 you could wish and have it come true, what would it be. And
10 it caught me off guard. And I said, you know, to be honest
11 with you, Don, nothing. I say, as long as I can fish and I
12 can write, because I was writing. I still write. But the
13 last two years have been taken away from me. I said, if I
14 could have anything in the wish, I said nothing, as long as I
15 can fish and write, my life is complete. And a few seconds
16 passed. And I said, but I'll say this, Lynn wants a house,
17 so I guess if I had to wish for anything and have that wish
18 to come true, it would be a house for her. "Fine" was the
19 only thing he said. Barbara Humphrey had absolutely nothing
20 to do with the trip, the conversation, or anything else.

21 So one day we was working on Webster Street. And
22 I had already come across this property. I got out, I went
23 around the back, looked. It was a very small yard, but I
24 decided, well, it's just Lynn and I. So we went back and --
25 normally we go over on Dodge Street to Wendy's to eat lunch.

1 And on that particular day, we were at the Webster Street
2 property working. And when we got ready to go to lunch, I
3 told him, I said, I don't want to go to Wendy's today, I
4 said, let's go up on North 30th Street. He said, what's up
5 there? I said, you'll see. So we went driving up there, and
6 I told him which direction to go. I took him up there to
7 North Ridge Drive. And there was a for-sale sign out in the
8 front yard. And I said, stop right here. I found the house
9 on my own. He wasn't with me. And he says, what's this?
10 And I said, well, I looked around and, I said, I like it. I
11 said, NP Dodge has it, do you care if I give them a call and
12 see if I can get inside and look it over. He said, you ain't
13 got to do that, I got a friend. Judy Dooley he was talking
14 about. So he called her, and she set up the date for us to
15 come view the house. That was the very first time.

16 Barbara Humphrey's only been in that house twice,
17 but that was the very first time she went in that house.
18 Judy came, opened the door, and we all went in. Barbara and
19 Lynn went downstairs. If two people is going to co-own a
20 property together, you both look the property over. Donald
21 Humphrey and Judy Dooley stood by the kitchen sink the entire
22 time that we was there. Barbara Humphrey and Lynn went
23 downstairs in the basement, and Barbara stayed down there the
24 entire time that we was at that house. I was the individual
25 that looked over the backyard, I looked over both the

1 bedrooms, the bathroom, the living room and the kitchen. And
2 when we was done, Don yelled down and let Barb know -- well,
3 Lynn came up and looked at it last minute. When we got
4 upstairs, Don was standing between the kitchen door -- I mean
5 between the kitchen and the living room. Barbara was
6 standing between the living room and the hallway. She stuck
7 her head through, she looked both ways in the bedroom, but
8 she never went back there. Lynn was standing beneath the
9 ceiling fan in the living room. Ms. Dooley was standing by
10 the front door waiting for us to go. And I say, I like it.
11 And Don said, is this what you want? And I said, yeah, I'm
12 going to take it. And he looked at Barb and he said, what do
13 you think? Her only words were, I ain't got nothing to do
14 with it. And from that point, up until Don died, every time
15 Don and I would mention that house, she would always use the
16 same words, that's between you two.

17 If you listen to that tape, 1A, you'll hear -- I'm
18 trying to think which one it was -- 1B, because 1A we was
19 talking about paying the loan back. 1B, Don had sent a State
20 Farm insurance agent to my house. It was on a Sunday
21 morning. And I went up there -- because he was knocking on
22 the door, and, you know, I'm like, what's up? He said, well,
23 I need to take a look over the property. I said, what? I
24 said, did someone send you here? He said, yeah, and he
25 mentioned Don's name. When he said that, I decided to go

1 ahead and let him look at it.

2 So he took pictures of the house. And as soon as he
3 was done, I drove straight to Barb's house and I knocked on
4 the back door -- and you'll hear this on the tape, my exact
5 words. She said, Don, Ed's here. He was in the back. And
6 when he come out, he was like, well, good morning, which he
7 always did. And I say, I had a State Farm agent come to my
8 house morning. I said, he told me that you sent him there.
9 Yeah. I say, did I ask you to send somebody -- you know,
10 that I wanted to put insurance on my house? And he said, no.
11 And after a little while, he apologized, well, I'm sorry. He
12 started explaining that, you know, since I owed him money, he
13 didn't want the house to burn down and he couldn't get paid.

14 But the only reason his name had been put on that
15 house is because of my illnesses, which I've already told you
16 about. Because of my illnesses, I put his name on the house
17 because I'm thinking I might die. And this was his way of
18 guaranteeing his money back. By his name being on that deed,
19 he will be able to sell the property and get his money back.
20 And Ms. Humphrey knew this, her daughter knew this, his
21 son-in-law knew this. Everybody in his house, even his
22 sister Ruth knew this. And when I told her that Barb had
23 filed this claim, the first words out of her mouth were, I
24 blame Don, he never should have put you guys in this
25 situation.

1 So Ms. Humphrey already knew the agreement.
2 Actually, it wasn't in the agreement. And I think in one of
3 her documents, one place there was an agreement; two other
4 places there wasn't. It's just a mess.

5 But I'll say this, that's my home. When they filed
6 this claim, they knew it. But what caused them to file this
7 claim and what caused me to lose my job and Dora to lose her
8 job was that -- and I have documents, e-mail documents
9 showing that up until September 12th of 2018 -- this was
10 shortly after Don passed away. Barb sent me e-mails talking
11 about water being in her basement. And so up until September
12 12th of 2018, I was working at the Webster Street apartment
13 building. And when she mentioned to me that she had water
14 coming in the basement, I told her that I will come over and
15 take a look at it. When I got over there, her son-in-law,
16 Joe, was around the south side of the house. And when I went
17 around and talked to him, they had to dig about maybe that
18 much (indicating) dirt, I think like four foot of dirt down,
19 and eight foot in length. So I got the shovel and
20 voluntarily dug that dirt out three days in a row. I dug it
21 out. Joe sat there screwing with some pipes for the drain so
22 he could run it out towards the street. But I dug that dirt
23 out, I took time and cleaned the wall down, I patched the
24 cracks in the wall, and then I put that dirt back in place.
25 Now, at the end, Elizabeth came out there and put a few

1 shovelfuls on, and then she disappeared. When she come out,
2 she had Barbara with her. So I feel that it was Elizabeth
3 behind this whole thing. And I still feel that way. When
4 people becoming senior citizens, sometimes their kids take
5 over their life. And I think that's been the situation,
6 because she brought Barb out, and Barb sat in a little chair
7 she put down for her, and she asked me about it after I threw
8 the last shovel of dirt out there. The neighbor came out and
9 was getting some dirt to put in his backyard because he had a
10 hole there.

11 So Barb started asking me was I going to continue to
12 pay what she called rent, what I call a loan. And I said,
13 Barb, Don's dead, he forgave the loan, and you heard him
14 forgive the loan. But then we started -- I said, I really
15 don't want to talk about this because I don't owe you
16 anything. At that time, Elizabeth started asking me, let's
17 go in the house and talk about it. So I didn't know that
18 I had a recorder on my phone because I had just got it. And
19 so I'm telling her, okay, I'll be back, let me run to the
20 house and get a tape recorder. And she touched this elbow
21 right here (indicating). I was at the fence on the north
22 side of the house. And she said, no, come on, and she went
23 like that (gesturing). So I just said, fine. Barbara sat on
24 the south side of the kitchen table, Joe sat on the east
25 side, I was on the west side, Elizabeth was sitting closer to

1 me on the north side of the kitchen table. And they started
2 talking about the payments. And I kept telling them, no, Don
3 forgave the remaining \$8,000. They said, well, you owed
4 16,000. I said, no, I didn't. I said, I owed 8,000, and Don
5 forgave that, and your mom was sitting there listening to it.
6 And then they kept -- words kept going back and forth, back
7 and forth. And then Elizabeth say, well, I'll tell you what,
8 why don't we just sign a rent to own? And I told her, why
9 would I rent something that I already own? And then she
10 start -- I'm trying to think how did she put that. Oh, we
11 don't want to you lose your house. She kept saying that over
12 and over and over, we don't want you to lose your house. And
13 then the next thing I know -- that was on, I think, like --
14 okay. My last job at Webster Street was, I think, September
15 13th. So this had to be the 16th or 17th of September of
16 2018. And the next thing I know, a week after that, we're
17 getting a letter from their attorney, from John, asking us to
18 meet them at 147th and something. Now, I had just seen Barb
19 walking. She walks fine. When she got there, oh, Elizabeth
20 has to help her in, and all this crap.

21 So we sit there. I was sitting at the end of John's
22 desk. Lynn was standing by the door, I think. Elizabeth was
23 sitting next to -- Barbara was sitting next to me. Liz was
24 sitting next to her across from John. I noticed Elizabeth
25 was holding her hand. And everything she wanted her to say,

1 she would squeeze her hand a little bit, you know, as if she
2 was giving her signals. But once again, Elizabeth started
3 saying, okay, we don't want you to lose your house. I took
4 it as a damn threat. It's kind of like extortion.

5 But no, that house is not owned by Barbara Humphrey.
6 And if you listen to that tape recorder, 1A, you'll hear Don
7 and I constantly conversating on getting his money back,
8 getting bank loans to get his money back to get them off his
9 back.

10 So I ask the question again. why would
11 Ms. Humphrey -- said she and Don agreed together to give me
12 that money. why would they give me that money and then a
13 week later they're crawling all over his back for giving me
14 that money? why would you say I owed you \$16,000, and then
15 three weeks before Don died, while you're saying I still owe
16 you \$16,000, you give me another \$10,000? It don't make no
17 sense.

18 Nothing she said is truthful, none of this, you
19 know. And it just frustrates me when you sit there -- and
20 I'm not cutting nobody down, don't get me wrong. And I
21 didn't mean to point my finger at you earlier. I apologize
22 for that. But when you got someone trying to take something
23 from you all because there's a law that they can will their
24 way through to get it, that's hurtful, especially when it's
25 someone that you've put your soul into for ten years. It

1 hurts. It really hurts. She know that house is mine. She
2 know this. Her family knows this. And his sister Ruth point
3 blank told me -- I went over to her house. I was down at the
4 Home Depot on 72nd and Ames. That was after I learned that
5 she had filed this suit. And I said, Ruth, I need to talk
6 with you. She said, okay. So I went over to her house, and
7 we sat in her living room. I was sitting in the small chair,
8 she was sitting on the couch. And I explained to her what
9 was going on. And I told her, I said, I believe -- I said,
10 I'm pretty sure Elizabeth -- no. I was blaming Joe. I said,
11 I know Joe don't like me. I said, I think that he's pushing
12 Elizabeth do this. And Ruth herself point blank told me, no,
13 Elizabeth is more deceptive than you think, I've seen her
14 manipulate Joe. I've been around twice where her
15 ex-boyfriend comes over to the house -- and I know I'm
16 getting off the subject, but I'm trying to point something
17 out. I've been around twice, and one of those times was when
18 I was putting dirt up against the house, which was the last
19 time I saw them. The ex-boyfriend come around. Joe wouldn't
20 say nothing. Now, here's a man who's scheduled to get
21 married, but he's around his ex-girlfriend. Nothing of what
22 she's doing -- and when Barb confronted me about this \$16,000
23 supposedly, Elizabeth was the only one talking.

24 Every single time I mentioned that house to Barb
25 whatsoever, it was always, that's between you and him,

1 talking about Don. That's another thing you will find on
2 that tape recorder 1B, because I confronted him directly, and
3 I told him, I said, Don, every time I mention to you
4 something about that house -- this is how much they was on
5 his back. I said, every time I mention to you something
6 about that house, you always drop your head, you go silent,
7 you won't say anything at all, you won't even respond.
8 That's on that tape recorder with Ms. Barbara present. When
9 I said that, guess what? He went silent again, he wouldn't
10 even respond to that.

11 That's my house completely, paid in full. And the
12 evening that he forgave the loan, it made her so angry, her
13 very words were, oh, he's got a house and a new truck? And
14 when she rushed to the front door, Lynn got up and went out
15 behind her. But she had just brought Don a glass of water
16 with a straw in it. She held it up to his mouth. So I asked
17 Lynn, I said, if she was that mad and she didn't want to
18 write me that check, why didn't she just give the damn check
19 to him and a pen? And Lynn said, well, if you notice, every
20 time we go over there, he can't even lift a finger. And
21 that's what made me question her today about that picture,
22 because the thing go around his -- that tie around his -- the
23 string that tie that bib around his neck was laying on the
24 outside of his hand. If it would have been on the inside, I
25 could say, okay, he was eating and moved his hand back. But

1 how is he eating with the string still on the outside of his
2 hand? It didn't make sense. His right hand couldn't be
3 moved because there was tubes in it. The back side of his
4 hand had tubes in it. So I can understand that. But why was
5 half a doughnut over at the far end of the table in a sealed
6 bag? Don wasn't fixing to get up and go nowhere with it, to
7 take it with him, you know.

8 So I don't know what else to say other than I'm up
9 against a lie. And not only am I up against a lie, I'm up
10 against constant lies. You know, the word "rental" is
11 continuously being used. But when I ask about it, all of a
12 sudden, it's a loan and a mortgage. It's just over and over
13 and over.

14 The invoices, you just asked about the invoices.
15 Yeah, we did have verbal discussions about payment. But in
16 these e-mails, it shows that I was not set at \$15 an hour.
17 In these e-mails, it shows a full picture of the Wirt Street
18 property where Lynn and I went over there and restored the
19 entire building. And that's where the \$15 came from for me.
20 She was already paying Lynn \$15 an hour to clean the
21 apartment stairways in the apartment building on Webster
22 Street. I was getting ten the entire time up until 2017.
23 And that's when we restored that property on Wirt Street,
24 6508 Wirt Street, and she was so impressed with it, until
25 standing in the dining room, she gave me the \$15, and again,

1 don't tell Don. And so the next time Don tried to pay me the
2 \$10, I laughed at him. I said, well, Barb gave me 15. From
3 that point on, he never paid me again. From that point on,
4 she was the one that paid me the \$15 an hour. But that
5 started in 2017.

6 I had worked for these people for ten years by then.
7 You know, it's just lie after lie after lie after lie. I'm
8 not putting no names to it. Okay? But it's lie after lie
9 after lie. Barbara Humphrey let -- and this is myself.
10 Okay? I'm thinking that she allowed Elizabeth to stand
11 behind her, because she's an older lady, and push herself up
12 front. That's what I think has happened here.

13 MR. SAATHOFF: Okay. Based on that, I have two
14 follow-up questions.

15 Q. (By Mr. Saathoff) Did you ever make the statement,
16 "So now he has a house and a car?" Yes or no?

17 A. A house and a truck.

18 Q. A house and a truck.

19 A. Yes.

20 Q. Okay. And what did you mean by that?

21 A. Well, Don had wanted to give him the house, the
22 25,000 that he put up front for the house. And then the
23 \$10,000 was towards the truck, because Don had said, well, we
24 need a heavy-duty truck, because we were hauling rock, and
25 all that stuff. So the truck was supposed to be for future

1 use for him to help me with the apartments.

2 Q. So when you made the statement, "So now he has a
3 house and a truck," that didn't mean he had the house free
4 and clear?

5 A. Correct.

6 Q. He still owed the money on it?

7 A. He still owed the money towards the house.

8 Q. Final question: Did you ever hear Don say, I
9 forgive the loan?

10 A. Never heard that, No.

11 MR. SAATHOFF: I have nothing further.

12 You can advise the witness, or would you like me to
13 advise her?

14 MR. SMITH: What do you mean by "advise her"?

15 MR. SAATHOFF: I'll advise her.

16 You have the right to read and sign your deposition
17 or you can waive the reading and signing. You just have to
18 inform Madam Court Reporter of your choice.

19 THE WITNESS: (No audible response.)

20 MR. SAATHOFF: Read and sign.

21 Tell Madam Court Reporter that you'll read and sign.

22 THE WITNESS: I'll read and sign.

23 (At 3:05 p.m. the deposition concluded.)

24

25

C E R T I F I C A T E

I, Susan M. McKenzie, Certified Court Reporter,
General Notary Public, duly commissioned, qualified, and
acting under a general notarial commission within and for the
State of Nebraska, do hereby certify that

BARBARA HUMPHREY

was by me first duly sworn to tell the truth, the whole
truth, and nothing but the truth; that the foregoing
deposition was taken by me at the time and place herein
specified; that I am not counsel, attorney or relative of
either party or otherwise interested in the events of this
suit.

IN TESTIMONY WHEREOF, I have hereunto set my hand
officially and attached my notary seal.

Dated this 12th day of June, 2020.

Susan M. McKenzie,
Court Reporter and
General Notary Public