

1                   (At 11:19 a.m., on April 21, 2023, before  
2 the Honorable DUANE C. DOUGHERTY, with Mr. Matthew  
3 Saathoff, Attorney at Law, present with and on  
4 behalf of the Plaintiff; and with Ms. Darnetta  
5 Sanders and Ms. Judith Wells, Attorneys at Law,  
6 present on behalf of the Defendants, the following  
7 proceedings were had, to-wit:)

8                   THE COURT: We're here on a matter titled  
9 Barbara Humphrey versus Edward Smith and Dora -- I  
10 always have a hard time with her last name.

11                  MR. SMITH: Prosolow.

12                  THE COURT: Prosolow?

13                  MR. SMITH: Yes.

14                  THE COURT: CI18-9530.

15                  Counselors want to enter your appearance.

16                  MR. SAATHOFF: Good morning, Your Honor.  
17 Matt Saathoff on behalf of Barbara Humphrey.

18                  MS. SANDERS: Darnetta Sanders, Your  
19 Honor, of behalf of the Mr. Smith and Dora Prosolow.  
20 Mr. Smith is present. Dora Prosolow is not present,  
21 Your Honor.

22                  THE COURT: Is there a reason she's not  
23 present?

24                  MS. SANDERS: Not that I'm aware of, Your  
25 Honor. We haven't had communication since serving

1 notice of the motion to withdraw.

2 THE COURT: So let me start that. We're  
3 here with defense counsel -- both defense counsel on a  
4 motion to withdraw as counsel for both Defendants.  
5 Correct? For both Defendants?

6 MR. WELLS: That's correct, Your Honor.

7 THE COURT: So explain to me,  
8 Ms. Sanders -- or one of you -- a little bit more. What  
9 was your last contact with Ms. Dora Prosolow?

10 MS. SANDERS: The last contact with Ms.  
11 Prosolow --

12 MR. WELLS: Just a minute, Your Honor.  
13 Are cell phone to be turned off during this hearing?

14 THE COURT: Cell phones should be turned  
15 off, yes. Does anybody have one on?

16 MR. SMITH: I have a recorder on, Your  
17 Honor.

18 THE COURT: Sir, that is a violation of  
19 law. I could have your arrested for that. So you turn  
20 that off right now.

21 MR. SMITH: Okay.

22 THE COURT: And bring it up here to me.

23 MR. SMITH: Bring it to you?

24 THE COURT: Yes. Turn it off, sir, if  
25 you would please. Okay?

1 MR. SMITH: I'm not quite sure how to  
2 turn it off. I've never turned it off before.

3 THE COURT: Let the deputy see if he can  
4 do it. All right. Set it on up here. Okay? All  
5 right. Thank you.

6 MS. SANDERS: Thank you, Your Honor.

7 THE COURT: Again, tell me what your last  
8 contact was with her.

9 MS. SANDERS: I believe the last contact  
10 with Ms. Prosolow was last week. We gave her a phone  
11 call regarding the potential continuance in trial date  
12 to get clarification on availability. Other than that,  
13 the last contact would have been the email exchange with  
14 respect to the motion to withdraw.

15 THE COURT: And do you have any kind  
16 of -- did she reply to that or anything? The email?

17 MS. SANDERS: She did not reply to that  
18 email.

19 THE COURT: So that's the same email  
20 address you've been using to communicate with her over  
21 the last period of time and what have you?

22 MS. SANDERS: It is, Your Honor.

23 THE COURT: So you have every reasonable  
24 belief that she received the email?

25 MS. SANDERS: Yes, Your Honor.

1 THE COURT: Which would have had today's  
2 hearing date on it?

3 MS. SANDERS: Yes, Your Honor. That's  
4 correct. And my understanding is Mr. Smith and  
5 Ms. Prosolow do reside together.

6 THE COURT: All right. Mr. Smith, let me  
7 ask you that. I'm just going to just ask you a  
8 question. I want you just to answer my question. Okay?  
9 Don't tell me anything more than you need to tell me.  
10 Do you have any knowledge of whether or not Ms. Prosolow  
11 is aware of today's hearing?

12 MR. SMITH: Yes.

13 THE COURT: And does she know of today's  
14 hearing?

15 MR. SMITH: Yes.

16 THE COURT: And does she know that the  
17 subject matter is that these two attorneys want to  
18 withdraw from any further representation from her as  
19 well as you?

20 MR. SMITH: Yes.

21 THE COURT: All right. I thank you for  
22 that, sir.

23 MR. SMITH: Yes.

24 THE COURT: Mr. Saathoff, your client's  
25 not here and you indicated she doesn't want to be here?

1 MR. SAATHOFF: That's correct.

2 THE COURT: All right. So counsel, do  
3 you want to be forward on your motion?

4 MS. SANDERS: I will, Your Honor. I will  
5 just note I know that we're in a bit of rock and a hard  
6 place, so to speak. We're right in the middle of the  
7 trial, Your Honor. And so our goal today is to balance  
8 our request for withdraw with not negatively prejudices  
9 or impacting our client, so I would refer the Court to  
10 the Nebraska rules of professional conduct that we noted  
11 in our motion, Section 3-501.16, (b)(4) and (b)(7). And  
12 would not as well that generally there's been a general  
13 break down in the attorney-client relationship where  
14 we're not able to move forward with representing  
15 Mr. Smith and Ms. Prosolow.

16 THE COURT: All right. And as officers  
17 of the court, both of you, you're pretty certain there's  
18 no repair that can be done or anything of that nature  
19 that would be appropriate under the circumstances?

20 MS. SANDERS: No, Your Honor.

21 MR. WELLS: That's correct.

22 THE COURT: And you cited to me 3-501.16,  
23 (b)(4) and (7), right?

24 MS. SANDERS: Yes, Your Honor. That is  
25 correct.



1 THE COURT: Okay. All right.

2 Mr. Smith, do you want to be heard on these --  
3 well, you understand these lawyers want to withdraw, and  
4 they have a right to withdraw. I have to let them. I  
5 could tell them no. But they're going to withdraw from  
6 representing you, which therefore -- we didn't have a  
7 trial yesterday. We were going to finish it yesterday,  
8 but knowing this came up, the Court continued that.

9 So I'll just -- if I let them out, I'm going  
10 to set another date to finish the trial. And you can  
11 either get a new lawyer between now and then or you can  
12 represent yourself, you and Ms. Prosolow. Okay? Do you  
13 understand all that?

14 MR. SMITH: I do, sir.

15 THE COURT: Is that okay with you if  
16 these two ladies withdraw?

17 MR. SMITH: Yes.

18 THE COURT: Counsel, do you want to be  
19 heard?

20 MR. SAATHOFF: Briefly. Your Honor, my  
21 client's concerns are that this is the fourth or fifth  
22 set of attorneys that Mr. Smith and Ms. Prosolow have  
23 had. These delays have continued to cost my client  
24 significant amount of time, energy, money and heartache  
25 when we're not able to get this done. We were supposed

1 to be done yesterday. But the Court on its own motion  
2 continued it, which I completely understand. I do not  
3 want to have this delayed a significant period of time.  
4 I want to be able to get this thing in, get it heard,  
5 and get it resolved as quickly as possible. I'd be  
6 interested to know if Mr. Smith, Ms. Prosolow intend to  
7 move forward as pro se or self-represented litigates or  
8 if they're going to hire an attorney. Because I know if  
9 they hire an attorney, they're going to file a motion to  
10 continue immediately. And then they're going to --  
11 we're going to have to get the transcripts and there's  
12 going to be motions to set aside what's been done in the  
13 past and for new trial. I just know how this is going  
14 to unfold. So I kind of want to know if he's going to  
15 move forward pro se or if he plans on hiring another  
16 attorney, and how quickly we can get into this thing.

17 THE COURT: Mr. Saathoff, as you know,  
18 I've been around these things for a long time too, so I  
19 understand your concerns. I don't think you necessarily  
20 have a right to know whether he's going to hire a lawyer  
21 or not. I think that's kind of up to him. I don't  
22 think I have a right to know that either. But I  
23 certainly am not going to let things get out of hand,  
24 and I'm going to certainly keep in mind your concerns.  
25 So I have a lot of trust in these two lawyers. And as

1 officers of the court, I have no doubt they sincerely  
2 filed this motion; therefore. I'll sustain the motion  
3 and the two of are allowed to withdraw. Okay?

4 MS. SANDERS: Thank you, Your Honor. I  
5 do have a proposed order, if I may approach.

6 THE COURT: Okay. That's great. You can  
7 bring it on up.

8 And then, Mr. Smith, I'm going to inform  
9 you -- and I'll ask counsel for your last task, if you  
10 would, please, would you send an email, or however  
11 you're contacting Ms. Prosolow, and advise her that you  
12 have withdrawn, that I've approved of it, I guess is  
13 what I'm getting at. And would you advise her that our  
14 new trial date is going to be the 23rd day of May. We  
15 have the whole day at 9:00.

16 So that's when we're going to try it,  
17 Mr. Smith. And I'd appreciate if you'd also pass on to  
18 Ms. Prosolow -- and, counsel, you too, if you would when  
19 you forward a copy of this order to her.

20 MS. SANDERS: Absolutely.

21 THE COURT: Tell her it's the 23rd of May  
22 at 9:00. We have the whole day and we're going to try  
23 it whether you have a lawyer or not. So hopefully you  
24 do for your benefit, but that's up to you. So we're  
25 going to go ahead and try it on that day and get this



1 concluded.

2 MR. WELLS: And, Your Honor, we will file  
3 our actual withdraw today.

4 THE COURT: That's a good idea.

5 MR. SAATHOFF: You said May 23rd?

6 THE COURT: May 23rd.

7 MR. SMITH: Your Honor, may I speak?

8 THE COURT: One second and I'll let you.

9 MR. SMITH: Thank you.

10 MR. SAATHOFF: I'm going to have to find  
11 coverage for -- I have a contested hearing in Washington  
12 County with Mr. Belmont. I'll find coverage for that,  
13 but I know that's going to be a highly contested  
14 hearing, but I want to make -- I'll make it work with my  
15 schedule.

16 THE COURT: I appreciate the extra  
17 effort.

18 All right. Mr. Smith, what would you like to  
19 tell me, sir?

20 MR. SMITH: Your Honor, I consider the  
21 May 23rd date as rushing this case. I sit and  
22 listened -- my attorneys are being allowed to withdraw  
23 the same way that my original attorneys, Nicole Seckman  
24 and Kevin O'Keefe, did. I have evidence that shows  
25 Matthew Saathoff actually conspired with these

1 attorneys. And when I confronted these attorneys --

2 THE COURT: Sir, that would be a whole  
3 different deal. That doesn't involve this trial, and  
4 I'm only involved in this trial.

5 MR. SMITH: Okay. Well, sir, May 23rd is  
6 a little bit too soon for me to get everything together  
7 I need to get together.

8 THE COURT: I'll take that as a motion  
9 from you to continue to not have it heard on May 23rd.  
10 And I'm going to overrule it, and we're going to hear  
11 this matter on May 23rd. Okay?

12 MR. SMITH: Okay.

13 THE COURT: Thank you very much,  
14 everybody. Here is your phone back, sir. Maybe the  
15 deputy will show you how to turn it on since you didn't  
16 know how to turn it off.

17 MR. SMITH: I can turn it on. Trust me  
18 on that.

19 THE COURT: Thank you, everybody.

20 MS. SANDERS: Thank you.

21 MR. SAATHOFF: Thank you.

22 (11:29 a.m. - Adjournment.)

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