

1 the transaction between you and Mr. Humphrey had always  
2 been a gift, correct?

3 A. No.

4 Q. Or that it had always been forgiven, correct?

5 A. Correct.

6 Q. At one point in time it for sure was a loan,  
7 and you, in fact, made payments against the loan,  
8 correct?

9 A. All the way through, yes, that's correct.

10 Q. You were just simply saying that it had been  
11 forgiven, correct?

12 A. Correct.

13 MR. SAATHOFF: Objection: Move to  
14 strike, foundation, hearsay.

15 THE COURT: Overruled.

16 BY MS. SANDERS:

17 Q. And I'm also going to refer to page -- I think  
18 I'm going to take us back in time a little bit and have  
19 us listen to a recording so maybe we can all get back on  
20 track here.

21 MS. SANDERS: This will be a recording.  
22 May I approach?

23 THE COURT: Do whatever you need to do.  
24 What's this exhibit number, do you know, of this  
25 recording?

1 (Discussion had off the record.)

2 THE COURT: Before I play it, I want to  
3 -- do I have the right exhibit, 141? And this has been  
4 offered and received by agreement earlier of the  
5 parties?

6 MR. SAATHOFF: Correct. The foundation  
7 for this didn't -- but I still object based on  
8 relevancy.

9 THE COURT: I understand. All right.  
10 Exhibit 141 will be received for those purposes,  
11 foundation-wise. It will be played.

12 (Exhibit No. 141 is hereby made a  
13 part of this bill of exceptions, and  
14 can be found in a separate volume of  
15 exhibits.)

16 (Discussion had off the record.)

17 MS. SANDERS: I'm going to play what's  
18 been marked as Exhibit 141 first. Is that okay, Your  
19 Honor?

20 THE COURT: You bet. How long is it,  
21 roughly speaking? Guess.

22 MR. SAATHOFF: 32 minutes.

23 MS. SANDERS: I want to say 35 minutes.

24 THE COURT: So we're going to listen to  
25 all 32 minutes right now? Which is fine, I just want to  
know.

1 MS. SANDERS: This is 34 minutes.

2 THE COURT: All right.

3 (Whereupon, Exhibit 141 is played in  
4 open court.)

5 THE COURT: Ms. Sanders stop this for a  
6 minute. Is that possible -- are you okay to stop it  
7 there for a second? On the record, I guess. I know the  
8 two of you have agreed to foundation on this, but you  
9 really didn't ask or tell me. You can tell me since  
10 you've agreed to the foundation. I assume this is  
11 Mr. Humphrey and Mr. Smith?

12 MS. SANDERS: It is, Your Honor.

13 THE COURT: And then some people that  
14 were at the store or whatever? Or was it just them  
15 talking about what they're going to buy?

16 MS. SANDERS: Them doing some work around  
17 the house.

18 THE COURT: Just those two talking. And  
19 what about date and time?

20 THE WITNESS: Can I speak?

21 MR. SAATHOFF: I think it's 2016, March  
22 of 2016.

23 MS. SANDERS: This one is March 9, 2016.

24 THE COURT: Who did the recording?

25 MS. SANDERS: Mr. Smith.

1 THE COURT: Okay. All right. So the  
2 only two people I'm going to hear when I continue to  
3 hear is what you thought, Mr. Smith and Mr. Humphrey?

4 MS. SANDERS: Yes, Your Honor.

5 MR. SAATHOFF: I want to make sure the  
6 Court can determine the difference in the voices.

7 THE COURT: Yes, I can tell a difference.  
8 Sometimes Mr. Smith I can hear real well, sometimes  
9 Mr. Humphrey is in the background. I want to make sure  
10 before I listen to the whole thing.

11 (Whereupon, Exhibit 141 resumes play  
12 in open court.)

13 THE COURT: That the whole tape?

14 MS. SANDERS: Yes, your Honor.

15 THE COURT: Why don't we break for lunch  
16 and we'll go on from there. And any objections you want  
17 to talk about, we'll start after lunch. Okay?

18 MR. SAATHOFF: Very good.

19 THE COURT: Mr. Smith, you can step down  
20 and enjoy your lunch.

21 THE WITNESS: Thank you.

22 (12:04 p.m. - Recess taken.)  
23  
24  
25



1                   (At 1:04 p.m., with parties present  
2 as before, the following proceedings were had,  
3 to-wit:)

4                   THE COURT: Thank you, everybody. Please  
5 be seated.

6                   We're back on the record of Humphrey v. Smith,  
7 CI18-9530. We took a little lunch break. Counselors  
8 are all back, parties are back. And, Mr. Smith, you  
9 were on the stand, sir. Would you come on back up,  
10 please. Sir, I'm going to remind you you're still under  
11 oath. Okay?

12                  THE WITNESS: Yes, sir.

13                  THE COURT: Counsel, you just finished  
14 with your tape recording. Your next move.

15                  MS. SANDERS: Yes, Your Honor. I just  
16 want to make sure there's no preliminaries after that.  
17 I think you mentioned before --

18                  MR. SAATHOFF: I would just make my  
19 objection to the relevance of the recording.

20                  THE COURT: The Court will overrule that  
21 and give it its appropriate weight, since we have a  
22 bench trial and all. And your next question, I guess.

23                  And we all agreed we received Exhibit 141 as  
24 to foundation?

25                  MR. SAATHOFF: Correct.

1 THE COURT: All right. Go ahead.

2 BY MS. SANDERS:

3 Q. Mr. Smith, prior to lunch, we listened to  
4 Exhibit No. 141. And you were present while we were  
5 listen to that -- listened to that, correct?

6 A. Yes.

7 Q. And that recording took place on March 9th of  
8 2016, correct?

9 A. Yes.

10 Q. And that was you and Mr. Humphrey?

11 A. Yes.

12 Q. And during that recording, you were  
13 questioning Mr. Humphrey regarding being able to use the  
14 house as collateral so that you could get a loan if  
15 needed because of your credit, correct?

16 A. Yes.

17 Q. And you believe that that recording shows the  
18 nature of -- it helped show the nature of the agreement  
19 between you and Mr. Humphrey, correct?

20 A. Yes.

21 Q. And how so?

22 MR. SAATHOFF: I'm going to object. The  
23 recording speaks for itself.

24 THE COURT: Overruled.

25 Go ahead, sir, and tell me what you think.

1 THE WITNESS: I missed the question.

2 Could you repeat that, please.

3 BY MS. SANDERS:

4 Q. Yes. I believe that that recording can help  
5 show what type of relationship you and Mr. Humphrey had,  
6 the nature of your relationship regarding the property,  
7 correct?

8 A. That's correct, yes.

9 Q. How so?

10 A. First off, it shows the relationship itself,  
11 how friendly it was, how in-depth it was with one  
12 another. It also shows that Mr. Humphrey showed no  
13 relevance -- I'm using the wrong word. It showed that  
14 Mr. Humphrey showed no -- showed where he had no  
15 interest whatsoever in that property. Everything he was  
16 saying was simply for me to deal with. And I was  
17 telling him what I was going to do to improve the house,  
18 and he was just -- so he was just there.

19 Q. So with respect to -- when you say no interest  
20 at all in the property, and I was going to improve the  
21 house, are you referring more to the statements that you  
22 were making when you were saying this is what I would  
23 like to do with the house, or I would like to do this  
24 with the siding, or the different things you're  
25 referring what you wanted to do with the home, and you

1 didn't have to have his permission to do that? That's  
2 what you're referring to there?

3 A. That's exactly correct.

4 Q. Okay. Also, during the recording you all  
5 mentioned Lynn. And Lynn -- who is Lynn?

6 A. Dora Prosolow.

7 Q. So Dora Prosolow, the codefendant, is also  
8 referred to as Lynn, correct?

9 A. That's her middle name. That's correct.

10 Q. And this recording was taken, as we already  
11 stated in 2016. So this would have been closer in time  
12 than the recording that we heard yesterday to the actual  
13 time frame of the agreement. And then it's before a  
14 recording that we're also going to hear here in a little  
15 bit; is that correct?

16 A. Correct.

17 Q. There's one more recording we're going to  
18 offer that was recorded on August 8th of 2017, correct?

19 A. Correct.

20 Q. Okay. And that recording will involve you,  
21 Mr. Humphrey, Mrs.-- and Mrs. Humphrey, correct?

22 A. Correct.

23 Q. And this is also a recording that you made?

24 A. Correct.

25 Q. And this is when you were heading over to

1 their house?

2 A. I was at their house, correct.

3 MS. SANDERS: Okay. And so at this time,  
4 I would like to play recording No. -- what's been marked  
5 as Exhibit No. 142, which is a recording dated August 8,  
6 2017. And the parties have already agreed to it being  
7 received as an exhibit.

8 THE COURT: All righty. Again, this is  
9 agreed to as far as foundation to be received?

10 MR. SAATHOFF: For that limited purpose.

11 THE COURT: Exhibit 142 will be received  
12 as far as foundation, subject to objections.

13 (Exhibit No. 142 is hereby made a  
14 part of this bill of exceptions, and  
can be found in a separate volume of  
exhibits.)

15 (Whereupon, Exhibit 142 played in  
16 open court.)

17 MR. SAATHOFF: I would just note my  
18 objection to relevancy of the recording.

19 THE COURT: All right. Overruled.

20 BY MS. SANDERS:

21 Q. Mr. Smith, we just played Exhibit 142. And  
22 you were present while that was playing, correct?

23 A. Yes.

24 Q. And we talked a little bit before it was  
25 played. It was a recording from August 8, 2017?



1 | A. Yes.

2 Q. Okay. And in the recording we did hear  
3 Mr. Humphrey say that -- in reference to the real  
4 estate, that it was not a normal real estate deal,  
5 correct?

6 A. He said to Ms. Humphrey, yes, correct.

7 Q. I'm going to discuss with you now -- excuse  
8 me -- a few more of the questions that came up in your  
9 discussions with Mr. Saathoff, just to clear those up.  
10 And I only have a few more. We're going to go back to  
11 your deposition. During your testimony with  
12 Mr. Saathoff, you were impeached relating to Page 28,  
13 Lines 15 and 16 where he had asked you a question but  
14 only read a portion of your answer. So I'm going to  
15 talk with you about that here in just a second. And on  
16 Page 28 of that deposition -- it has been marked as  
17 Exhibit 112 -- at Line 15 he asked you, and have you  
18 paid all \$25,000 plus change back? And yesterday or  
19 today I think -- yesterday or today -- I can't remember  
20 exactly when but -- you answered, no, I did not. And  
21 then you were stopped short right there. And then you  
22 were impeached regarding that statement as far as that  
23 goes. I'm going to approach and show you what's been  
24 marked as Exhibit No. 112.

25 MR. SAATHOFF: Your Honor, I'm going to

1 object to this line of rehabilitation as it relies upon  
2 a hearsay statement that has not provided notice for and  
3 it's an unavailable witness and it doesn't meet the  
4 hearsay exceptions. Further, it hasn't been pled what  
5 they're trying to allege.

6 THE COURT: Whose deposition is this?

7 MS. SANDERS: This is Mr. Smith's  
8 deposition, the Defendant. And yesterday during  
9 testimony Mr. Saathoff asked him a direct question which  
10 elicited hearsay and it was admitted and allowed in --

11 THE COURT: So, I mean, you can ask him  
12 those same questions again if you want. And ask him if  
13 he remembers, you know, giving those answers or  
14 whatever. All right. So overruled.

15 MS. SANDERS: Okay. Thank you, Your  
16 Honor.

17 BY MS. SANDERS:

18 Q. So yesterday when you had testified  
19 regarding -- strike that.

20 So Lines 15 and 16 you were asked, and have  
21 you paid all \$25,000 plus the change back, you said, no,  
22 I did not, and was stopped there. But you wanted to  
23 elaborate further. Can you just elaborate what your  
24 deposition answer -- full deposition and sentence was,  
25 please.

1           A.     The answer was, no, I did not because Don  
2     forgave the remainder of the loan before he died.

3                   MR. SAATHOFF:   Your Honor, I would move  
4     to strike as hearsay.  It's not been provided notice  
5     pursuant to the court rule.  It's an out-of-court  
6     statement being offered to try to prove the truth of the  
7     matter asserted.  And it fails under 27-804.

8                   THE COURT:   All right.  Well, we've dealt  
9     with that statement since yesterday, and so the Court's  
10    going to overrule it.

11                  MS. SANDERS:   Thank you, Your Honor.

12                  And I would like to offer Mr. Smith's  
13     deposition, what's currently marked as Exhibit No. 112,  
14     Page 28, Lines 15 and 16 in full for -- to the Court for  
15     rehabilitation purposes and also for evidence, Your  
16     Honor.

17                  MR. SAATHOFF:   Your Honor, we would  
18     object based on hearsay.  The stipulation was all  
19     objections were form and foundation.  That's a hearsay  
20     statement of an unavailable person.  It doesn't meet the  
21     exceptions.  Further, they've never filed their notice  
22     offering hearsay statements as required and ordered by  
23     the Court.

24                  THE COURT:   Overruled.  Exhibit 112 Page  
25     28, Line 15 and 16, will be received for those sole

1 purposes.

2 BY MS. SANDERS:

3 Q. In addition, Mr. Smith, I believe it was  
4 yesterday during your testimony when Mr. Saathoff asked  
5 you if Don specifically ever told you the loan was  
6 forgiven. To reply to that you stated, yes, and he did  
7 it right as his wife was sitting next to him drinking a  
8 glass of water, correct?

9 A. Yes.

10 MR. SAATHOFF: I'm going to object,  
11 again, based on foundation, hearsay, and again  
12 relevance. It's outside the pleadings, it's a hearsay  
13 statement, they've not noticed their hearsay statements  
14 that they will allege to use, and it violates 27-804.

15 THE COURT: All right. Same ruling. The  
16 Court will overrule that objection for the same reasons.

17 BY MS. SANDERS:

18 Q. When you answered that question, you said,  
19 yes, and he said it right as his wife was sitting next  
20 to him drinking a glass of water. That particular  
21 situation where the loan was forgiven, that was also  
22 brought up during your deposition, correct?

23 A. Yes.

24 Q. And at the time that Mr. Humphrey forgave the  
25 loan, per your testimony, who was all present?



1 A. Mrs. Humphrey was sitting 3 feet to him --

2 Q. I'm just asking you who was present.

3 A. Dora was present, Ms. Humphrey was present,  
4 Don was present, and myself.

5 Q. You said yourself?

6 A. Yes.

7 THE COURT: I'm sorry, sir. I didn't  
8 hear. Who was all present? Dora was present. Don was  
9 present. You were present. Was Barbara present?

10 THE WITNESS: Ms. Humphrey, yes.

11 THE COURT: Anybody else?

12 THE WITNESS: That was it, sir.

13 THE COURT: Thank you.

14 BY MS. SANDERS:

15 Q. What was Ms. Humphrey's reaction to the  
16 statement?

17 MR. SAATHOFF: Objection: Improper  
18 rehabilitation. As the evidence is clear from our  
19 examination of his trial testimony -- or deposition  
20 testimony was already received. He stated under oath  
21 that, no, she was mad about the \$10,000 check. There  
22 was nothing else. So this falls within Munford or  
23 Munson --

24 THE COURT: Overruled. He can answer how  
25 she behaved at that moment.



1 BY MS. SANDERS:

2 Q. You can answer, Mr. Smith. If your deposition  
3 will help you, let me know. I have the -- we're going  
4 to talk about that in a second. We're going to discuss.

5 A. Ms. Humphrey got mad and she jumped up. First  
6 she said, oh, so he's got the house -- got the house --  
7 and now he's getting a new truck. And with that, she  
8 jumped up, she rushed out the front door, and Dora  
9 Prosolow followed her out. When I got out there, she  
10 was standing in front of the garage crying.

11 Q. I'm going to approach. And I'm going to show  
12 you here what's been marked as Exhibit No. 112, and this  
13 is your deposition at Page 59. Okay. And then this  
14 kind of references what you were just talking about. Do  
15 you recognize this as your deposition?

16 A. I do.

17 Q. Do you believe this is a complete and accurate  
18 statement with respect to your -- or accurate depiction  
19 of your deposition taken at that time?

20 A. I think I had 124. That looks accurate. It  
21 looks accurate.

22 Q. Okay. And so when this issue did come up, you  
23 did provide some testimony in that regard as well.

24 Okay?

25 A. Okay.

1           Q.    And it looks like the -- with respect to your  
2 deposition, that you did state as he said, forget about  
3 that, just like that, Barbara Humphrey said these exact  
4 words, oh, so he's getting the house and a new truck.  
5 And she stood up, rushed out the front door. Dora  
6 Prosolow rushed out behind her. And so does that sound  
7 consistent and accurate with what you're saying today?

8                   MR. SAATHOFF: I'm going to object based  
9 on hearsay, foundation as to -- none of this has  
10 foundation as to date, time, location. None of that has  
11 been established of when these alleged statements,  
12 hearsay statements were made.

13                  THE COURT: Well, she's given us that he  
14 made the statement during the deposition. I guess we  
15 don't have anything as to when the statement -- I don't  
16 know that an exact statement was made because he hasn't  
17 said, he said the following. He just said -- anyhow,  
18 I'll leave that one alone. So overruled. We'll take it  
19 as a prior consistent statement.

20 BY MS. SANDERS:

21           Q.    Do you recall when this -- I guess the  
22 gathering would have happened where all of you were at  
23 the Humphrey's home -- you, yourself, Dora, and Mr. and  
24 Mrs. Humphrey?

25           A.    Approximately the end of the first week of --

1 I would say the second week of July, 2018.

2 Q. And when you say approximately, I just want to  
3 emphasize that for purposes of the hearing today and you  
4 being under oath because you don't know the exact date,  
5 correct?

6 A. Correct.

7 Q. So when you say approximately, you're saying  
8 sometime around July of 2018, correct?

9 A. I would say somewhere between late June -- but  
10 yes, correct.

11 Q. Okay.

12 MR. SAATHOFF: Your Honor, I'm going  
13 to -- we're running into Munford or -- where his  
14 statements are so contradictory from what he's testified  
15 to, what he's testified today, and he's testified in the  
16 past.

17 THE COURT: Well, the Court's the fact  
18 finder. I'll recall that or if I think that's accurate.  
19 So overruled.

20 BY MS. SANDERS:

21 Q. Based on what happened during that gathering  
22 with you all, that's what you're basing your belief on  
23 that the loan was forgiven, correct?

24 MR. SAATHOFF: Objection: Hearsay,  
25 speculation, foundation.

1 THE COURT: Overruled.

2 THE COURT REPORTER: I'm sorry. I didn't  
3 hear an answer.

4 THE WITNESS: Yes.

5 THE COURT REPORTER: Thank you.

6 THE WITNESS: Sorry.

7 BY MS. SANDERS:

8 Q. You said that Ms. Humphrey went outside and  
9 that she was crying and that Ms. Prosolow went out after  
10 her?

11 A. Yes.

12 MS. SANDERS: I'm just making sure I  
13 don't have anything else for cross, Your Honor. If I  
14 may have just a moment, please.

15 BY MS. SANDERS:

16 Q. During the recordings that we heard today, I  
17 know taxes was brought up at some point. You had  
18 testified earlier regarding certain payments that you  
19 made per month. And so as far as additional payments  
20 that you would make, did you pay taxes on the property  
21 as well?

22 A. Yes.

23 Q. At times did Mr. Humphrey pay taxes on the  
24 property? Or was it -- based on the recording, was that  
25 out of any money that you would have paid?

1           A.    It was out of money I paid, yes.

2           Q.    You mentioned during the recordings -- I think  
3 the way you had framed it was you had put about \$30,000  
4 in the home, and that Mr. Humphrey was at \$16,000. What  
5 do you mean by --

6                   MR. SAATHOFF: I'm going to object -- I'm  
7 sorry. I thought you were done. I didn't mean to step  
8 by the back of the sentence.

9                   MS. SANDERS: That's okay.

10 BY MS. SANDERS:

11          Q.    I was just going to ask what did you mean by  
12 that?

13                   MR. SAATHOFF: I'm going to object based  
14 on relevance, not relevant to the pleadings or the  
15 petition.

16                   THE COURT: Overruled.

17                   MS. SANDERS: You can answer the  
18 question.

19                   THE COURT: Go ahead and answer.

20                   THE WITNESS: I put \$10,000 down to  
21 purchase the property. And then I dropped another  
22 \$16,000 into it to restore it. And then I had to get  
23 air conditioners, heating units, stuff like that, so  
24 that was over 30,000.

25



1 BY MS. SANDERS:

2 Q. So I misstated your statement. It was that  
3 you were at \$30,000 in the home, and Mr. Humphrey was at  
4 \$16,000 in the home?

5 MR. SAATHOFF: I'm going to make an  
6 objection to relevance.

7 THE COURT: Overruled.

8 BY MS. SANDERS:

9 Q. Where were you getting the \$16,000 at for  
10 Mr. Humphrey at that time, which -- at the time of the  
11 recording?

12 A. I guess I misunderstood what you're saying,  
13 what you're asking.

14 Q. You mentioned that Mr. Humphrey was at \$16,000  
15 in the house -- and hopefully I'm not misstating -- and  
16 that you were at \$30,000 in the house. You just  
17 explained where your \$30,000 came from. I'm now asking  
18 you, if I remember, where did you get the \$16,000 from  
19 that you were referring to that Mr. Humphrey had now in  
20 the home?

21 A. It's hard to remember that.

22 Q. And I know that this case has went on for  
23 quite some time. During one of the recordings where you  
24 referred to wanting to get -- to use the house as  
25 collateral and Mr. Humphrey had agreed, at that

1 particular time, you were looking to get -- to be the  
2 responsible person on an actual mortgage, correct?

3 A. Yes.

4 Q. Okay. And while this case has been  
5 proceeding, at some point, I know that we had to --  
6 ultimately we appealed to the Supreme Court based on  
7 summary judgment, right?

8 A. Correct.

9 Q. And the opinion that came down mentioned that  
10 the nature of the relationship and the intent of the  
11 parties is what was important as opposed to the -- what  
12 was on the face of the deed. You understand that,  
13 correct?

14 MR. SAATHOFF: Your Honor, I'm going to  
15 object. The Supreme Court is not the law of the case.

16 THE COURT: Sustained. It's not a  
17 question, really, that he can answer. But sustained.

18 MS. SANDERS: Your Honor, may I say  
19 something in that regard, please.

20 THE COURT: Sure.

21 MS. SANDERS: He read the opinion, so I'm  
22 just referring to that. Can I ask him regarding the  
23 opinion then specifically?

24 THE COURT: The opinion is not precedent  
25 on how I find or anything of that nature. So I don't

1 find it relevant as to how I'm going to find it now that  
2 I've heard all the facts.

3 MS. SANDERS: Absolutely. It just did  
4 impact his thinking though.

5 THE COURT: Sure. Go ahead and ask him.

6 MS. SANDERS: Thank you, Your Honor.

7 BY MS. SANDERS:

8 Q. So with respect to the nature of you and  
9 Mr. Humphrey's relationship, how would you characterize,  
10 based on what you now know, from how the case has  
11 proceeded?

12 MR. SAATHOFF: Your Honor, object based  
13 on relevance. And the Supreme Court decision is not  
14 precedent on this case. It does not make the law of the  
15 case. And he lacks the foundation to determine what the  
16 Supreme Court actually looked at or who wrote the  
17 opinion.

18 THE COURT: I'm going to sustain it as to  
19 the form of the question. I'm not sure what you really  
20 asked him.

21 MS. SANDERS: I'll rephrase.

22 BY MS. SANDERS:

23 Q. Mr. Smith, ultimately you and Mr. Humphrey had  
24 an agreement for you to pay back the loan or in essence  
25 a mortgage, correct?

1 A. Yes.

2 Q. During testimony with Mr. Saathoff, at one  
3 point, the issue of the answer was brought up as far as  
4 what you had filed previously in this case for your  
5 answer, correct?

6 A. I'm failing to understand. The answer to  
7 what?

8 Q. The answer to the complaint for partition  
9 that was filed by the Plaintiff.

10 A. I think so.

11 Q. As part of this case you had to file a  
12 response and there was an answer filed. Yesterday you  
13 and Mr. Saathoff spoke about that, and he asked you  
14 questions about certain things that was included in the  
15 answer and things that were not included in the answer,  
16 correct?

17 A. That's correct. But I don't know if it was  
18 yesterday or today.

19 Q. Okay. That's okay.

20 At some point during this case -- at different  
21 times you represented yourself, correct?

22 A. Yes.

23 (Exhibit Nos. 151 and 152  
24 marked for identification.)

25

1 BY MS. SANDERS:

2 Q. I'm going to show you what's been marked as  
3 Exhibit No. 151. Can you take a look at that and tell  
4 me if you recognize that.

5 A. I do recognize it.

6 Q. Okay. And what is it?

7 A. It's a motion to amend or file.

8 Q. Okay. And this is something that you filed  
9 while you were representing yourself, correct?

10 A. Yes.

11 Q. And I'm not asking about whether it was  
12 properly submitted or filed, but you, in fact, did at  
13 least attempt to get this on file with the Court,  
14 correct?

15 A. Correct.

16 Q. And I'm just looking for the register of  
17 actions exhibit that was already received.

18 (Discussion had off the record.)

19 BY MS. SANDERS:

20 Q. I'm going to show you what's been received as  
21 Exhibit No. 131. And on Page 7 out of 12, the date of  
22 July 28, it references a motion for leave to file  
23 additional pleading, correct?

24 A. Yes.

25 Q. And that it was initiated by -- referenced



1 that it's yourself and Ms. Prosolow, correct?

2 A. Correct.

3 Q. In the motion to amend or file that you were  
4 looking to file, you made -- or attempted to make at  
5 least some additional claims regarding what you were  
6 requesting from the Court?

7 MR. SAATHOFF: Your Honor, I'm going to  
8 object. This document's not in evidence. There's never  
9 an order that came out from it. It's improper. It's  
10 irrelevant.

11 THE COURT: Well, it's clearly not in  
12 evidence -- if it wasn't sustained. But you can go  
13 where you want from there.

14 BY MS. SANDERS:

15 Q. So in that document you did attempt to make  
16 additional -- a few additional claims, correct?

17 A. Yes.

18 MS. SANDERS: For purposes of cross, Your  
19 Honor, I don't have any further questions.

20 THE COURT: You're done for cross. Is  
21 that what you said?

22 MS. SANDERS: Yes, Your Honor.

23 THE COURT: Okay. Thank you very much.

24 Any redirect?

25 MR. SAATHOFF: I do.

## REDIRECT EXAMINATION

BY MR. SAATHOFF:

Q. Mr. Smith, would you agree the old truck that Ms. Humphrey sold at CarMax was not titled in your name?

A. I agree.

Q. Okay. And you've testified to that the \$10,000 that was given to you had nothing to do with the truck, correct?

A. I need you to sort of explain to me what truck you're referencing to.

Q. The truck you bought.

A. The new truck?

Q. The new truck.

A. It had nothing to do with it, no.

Q. The \$10,000 had nothing to do with the new truck you bought?

A. No.

Q. Why did you take a picture with Don and the new truck at hospice house, if it had nothing to do with it?

A. I wanted Don to see that I used the \$10,000 that Barb gave me to buy the new truck, and he was happy about it.

Q. But you're saying the \$10,000 had nothing to do with that truck, correct?

1           A.    It had absolutely nothing to do with it,  
2 correct.

3           Q.    Do you remember answering discovery in this  
4 matter?

5           A.    I do not.

6           Q.    You don't? Okay.

7                   I'm going to hand you what's Bates marked as  
8 Smith 92, marked Exhibit 152. Sir, do you recognize  
9 that in your discovery responses?

10          A.    I do.

11          Q.    And would you agree with me that these are  
12 your words that you typed out, correct?

13          A.    I do.

14          Q.    Okay. So I want to read and make sure we're  
15 all on the same page. In early August in the year of  
16 2018, Don Humphrey instructed his wife Barb Humphrey to  
17 give Edward Smith \$10,000 for the purchase of a pickup  
18 truck for Mr. Smith, correct?

19          A.    Correct.

20          Q.    But you just testified, sir, that \$10,000 had  
21 nothing to do with that truck?

22          A.    That \$10,000 was to be used at my discretion.

23          Q.    Why did you say a check for \$10,000 for the  
24 purchase of a pickup truck?

25          A.    I said that because that's what was said in

1 the -- that's what Don told her to give me the money for  
2 because they sold the old truck. But it was my -- it  
3 was left up to my discretion to buy the truck.

4 Q. Well, sir, I've asked you several different  
5 ways on purpose if the \$10,000 had anything to do with  
6 the truck. You said no, correct?

7 A. Correct.

8 Q. I asked you if you used the \$10,000 to buy the  
9 truck. You said no, correct? That was your earlier  
10 testimony before lunch, correct?

11 A. Listen --

12 Q. "Yes" or "no"?

13 A. I can't remember exactly.

14 Q. That's fine. The record will reflect that you  
15 testified under oath today that the \$10,000 had nothing  
16 to do with the truck and you didn't use the \$10,000 to  
17 buy the truck. But your own discovery responses on  
18 Exhibit 152 state otherwise, correct?

19 A. Correct.

20 MR. SAATHOFF: I'd offer 152.

21 THE COURT: Any objection?

22 MS. SANDERS: Can I see 152, please.

23 THE COURT: Certainly.

24 MS. SANDERS: Thank you.

25 I guess the only objection would be it's not

1 the complete discovery responses, Your Honor. But as  
2 to, I guess, that specific question and what's been  
3 testified to, no objection.

4 THE COURT: All right. Exhibit 152 will  
5 be received.

6 (Exhibit No. 152 is hereby made a  
7 part of this bill of exceptions, and  
8 can be found in a separate volume of  
exhibits.)

9 MR. SAATHOFF: Thank you.

10 BY MR. SAATHOFF:

11 Q. Mr. Smith, you testified that you wrote all  
12 these checks out on July 3rd, 2018, correct?

13 A. Correct.

14 Q. Would that have included your property taxes?  
15 You paid property taxes on this property in July?

16 A. June and July.

17 Q. Okay. Did you write that same property tax  
18 check on July 3rd when you wrote all the other checks  
19 allegedly?

20 A. I never said I wrote a check on July 3rd for  
21 property taxes.

22 Q. Sir, I believe you testified you wrote all  
23 your checks at one point in time in July, and it was  
24 July 3rd, correct?

25 A. MUD, Cox cable, and Don Humphrey.



1 Q. Okay. What date did you write the property  
2 taxes?

3 MS. SANDERS: Objection: Form of the  
4 question -- excuse me -- form of question and  
5 speculative.

6 THE COURT: Overruled.

7 Go ahead and answer, sir.

8 THE WITNESS: At the Department of  
9 Treasury with a credit card.

10 BY MR. SAATHOFF:

11 Q. So you paid the taxes with a credit card at  
12 the Register of Deeds?

13 A. I believe so.

14 MS. SANDERS: Objection: Form of  
15 question. He's referring to the taxes. I guess, can  
16 you be a little bit more --

17 MR. SAATHOFF: I'll withdraw the  
18 question.

19 BY MR. SAATHOFF:

20 Q. We're talking about property taxes on the  
21 property in question for 2018. Do you understand my  
22 question?

23 A. It sounds like the same question you just  
24 asked, so I'm confused by it.

25 Q. Did you write a check to pay your property

1 taxes?

2 A. I can't remember, Matt. Usually I pay in  
3 credit card, so I can't remember, honestly.

4 Q. Would you have ever paid your property taxes  
5 with cash?

6 A. I can't remember that either.

7 Q. And that's because you have memory issues,  
8 correct?

9 MS. SANDERS: Objection: Argumentative.

10 THE COURT: Overruled.

11 THE WITNESS: Lots of people have memory  
12 issues, so I can't say one way or the other.

13 BY MR. SAATHOFF:

14 Q. But to the best of your recollection, you  
15 would have paid them by credit card?

16 MS. SANDERS: Objection: Asked and  
17 answered, misstates witness's testimony. Said he  
18 doesn't remember.

19 THE COURT: Overruled.

20 THE WITNESS: I'm not sure.

21 BY MR. SAATHOFF:

22 Q. Sir, I'm going to hand you what's your  
23 discovery responses Smith 122 Bates stamp outlined as  
24 2018 property tax payments. Do you recognize that  
25 document?

1           A.    I think I do.

2                               (Exhibit No. 153

3                               marked for identification.)

4 BY MR. SAATHOFF:

5           Q.    Sir, I'm going to hand you Exhibit 153. Do  
6 you see that you made tax payment -- how much were your  
7 taxes?

8           A.    Taxes change every year.

9           Q.    In 2018, how much were your taxes?

10                       MS. SANDERS: Objection: Calls for  
11 speculation.

12                       THE COURT: Overruled.

13                       THE WITNESS: There's no way possible.

14 BY MR. SAATHOFF:

15           Q.    For you to know that?

16           A.    For me to know that.

17           Q.    Okay. Did you make a cash withdraw for  
18 \$520.00 to pay your taxes in 2018 of July?

19           A.    There's no way possible to know that.

20           Q.    Okay. So if the document you produced in  
21 discovery Bates stamped Smith 122, 2018 tax payments,  
22 cash e-withdraw branch highlighted for \$520.00, would  
23 you assume that's going to your tax payments that you  
24 have outlined in June and July of 2018?

25           A.    Based on assumption without seeing the

1 document itself.

2 Q. But this is a document you created, correct?

3 A. You were asking me about a completely  
4 different document.

5 Q. Well, I'm asking you -- you created this  
6 document, yes?

7 A. It appears to be something I created.

8 Q. And it was produced by your attorneys as it's  
9 Bates stamped on the bottom with the Bates stamps that  
10 they used listing the pages, correct?

11 A. I suppose.

12 Q. Do you know for sure how you paid your taxes  
13 in 2018 in July? "Yes" or "no"?

14 MS. SANDERS: Objection: Asked and  
15 answered.

16 THE COURT: Overruled.

17 THE WITNESS: I do not know for sure.

18 BY MR. SAATHOFF:

19 Q. So you don't know if it was by check, credit  
20 card, or cash?

21 MS. SANDERS: Objection: Asked and  
22 answered.

23 THE COURT: Overruled.

24 THE WITNESS: That's correct.

25 MR. SAATHOFF: I'd offer 153.

1 THE COURT: Any objection?

2 MS. SANDERS: As far as not being on the  
3 list of exhibits, I would say untimely. I can't really  
4 read it, Your Honor. But I don't know if it's just my  
5 eyes. So foundation, and relevancy for purposes of what  
6 we're here for, Your Honor.

7 THE COURT: Mr. Saathoff, you might want  
8 to try to lay a little more foundation. His answer was  
9 he supposes he gave it. See if you can lay a little  
10 more foundation.

11 So it's sustained as to foundation, at this  
12 time.

13 BY MR. SAATHOFF:

14 Q. I'm going to show you your complete discovery  
15 responses, which is just marked as 126. Do you  
16 recognize these documents and you signed them in front  
17 of a notary on or about March 6, 2019?

18 A. Yeah. Let me look at the records. Yes.

19 Q. And if we go back through these, you'll see  
20 that there's documents attached thereto that start with  
21 Smith 001. Do you see that?

22 A. Yes.

23 Q. Okay. And these were your discovery  
24 responses. And if we go to Smith 122, that same  
25 document appears, correct?



1           A.    The same document does appear.

2           Q.    Okay.  So this document 153 was provided to us  
3 through your attorney in your prior discovery responses,  
4 correct?

5           A.    What date was that?

6           Q.    Well, you provided it to us on or about  
7 March 15, 2019.

8           A.    Yes.

9           Q.    Okay.  And this is a document -- 153 is a  
10 document you drafted, correct?

11          A.    It wasn't minimized like this, but correct.

12          Q.    And you're not disputing the authenticity of  
13 this document that you provided in your discovery  
14 responses either, correct?

15          A.    I can't really say I can't dispute it because  
16 it's not the original document.

17          Q.    The original document is -- in the original  
18 production is the exact same size, correct?

19                   MS. SANDERS:  May I see those two,  
20 please.  If you need me to come up there, I can.

21                   THE WITNESS:  I can see that.  I can see  
22 them both.  But I use Times New Roman, size 12.  So  
23 whoever -- whoever put that together -- I'm not saying  
24 there's not information that I provided, but it's hard  
25 to make out what it is.

1 BY MR. SAATHOFF:

2 Q. You would agree with me Exhibit 153, Smith  
3 Bates stamped 122 was provided to us in your discovery  
4 responses?

5 A. Looks sufficient.

6 MR. SAATHOFF: I'd reoffer Exhibit 153.

7 THE COURT: Any objection?

8 MS. SANDERS: Exhibit 153 is just that  
9 one page, right?

10 MR. SAATHOFF: Right.

11 MS. SANDERS: No objection.

12 THE COURT: Exhibit 153 will be received.

13 BY MR. SAATHOFF:

14 Q. Sir, at 11:04 this morning you testified you  
15 wrote the check August 3rd, 2018.

16 A. July 3rd.

17 Q. Well, your testimony was actually August 3rd,  
18 2018, and it happened at exactly 11:04 this morning. Do  
19 you realize that?

20 MS. SANDERS: Objection: misstates the  
21 witness's testimony.

22 THE COURT: The Court heard the  
23 testimony, so I'll know what it is or isn't. So go  
24 ahead.

25 Overruled.

1 BY MR. SAATHOFF:

2 Q. Sir, you testified that there was sweat equity  
3 put into this house?

4 A. Correct.

5 Q. You have no documentation by Mr. Humphrey that  
6 the sweat equity decreased the loan value, correct?

7 A. You're talking about more than one property,  
8 Mr. Saathoff.

9 Q. Do you have any documents anywhere that  
10 address the sweat equity decreasing in the loan balance?  
11 "Yes" or "no"?

12 A. What property?

13 Q. We're talking about your property that you  
14 currently reside in that has the loan on it.

15 A. There was no sweat equity on that house. The  
16 sweat equity was reduced from the properties I was  
17 working for them, their properties.

18 Q. So do you have any documentation from the work  
19 you allegedly did on other properties that -- to  
20 decrease the loan balance? "Yes" or "no"?

21 A. I do not.

22 Q. And, in fact, none of your amortization  
23 schedules you provided show any sweat equity payments in  
24 there, correct?

25 A. Those amortization schedules was all made at

1 one time, so no.

2 Q. You never went back and updated them to show  
3 additional sweat equity payments, correct?

4 A. Correct.

5 Q. Sir, in your deposition I asked you if you  
6 allege this is a gift, why did you continue to pay? Do  
7 you remember that?

8 A. You're mixing the --

9 MS. SANDERS: Objection -- oh, sorry.

10 THE WITNESS: Go ahead.

11 MS. SANDERS: I'm going to object as  
12 asked and answered. This is cumulative with respect to  
13 the gift, Your Honor. He's been impeached --

14 MR. SAATHOFF: I'll move on.

15 THE COURT: Thank you.

16 BY MR. SAATHOFF:

17 Q. You heard in the recording of March of 2018  
18 Don said the payoff amount was \$25,000, correct?

19 A. In my recording?

20 Q. Correct.

21 A. Correct.

22 Q. And you didn't dispute that amount, correct?

23 A. Correct.

24 Q. And you'd already made -- allegedly made  
25 payments towards this loan prior to that, correct?

1           A.    Yes.

2                       MS. SANDERS:  Your Honor, I'm trying to  
3 make sure I'm not confusing the recordings.  I'm going  
4 to object and move to strike the question and answer  
5 just because in the recordings I believe Mr. Humphrey  
6 himself mentioned that a couple of payments had been  
7 made.

8                       THE COURT:  Overruled.  The Court heard  
9 the recording, and I'll recall what I heard.

10                               (Exhibit No. 154

11                                       marked for identification.)

12 BY MR. SAATHOFF:

13           Q.    Sir, I'm going to hand you from your discovery  
14 responses that's Bates stamped 70 through 76, and it's  
15 Exhibit 154.  I'm going to hand you that.  Do you  
16 recognize all of those?

17           A.    Yes.

18           Q.    Those are all the check payments you made  
19 towards this loan obligation on the North Ridge house,  
20 correct?

21           A.    They appear to be, correct.

22           Q.    Okay.  And you also noted on some of the  
23 payments -- it will be Page 73 of -- Bates stamp 73 of  
24 154.  You also made notations on the sides of some of  
25 the checks; is that correct?



1 A. Correct.

2 Q. Those are your words, correct?

3 A. Correct.

4 Q. And it states that the month of June and July  
5 were used to pay taxes in the amount of \$521.54 paid on  
6 July 7th, 2018, correct?

7 A. Correct.

8 Q. Nowhere in there -- this document did you  
9 state that that check was written in July, did you?

10 A. Correct.

11 Q. Okay. And, in fact, if you look at the check,  
12 it's written August 3rd of 2018, correct?

13 A. Correct.

14 Q. And then your own words on the bottom,  
15 payments by check for January, April, May, and August  
16 2018, correct?

17 A. Correct.

18 Q. Okay. Nowhere in there did you state that you  
19 wrote that check in July, correct?

20 MS. SANDERS: Objection: Asked and  
21 answered, cumulative.

22 THE COURT: Overruled.

23 THE WITNESS: Correct.

24 BY MR. SAATHOFF:

25 Q. Sir, if we add all these checks up that you

1 made, payments, it's \$8,394.12, and that was your  
2 response to our request for all payments made, correct?

3 A. I think so, correct.

4 Q. In there -- in this when asked for all  
5 payments made, you didn't put anything in there about  
6 sweat equity, did you?

7 MS. SANDERS: Objection: Asked and  
8 answered, cumulative.

9 THE COURT: Overruled. Go ahead, sir.

10 THE WITNESS: Not in this particular  
11 document.

12 BY MR. SAATHOFF:

13 Q. You didn't put it anywhere, sir, did you?

14 A. It was cash on hand.

15 Q. Okay. You had the opportunity to write on  
16 this document like you wrote in other places that sweat  
17 equity was applied, but you didn't do that, correct?

18 A. Correct.

19 MR. SAATHOFF: I'd offer 154.

20 MS. SANDERS: No objection.

21 THE COURT: Exhibit 154 will be received.

22 (Exhibit No. 154 is hereby made a  
23 part of this bill of exceptions, and  
can be found in a separate volume of  
exhibits.)

24 BY MR. SAATHOFF:

25 Q. Sir, in the recording of March 2016, you

1 stated, I want to make sure you get all your money back,  
2 correct?

3 A. Yes.

4 Q. You also stated, I want to take Don's name out  
5 -- off after I pay him back by the bank loan, or similar  
6 words, correct?

7 A. Yes.

8 Q. You even said, your name's on the title, we  
9 could go back to DRI Title, correct?

10 A. For what reason?

11 Q. To remove Don's name from the title after you  
12 refinance the house.

13 A. Yes.

14 Q. Okay. You understood it took a writing, a  
15 written document to remove Don's name in 2016 from that  
16 property, correct?

17 MS. SANDERS: Objection: Form of the  
18 question, asks for a legal conclusion, speculative.

19 THE COURT: Overruled.

20 Go ahead and answer, if you know, sir.

21 THE WITNESS: Don said he didn't know how  
22 to do it on the tape.

23 BY MR. SAATHOFF:

24 Q. Why did you ask Don to sign something then per  
25 the bank?

1           A.    Don acted as the bank. And I asked him -- I  
2 informed him that if we got the money, the loan, that we  
3 would have them take his name off. And on the tape you  
4 can hear Don say, I'm not sure how to do that.

5           Q.    Okay. But you told him specifically, Don, you  
6 would have to sign something for the bank to remove your  
7 name, correct?

8                   MS. SANDERS: Objection. Best evidence  
9 would be the recording.

10                   THE COURT: Overruled.

11                   THE WITNESS: Incorrect.

12 BY MR. SAATHOFF:

13           Q.    In August of 2017, Don was trying to place  
14 insurance on the real estate in question, correct?

15           A.    Correct.

16           Q.    And the reason you place insurance is to  
17 protect your investment, correct?

18           A.    No, incorrect.

19           Q.    What's the reason for property insurance  
20 then, sir?

21                   MS. SANDERS: Objection: Calls for  
22 speculation.

23                   THE COURT: Overruled.

24                   MS. SANDERS: Form of the question.

25                   THE COURT: Overruled.

1 THE WITNESS: Since I still owed Don  
2 money, he was trying to protect his investment.

3 BY MR. SAATHOFF:

4 Q. And Don actually placed insurance on your  
5 property and paid it out of his own funds, correct?

6 A. For -- I'm not sure how long. He may have for  
7 a few months or a year.

8 Q. Did you ever obtain insurance on the real  
9 estate?

10 A. There's no insurance on there now that I know  
11 of.

12 Q. And Don wasn't paying the property taxes on  
13 the said real estate for 2017 and prior, correct?

14 A. Don gave me -- only talking one year, and it  
15 was actually less than that because I paid him some of  
16 it back.

17 Q. Do you have documentation of that?

18 A. I do not.

19 Q. And in that you're hung up on Don's statement,  
20 this is not your normal real estate deal, correct?

21 MS. SANDERS: Objection: Form of the  
22 question.

23 THE COURT: Sustained.

24 BY MR. SAATHOFF:

25 Q. Do you take issue or raise issue with Don's



1 statement, this is not your normal real estate deal?

2 A. He wasn't talking to me.

3 Q. Who was he talking to?

4 A. He was talking to his wife.

5 Q. Sir, do you remember writing my client a  
6 letter on or about October 23 of 2018?

7 A. I don't remember it.

8 Q. Do you remember sending it certified mail?

9 A. I don't remember it.

10 Q. I'll show you. In your discovery responses,  
11 again, you see the same Bates stamps at the bottom,  
12 correct?

13 A. Okay.

14 Q. Do you see a certified mail return receipt?

15 A. Okay.

16 Q. And it says, Hi Barb?

17 MS. SANDERS: Your Honor, I object to  
18 counsel reading from the document. It's not in  
19 evidence. And I would also like to see it. I did ask  
20 him to let me see it and he said no.

21 MR. SAATHOFF: I'm going to impeach, so

22 --

23 THE COURT: He's got to get it marked and  
24 ask he can identify it before he can read from it.

25 MR. SAATHOFF: Well, I'm not going to

1 offer the whole document. I'm going to use it to see  
2 where we go on this.

3 THE COURT: Then ask questions, but you  
4 can't read from it. I mean, you can ask questions from  
5 it obviously.

6 MR. SAATHOFF: Right.

7 BY MR. SAATHOFF:

8 Q. Do you believe that in October of 2018 you  
9 sent Barb Humphrey a certified letter? "Yes" or "no"?

10 A. I can't remember.

11 Q. Would a document that I just put in front of  
12 you that's three pages in length refresh your  
13 recollection?

14 A. You just said you wasn't submitting into  
15 evidence but you want me to go through it?

16 Q. Sir, I'm asking if that document before you  
17 refreshes your recollection.

18 A. I remember that.

19 Q. You did send this letter, sir?

20 A. Yes.

21 Q. It references in the letter a meeting --

22 MS. SANDERS: I'm going to object to you  
23 testifying from the letter.

24 THE COURT: You're going to have to have  
25 it marked and have it offered.

1 MS. SANDERS: And I still haven't seen  
2 it.

3 MR. SAATHOFF: Well, here's the -- I'm  
4 going to offer parts of the letter. I'm not going to  
5 offer the whole letter.

6 MS. SANDERS: I'm going to object as  
7 incomplete and best evidence. There's --

8 MR. SAATHOFF: It's for impeachment  
9 purposes only.

10 (Exhibit No. 155

11 marked for identification.)

12 BY MR. SAATHOFF:

13 Q. I'm going to show you what's been marked as  
14 155. This is a true and correct copy of a letter you  
15 sent Barb Humphrey on or about the October 23, 2018 --  
16 correct? -- that you produced in your discovery  
17 responses?

18 MS. SANDERS: I'm going to object at this  
19 time for improper impeachment. My client has not made a  
20 statement. I'm not sure --

21 THE COURT: Let him answer. Let him  
22 answer first.

23 MS. SANDERS: I'm sorry.

24 BY MR. SAATHOFF:

25 Q. Sir, is that a letter that you sent? You've

1 already testified, yes.

2 A. Yes.

3 Q. Did you ever blame Don for causing this issue?

4 MS. SANDERS: Objection: Form of the  
5 question.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 BY MR. SAATHOFF:

9 Q. You blamed this loan issue on Don, correct?

10 MS. SANDERS: Objection: Relevance.

11 THE COURT: Overruled.

12 THE WITNESS: I didn't blame the loan  
13 issue on him. I blamed him for not being clear to  
14 either of us exactly what we were supposed to be doing.  
15 He forgave the loan but he didn't tell Barbara about it,  
16 and we were all in the room there together. And Barb  
17 sit there and heard him, but she didn't just turn to her  
18 and say it. He was talking to me when she jumped up and  
19 ran out.

20 BY MR. SAATHOFF:

21 Q. Okay. Sir, you blame Don for not making  
22 things clear to either one of you, correct?

23 A. That's a slip of the tongue.

24 Q. Your letter that you sent certified mail was a  
25 slip of the tongue?

1           A.    I'm not saying that. But the way you're  
2 phrasing it now. So read it exactly like I said there.

3           Q.    But concerning the loan, this is all Don's  
4 fault --

5                   MS. SANDERS: I object, Your Honor,  
6 reading from the document. It hasn't been received.

7                   THE COURT: He's not really reading from  
8 it.

9                   MS. SANDERS: He's literally reading from  
10 it.

11                   THE COURT: I guess I didn't catch that.  
12 But no reading from the document, Mr. Saathoff, until  
13 it's offered --

14                   MR. SAATHOFF: Very good.

15                   THE COURT: -- and received, I should  
16 say.

17 BY MR. SAATHOFF:

18           Q.    Sir, did you blame Don for not making things  
19 clear regarding the loan? "Yes" or "no"?

20                   MS. SANDERS: Objection: Asked and  
21 answered, cumulative.

22                   THE COURT: Overruled. It's a little  
23 different question.

24                   THE WITNESS: I think those were words I  
25 used with Barb.



1 BY MR. SAATHOFF:

2 Q. And those would be words that are included in  
3 this letter that you sent, correct?

4 A. I just read that, correct.

5 Q. Okay. And you testified earlier that the  
6 \$10,000 check and the alleged forgiveness happened at  
7 the same time, correct?

8 A. That's correct.

9 Q. Did you ever state --

10 MS. SANDERS: Objection: Misstates  
11 testimony and facts and form of the question. If I may  
12 elaborate, this part can get a little confusing, Your  
13 Honor?

14 THE COURT: All right. But I heard the  
15 evidence. So whether I recall it or don't recall it  
16 that way is up to me. But you can say something if  
17 you'd like -- well, if you'd like to say something.

18 MS. SANDERS: It's okay, Your Honor.  
19 I'll let those objections stand and you can rule.

20 THE COURT: Thank you.

21 MS. SANDERS: Thank you.

22 BY MR. SAATHOFF:

23 Q. Did you ever tell Barb that he decided the  
24 alleged forgiveness before the truck? "Yes" or "no"?

25 A. Say that -- clarify that.