

## THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

BARBARA J. HUMPHREY,	)	NO. CI 18 -
	)	
Plaintiff,	)	Judge: Duane C. Dougherty
	)	
vs.	)	PLAINTIFF'S ANSWERS TO
	)	DEFENDANTS'
EDWARD J. SMITH,	)	INTERROGATORIES
DORA PROSOLOW, JOHN DOE and	)	
JANE DOE,	)	
Defendants.	)	

To: Defendants, Edward J. Smith and Dora Prosolow,  
and their attorneys of record, Nicole Seckman Jilek and Kevin J. O'Keefe

INTERROGATORY NO. 1: Identify the person answering these Interrogatories and each person who provided any information used in responding to these Interrogatories and set forth separately for each person the Interrogatory or Interrogatories for which such information was used.

ANSWER: Plaintiff  
3922 Terrace Drive  
Omaha, NE 68134  
(402) 350-9999

Elizabeth Humphrey (daughter)  
may be contacted through Plaintiff

Joe Hendricks (son in law)  
may be contacted through Plaintiff

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 2: Identify all persons, firms, or corporations known to You, or Your representatives, whose knowledge is imputed to You, who possess knowledge of the subject matter of this action. Describe the general nature of the knowledge of each person or entity identified in this interrogatory.

ANSWER: John C. Chatelain  
CHATELAIN & MAYNARD  
14707 California Street #1  
Omaha, Nebraska 68154

(402) 333-8488

Has general nature of case based on conferences with client.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 3: Identify all persons, firms, or corporations who have given to you or your representatives, written statements, court reporter statements, or mechanically or video recorded statements of facts, relative to the subject matter of this lawsuit and the present custodian of such statements.

ANSWER: None at this time. Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 4: Identify any persons, firms, or corporations who have submitted to You any report or memorandum concerning their conclusions, opinions or findings concerning this matter.

ANSWER: DRI Title Company  
13057 West Center Road  
Omaha, Nebraska 68144  
(866) 932-4670

DRI's report verifies that the property was held as tenants in common between Don Humphrey and Edward Smith and not as joint tenants.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 5: Have You employed or otherwise utilized the service of any experts in connection with the subject matter of this litigation that You intend to call as an expert witness at any hearing or any stage of the trial of this matter, including rebuttal, and if so, please state the following:

- (a) Identify each such expert witness and the area or areas of expertise claimed by each such expert;
- (b) The subject matter on which each such expert witness is expected to testify;

- (c) The substance of the facts and opinions of which each such expert witness is expected to testify;
- (d) Whether You have received from any of said expert witnesses written reports, and, if so, state from which of the expert witnesses reports have been received, the date of each report, and in whose possession each such report is at the present time.

ANSWER: None. Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 6: Identify all Documents which support or refute the allegations described in the Complaint.

ANSWER: DRI Title Commitment, Real Estate Purchase Agreement, Tenants in Common – Special Warranty Deed, Real Estate Transfer Statement, Schedule of Payments, checks for installment payments and invoices for work performed by Defendant.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 7: Identify all Documents which support or refute the denials to the Counterclaim.

ANSWER: Invoices from Ed at \$15.00 per hour.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 8: Identify each person who You intend to call as a witness at any hearing of this matter or whose testimony will be presented by deposition and for each such person set forth the subject matter on which he/she is expected to testify and a brief summary of his/her testimony.

ANSWER: Barbara Humphrey, Elizabeth Humphrey, Joe Hendricks and Ed Smith

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 9: Describe basis for the calculation that Edward Smith has paid \$8,873.89 of the loan.

ANSWER: Amortization Schedule and copies of checks, subtracting principle payments from amount originally owed.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 10: If you contend that Edward Smith has been paid in full for any labor he provided to Donald or Barbara Humphrey or any properties owned by them, describe your basis for such contention.

ANSWER: Ed submitted statements for which he was promptly paid at the rate of \$15.00 per hour, per his request. There was no other price for his work ever discussed.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 11: Describe any labor provided by Edward Smith to Donald and Barbara Humphrey or their properties from January 2017 to present.

ANSWER: General unskilled labor, building block wall, hauling blocks and digging dirt, landscape work, vinyl floor installation and painting, all under the direct supervision of Donald Humphrey, retired school teacher who enjoyed teaching others how to do things.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 12: Describe any and all compensation paid by Donald or Barbara Humphrey to Edward Smith from January 2017 to present.

ANSWER: All cash at 15.00 per hour, per Ed's request as set out in his statements.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 13: State with specificity the basis for your affirmative defenses of the allegations in paragraph 31 of Your Answer.

ANSWER: Plaintiff has set out her cause of action for Partition containing all necessary elements.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 14: State with specificity the basis for your affirmative defenses of the allegations in paragraph 32 of Your Answer.

ANSWER: An action for Partition is not about damages. Plaintiff wants property sold and proceeds disbursed according to the ownership interests of the parties.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 15: State with specificity the basis for your affirmative defenses of the allegations in paragraph 33 of Your Answer.

ANSWER: Plaintiff's claim is not barred by the Statute of Frauds. Either tenant in common can pursue an action for Partition at any time.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 16: State with specificity the basis for your affirmative defenses of the allegations in paragraph 34 of Your Answer.

ANSWER: This is a simple Partition action.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 17: State with specificity the basis for your denial of the allegations in paragraph 35 of Defendant's Counterclaim.

ANSWER: Paragraph 35 was denied because it implied agreement with paragraphs 1-34 of Defendant's Answer.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 18: State with specificity the basis for your denial of the allegations in paragraph 38 of Defendant's Counterclaim.

ANSWER: This allegation was denied because it was not true. All apartments were not restored by Defendant. At all relevant times Don Humphrey did the work with Ed Smith as his helper.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 19: State with specificity the basis for your denial of the allegations in paragraph 39 of Defendant's Counterclaim.

ANSWER: This allegation is denied because Defendant didn't construct anything. Don Humphrey did the work with Ed Smith serving as his assistant, with common labor at \$15.00 per hour.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 20: State with specificity the basis for your denial of the allegations in paragraph 40 of Defendant's Counterclaim.

ANSWER: Ed Smith helped only. He was never a contractor. This is untrue because Ed didn't do these things. Don Humphrey did the work with Ed Smith as his assistant only.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 21: State with specificity the basis for your denial of the allegations in paragraph 41 of Defendant's Counterclaim.

ANSWER: Ed Smith expected \$15.00 per hour, which is the amount agreed to by the parties and as reflected in Mr. Smith's statements.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 22: State with specificity the basis for your denial of the allegations in paragraph 42 of Defendant's Counterclaim.

ANSWER: Barbara and Don paid the amount Ed asked for (\$15.00) only as Don's helper. \$15.00 was the value of Ed's work per the parties' agreement.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 23: State with specificity the basis for your denial of the allegations in paragraph 43 of Defendant's Counterclaim.

ANSWER: Reasonable value was never discussed, only \$15.00 per hour was discussed by the parties. Ed submitted his invoices for \$15.00 per hour and was quickly paid.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 24: If you deny that Donald Humphrey forgave any loan he provided to Edward Smith, describe the basis of such denial.

ANSWER: There was no documentation that the loan should be forgiven because there was no agreement between the parties to that effect.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

INTERROGATORY NO. 25: Describe any and all discussions or communications between Edward Smith and any person regarding any loan, payment of loan, or ownership of the subject property including, who was the speaker, who was present for such discussion or communication, when and where such discussion took place, and the substance of such discussion or communication.

ANSWER: After house was purchased, Ed, Don and Barb sat down and discussed repayment of the loan at Humphrey's home. Ed had prepared the amortization schedule. There was no agreement for forgiveness of loan in case of Don's death. There was no discussion about credit for sweat equity. There was no agreement that the property should be held in joint tenancy. On September 6, 2018, after Don died, Ed, Barb and Elizabeth had a discussion. Ed said the home loan was forgiven and he didn't have to pay anything. Ed said he would not continue payments. When the house was purchased, Don told Ed, you are going to pay me back. Don would have known what to do to forgive the loan but he took no action to do so. He knew that no agreement for real estate is binding without it being in writing.

Discovery continues. Plaintiff reserves the right to supplement this answer/response.

