

1 (At 9:09 a.m., on May 23, 2023, before the
2 Honorable DUANE C. DOUGHERTY, with Mr. Matthew P.
3 Saathoff, Attorney at Law, present with and on
4 behalf of the Plaintiff; and with Mr. Edward Smith
5 and Ms. Dora Prosolow, self-represented litigants,
6 present on behalf of the Defendants, the following
7 proceedings were had, to-wit:)

8 (Exhibit No. 156 and 157
9 marked for identification.)

10 THE COURT: We're here on the matter
11 titled Barbara Humphrey versus Edward Smith and Dora
12 Prosolow, CI18-9530.

13 Counselor, want to enter their appearance for
14 the record.

15 MR. SAATHOFF: Good morning, Your Honor.
16 Matt Saathoff on behalf of the Plaintiff. Also with me
17 today is my summer law clerk, Grant Svec, S-V-E-C.

18 THE COURT: All right.

19 MR. SAATHOFF: Thank you, Your Honor.

20 THE COURT: And, Mr. Smith, would you
21 like to enter your appearance, sir. Just tell the
22 record your name, please.

23 MR. SMITH: My name is Edward Smith. I'm
24 here pro se with Dora Prosolow.

25 THE COURT: And, Ms. Prosolow, would you

1 stand up and say your name too.

2 MS. PROSOLOW: Yes. My name is Dora
3 Prosolow. And also here to -- as part of this case.

4 THE COURT: You represent yourself?

5 MS. PROSOLOW: Yes. Mr. Edward
6 represents me. I'm sorry.

7 THE COURT: Mr. Edward cannot represent
8 you. He's not a lawyer. So you're going to have to
9 represent yourself going forward. Okay?

10 MS. PROSOLOW: Okay.

11 THE COURT: All righty. Everybody have
12 your cell phones turned off? Mr. Saathoff? Everybody?

13 MR. SMITH: Yes, sir. Would you like me
14 to bring it up there?

15 THE COURT: No. I trust you if you say
16 it's off.

17 MR. SMITH: It is. It's off, sir.

18 THE COURT: Good job.

19 All right. We're here today to finish up this
20 trial. This is, like, the third day I think. And
21 before we get started, I would ask either side is there
22 any preliminary matters we need to discuss before we get
23 started with our trial?

24 MR. SAATHOFF: Yes, Your Honor. There's
25 a couple of housekeeping matters. I went through the

1 exhibit list to make sure everything was offered and
2 received as I thought it was, and there's a couple of
3 matters that were -- that I thought were offered and
4 received but they weren't. They're actually Exhibit 141
5 and 142, which are the recordings dated 3/9/16 and 8/8
6 of '17. It's 141 and 142. Just so the record is clear,
7 I believe those were offered and received. If they
8 weren't, I would reoffer them at this point in time.
9 They're Mr. Smith's recordings that he played in open
10 court.

11 THE COURT: Those were the ones that we
12 stipulated to that were going to come in, right.

13 MR. SAATHOFF: Correct. It's just not on
14 the list that they were --

15 THE COURT: All right. Any objection,
16 Mr. Smith?

17 MR. SMITH: No, sir.

18 THE COURT: Any objection, Ms. Prosolow?

19 MS. PROSOLOW: No, Your Honor.

20 THE COURT: Okay. Exhibits 141 and 142
21 will be received, if they weren't already.

22 MR. SAATHOFF: The other issue was the
23 questions about depositions being draft copies. Well,
24 we went and actually obtained -- well, I can't get the
25 original because I didn't take it. I got the copy along

1 with the exhibits of Mr. Smith's deposition, just so
2 the -- and I didn't offer the whole thing. I offered
3 just pieces of it. But I would reoffer the same pieces
4 of the prior exhibit so that the original is in. It's
5 not a draft copy. So I would offer the same sections as
6 outlined in 112, which is the draft, which is now the
7 original and Exhibit 156. I think it just makes the
8 record more clear.

9 THE COURT: The number on that is 156?

10 MR. SAATHOFF: Correct. And I'm not
11 offering the whole thing. I'm just offering what I
12 offered for impeachment purposes. But it's now not
13 marked as a draft. It's a copy of the original signed
14 by the court reporter.

15 THE COURT: Any objection by either one
16 of the Defendants?

17 MR. SMITH: No, sir.

18 MS. PROSOLOW: No, sir.

19 THE COURT: All right. Exhibit 156 will
20 be received.

21 (Exhibit No. 156 is hereby made a
22 part of this bill of exceptions, and
23 can be found in a separate volume of
exhibits.)

24 MR. SAATHOFF: And then 157 is
25 Ms. Humphrey's deposition was marked as a copy that both

1 sides I believe had or a draft. I've now obtained the
2 original for both dates of her deposition, May 20 of
3 2020 and May 29th of 2020. Again, only parts of these
4 were offered. I would reoffer it for the record so it's
5 not a draft, the original of 157 and the previous parts
6 that were offered and received.

7 THE COURT: Any objection from either of
8 the Defendants on 157?

9 MR. SMITH: No, sir.

10 MS. PROSOLOW: No, sir.

11 THE COURT: Thank you.

12 Anything further, Mr. Saathoff?

13 MR. SAATHOFF: I believe that takes care
14 of all the house cleaning that I believe were
15 outstanding.

16 THE COURT: Mr. Smith, do you have any
17 preliminary motions or any matters you would like to be
18 handled before we started trial today?

19 MR. SMITH: I would like to add a police
20 report.

21 THE COURT: Well, we can do that in the
22 trial.

23 MR. SMITH: Okay. Other than that, no.

24 THE COURT: I assume you have evidence
25 for the trial, right?

1 MR. SMITH: Yes, sir.

2 THE COURT: That's not when we offer it.
3 I'm asking if you have any other kind of motions you
4 want the Court to hear before we go forward today or any
5 other preliminary matters.

6 MR. SMITH: For starters, I'd ask you to
7 recuse yourself, Your Honor.

8 THE COURT: You filed a motion that's
9 titled motion for second request for recusal and noticed
10 the hearing. Is that the motion you filed on the 16th?
11 Is that the motion you're talking about?

12 MR. SMITH: Yes, sir. And that is the
13 second motion I filed for that purpose.

14 THE COURT: Would you like to give me any
15 argument on that motion? Or would you like me just to
16 consider it on the motion itself?

17 MR. SMITH: I pretty much spell out in
18 the motion what I needed to say, what I wanted to say.
19 And I would like you to just consider the motion itself.

20 THE COURT: All right. And Ms. Prosolow,
21 are you joining in on that motion?

22 MS. PROSOLOW: Yes, I am, sir.

23 THE COURT: All right. Anything more you
24 want to say about that motion?

25 MS. PROSOLOW: I just feel that putting a

1 time limit on the trial is unjust, and that's all I have
2 to say.

3 THE COURT: All right. Mr. Saathoff, do
4 you want to be heard on that motion?

5 MR. SAATHOFF: Briefly, this matter has
6 already been heard by this Court one other time. It
7 denied the motion summarily. This matter has gone up on
8 appeal. The Court of Appeals didn't take it up. So I
9 think it's the law of the case. There's nothing new
10 raised in this matter. No new evidence has been
11 presented. Nothing else. I believe the law of the case
12 has already been decided as it's gone up on the appeal.
13 The Supreme Court didn't take that issue up. And we'd
14 ask that you stay in this matter and allow this matter
15 to proceed today to its conclusion.

16 MR. SMITH: Your Honor?

17 THE COURT: Yes.

18 MR. SMITH: Your Honor, we're talking for
19 the motion to recuse. It did not go before the Supreme
20 Court. We feel, I feel, that we're not going to get a
21 fair proceeding here. We're not going to get a fair
22 trial here. Okay. So all this trash he's talking about
23 or Mr. Saathoff is talking is just out of the window
24 just like this case itself. He's proven absolutely
25 nothing, and yet you're considering -- I feel that Your

1 Honor is considering everything he's saying no matter
2 how they're compiled with falsehoods, and you're not
3 hearing the actual proof itself. Now, Ms. Sanders and
4 Ms. Wells sat here. They allowed Mr. Humphrey [sic] to
5 question Ms. Humphrey. They never said a word knowing
6 full well that if they don't object to what he's doing
7 then we have no option for an appeal. So this whole
8 thing just stinks. It truly does. We have proof here
9 laid out that will prove in the case concrete.
10 Everything that I was impeached on was personal
11 relationships that had absolutely nothing to do with
12 this trial, with this case. My attorneys sat here, my
13 former attorneys sat here and they didn't object to
14 nothing. Even when Mr. Saathoff asked about
15 Ms. Prosolow and my relationship, it had absolutely
16 nothing to do with this case. But without them
17 objecting to it, we have no option but to bypass and
18 appeal. So absolutely everything that has happened in
19 this case so far, has been in my view, a bunch of crap.
20 Okay. All the evidence these people have offered, I can
21 counter it with solid proof on this table and every bit
22 of it pertains to the case itself, not relationships,
23 not who combed their hair this morning and who didn't,
24 or anything like that. So with us having this proof and
25 him only offering impeachment references for our

1 personal relationships, when I can come in here and show
2 perjury, show impeachment, all of this over the top of
3 anything he's saying. And everything I'm offering
4 pertains directly to the case itself. And that's all I
5 have to say. So I would ask Your Honor because I --
6 because both Dora and I feel -- and she can speak for
7 herself, as you know -- but because we feel that
8 everything that is happening here has gone Matt's way,
9 and even though everything he's offered is falsehoods,
10 we feel we're not going to get a fair shake or a fair
11 trial. And putting a limit -- and I researched it. I
12 do realize that with Your Honor saying that we only have
13 this one day to complete this trial, I do realize that
14 as long as we have offerings or evidence and I'm unable
15 to finish the trial, I do know that we can ask for a
16 continuance. Okay. And so that's what I'm going to do
17 if I'm not done. Because Matt Saathoff, I notice
18 whenever he's sitting there asking questions of the
19 witnesses or whatever, he's constantly watching the
20 clock. He's constantly trying to burn the clock out.
21 And there's no way that we can get all our evidence in
22 and a burnt out clock and one day to work with. So
23 because we feel we're not in a fair trial, I had no
24 other option but to file a second request to ask you --
25 or a second motion, I should say, to ask you to recuse

1 yourself.

2 THE COURT: Okay. Well, the Court
3 received a copy of this motion yesterday, and I reviewed
4 it and what have you. And as to the issue for me to
5 recuse myself, I see no substance within the motion
6 whatsoever that should allow me or that should make me
7 be concerned that I should recuse myself or that you're
8 not receiving a fair trial. As far as finishing this
9 trial today, we've been three days of this thing, and
10 sooner or later the Court has to put a deadline to
11 something and ask people to behave within the deadline
12 and put their case on appropriately within that
13 deadline. So we're going to finish today unless at the
14 end of the day somehow some way you give me substantive
15 reason we cannot, so keep that in mind. That motion is
16 denied.

17 We're in your case right now, so all we've got
18 left is your side of the case. So you have all day to
19 put your case on, you know, along with what you've
20 already done part of the last time. So we'll go
21 forward. So last time we ended, we had Ms. Prosolow on
22 the stand and you were going to begin cross-examination.

23 MR. SAATHOFF: That's correct, Your
24 Honor.

25 THE COURT: Do you still have that to do?

1 MR. SAATHOFF: I do.

2 THE COURT: Ms. Prosolow will you come
3 back up to the stand, please.

4 Ma'am, can I get you to raise your right hand.
5 Thank you very much.

6 DORA PROSOLOW,
7 having been first duly sworn,
8 was examined and testified as follows:

9 THE COURT: Tell me your name again,
10 please.

11 MS. PROSOLOW: Dora Lynn Prosolow.

12 THE COURT: Mr. Saathoff, I think we
13 stopped at the beginning of your cross, so if you'd like
14 to begin.

15 MR. SAATHOFF: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SAATHOFF:

18 Q. Ms. Prosolow, you're a Defendant in this
19 matter; is that correct?

20 A. That's correct.

21 Q. And you have resided in the property in
22 question for how long?

23 A. For approximately five years.

24 Q. Okay. And during that time have you made any
25 mortgage payments, loan payments, or rent payments to

1 Barbara Humphrey or her deceased husband, Donald
2 Humphrey?

3 A. Since there wasn't any rent payments on the
4 property, no, I did not.

5 Q. Okay. How about loan payments?

6 A. No, I have not.

7 Q. And you would agree there was a loan, correct?

8 A. Yes, I would.

9 Q. And you would agree that loan wasn't paid in
10 full; is that correct?

11 A. Yes, I will.

12 Q. And you will agree that you borrowed \$17,000
13 from a family member to pay off this loan in question,
14 correct?

15 A. Actually, it was a gift given to me.

16 Q. Okay. But you got that money with the purpose
17 of paying off Ms. Humphrey, correct?

18 THE COURT: Mr. Saathoff, let me
19 interrupt you for a second. Mr. Smith, is your phone
20 completely turned off, or is just the ring turned off?
21 Is it completely turned off?

22 MR. SMITH: Yes, sir.

23 THE COURT: Well, see it's still on, sir.
24 See how it's lit up? So it's still turned on.

25 MR. SMITH: Oh, okay.

1 THE COURT: So I need you to turn it off
2 for me completely if you would, please. You can take it
3 back with you but let me just see that you get it turned
4 off, please.

5 MR. SMITH: The deputy turned it off last
6 time. There we go.

7 THE COURT: Slide it across there.
8 Okay, sir. Thank you very much.

9 Continue on, Mr. Saathoff.

10 BY MR. SAATHOFF:

11 Q. You received this \$17,000 gift from a family
12 member with the intent of paying off the loan to
13 Ms. Humphrey, correct?

14 A. Yes, I did.

15 MR. SMITH: Your Honor --

16 BY MR. SAATHOFF:

17 Q. And that's because --

18 THE COURT: Mr. Saathoff, let me cut in.

19 So without you two having lawyers, you're
20 going to be held to the same level of lawyers since you
21 didn't get one between the last and now. So if you want
22 to make objections, Mr. Smith, if that's what you were
23 speaking up about, you have to give me an objection as
24 to a rule of evidence like hearsay or relevance or a
25 rule of evidence. Okay?

1 MR. SMITH: Okay.

2 THE COURT: Or form of the question or
3 something. But you need to just say the objection. You
4 don't argue the objection. You just say it, then I rule
5 on it, and we keep going forward. Okay?

6 MR. SMITH: Well, I'm objecting to the
7 question he just asked.

8 THE COURT: All right. Overruled.

9 Go ahead, Mr. Saathoff.

10 BY MR. SAATHOFF:

11 Q. You got that gift from your family members
12 because you knew there was a balance outstanding due and
13 owing to Ms. Humphrey, correct?

14 A. No, that is not true. The loan was forgiven.
15 I heard Don Humphrey forgive that.

16 MR. SAATHOFF: Your Honor, I'm going to
17 move -- nonresponsive, hearsay.

18 THE COURT: Overruled.

19 BY MR. SAATHOFF:

20 Q. Then why would you go get a gift from family
21 members for the amount that was due and owing?

22 A. Because Mrs. Humphrey would --

23 MR. SMITH: Objection.

24 THE COURT: Overruled, sir.

25 MS. PROSOLOW: -- would not accept what

1 Don said about the loan being forgiven. She had gotten
2 angry and stormed out of the house because of it.

3 BY MR. SAATHOFF:

4 Q. So but you specifically went to this family
5 member to get this money, correct?

6 A. When I told them what Mrs. Humphrey --

7 Q. Ma'am, that's a "yes" or "no." You went
8 specifically to this family member to get this money,
9 correct?

10 A. No, I did not.

11 Q. Did they just voluntarily give you this money?

12 A. My sister did voluntarily because she knew
13 that Ms. Humphrey put me in the court papers. And the
14 last thing my family wanted was me held to any court.

15 Q. And you actually received those funds,
16 correct?

17 A. Those funds, yes, I did.

18 Q. The \$17,000?

19 A. Yes, I did.

20 Q. You told Ms. Humphrey that you received those
21 funds, correct?

22 A. I did not. I told my lawyer that I had, our
23 lawyers. That was Nicole Jilek with -- and I'm sorry.
24 I don't know the full name of the law firm. They were
25 pushing for settlement, settlement, settlement.

1 MR. SAATHOFF: Your Honor, there's not a
2 question pending. I would ask that that witness be
3 directed only to answer the questions pending.

4 THE COURT: Overruled. Go ahead and ask
5 the next question.

6 MR. SAATHOFF: Very good.

7 BY MR. SAATHOFF:

8 Q. Did you inform Ms. Humphrey that you wanted
9 the loan paid off but Mr. Smith did not want the loan
10 paid off? "Yes" or "no"?

11 A. No, I did not.

12 Q. Ma'am, did you -- how did you and Mr. Smith
13 meet?

14 MR. SMITH: Objection: Your Honor,
15 relevance.

16 THE COURT: Overruled.

17 MS. PROSOLOW: In 1996 I was diagnosed
18 with cancer. Mr. Humphrey would come into the Y to
19 workout and we met. That's where I worked, the YMCA.
20 And eventually he realized that I was dealing with
21 cancer, and so he helped me out during my procedures, I
22 mean, as far as helping me get around and stuff because
23 I was pretty...

24 BY MR. SAATHOFF:

25 Q. And one point in time you guys moved in

1 together; is that correct?

2 A. Yes.

3 Q. And at one point in time you actually had to
4 move out and move to the Siena Francis House?

5 A. That is true, yes.

6 Q. Because law enforcement was called at 2:00 in
7 the morning because of a dispute between you two?

8 A. That is true.

9 Q. Ma'am, you were here for all of Mr. Smith's
10 testimony, correct?

11 A. Yes, I was.

12 Q. You heard all of his testimony, correct?

13 A. I wasn't here on the 20th because of a doctor
14 procedure.

15 Q. Okay. But the trial, you were here for the
16 first two days of trial?

17 A. Yes, I was.

18 Q. You heard all of his testimony during trial?

19 A. Yes, I believe so.

20 Q. Okay. Did you ever leave while he was
21 testifying?

22 A. No.

23 Q. Your hearing is sufficient that you can hear
24 and understand?

25 A. That is true.

1 Q. Do you believe that his testimony accurately
2 reflects what occurred in this matter?

3 A. Yes, it does.

4 Q. Okay. And you heard him testify regarding
5 that last payment that he made on the loan, correct?

6 A. I was actually there when he made out the
7 check.

8 Q. And you heard him testify that while the check
9 was written on August 3rd along with two other checks,
10 correct?

11 A. That's true.

12 Q. And you agree that that check was written on
13 August 3rd, correct?

14 A. It was -- the payment was for August, I
15 believe. I can't remember. But he -- what he would do
16 is he would make all his checks out all at one time.

17 MR. SMITH: Objection: Your Honor.

18 THE COURT: Overruled.

19 BY MR. SAATHOFF:

20 Q. And you would agree that last check was
21 written on August 3rd as he testified at approximately
22 11:06 during his testimony, correct?

23 A. I'm not quite sure because of my memory.

24 Q. Do you have memory issues?

25 A. No, I don't. But that was five years ago, and

1 that was a minor act. So, I mean, if it had been
2 something major like an accident or illness, of course I
3 would remember. But it was -- you know, I can't
4 remember when I got my dog licensed, when I wrote the
5 check for that.

6 Q. Okay. You would agree that memories fade over
7 time?

8 A. Yes.

9 Q. But if he testified that he wrote the check on
10 August 3rd, you have no reason to dispute that, do you?

11 MR. SMITH: Objection.

12 THE COURT: Overruled.

13 THE WITNESS: If that's what he testified
14 to.

15 MR. SAATHOFF: Your Honor, if I may
16 approach, I've obtained the limited portions of his
17 testimony from that date.

18 BY MR. SAATHOFF:

19 Q. I'm going to hand you a limited transcript
20 from his testimony. "My checkbook shows -- well the
21 check was written on August 3rd along with two other
22 checks." Do you have any reason to dispute that?

23 A. If the check --

24 Q. Ma'am, the question is "yes" or "no." Do you
25 have any reason to dispute that, "yes" or "no"?

1 A. Yes. I do dispute that.

2 Q. So are you saying he was not truthful under
3 oath?

4 A. I'm saying that he has 13 lesions on his
5 brain, so his memory is not as good as it should be. I
6 have to remind him of things continuously.

7 MR. SAATHOFF: Your Honor, I'm going to
8 have this marked just so we have a complete of what the
9 Court is looking at and taking in so there's a complete
10 record.

11 (Exhibit No. 158
12 marked for identification.)

13 THE COURT: It's already in --

14 MR. SAATHOFF: Your Honor, I understand
15 there's already a transcript of it, but I would offer
16 158.

17 THE COURT: Any objection, Mr. Smith?

18 MR. SMITH: Yes, Your Honor.

19 THE COURT: What's your objection?

20 MR. SMITH: The check wasn't -- obviously
21 she's confused.

22 THE COURT: Just what's your objection
23 evidence-wise, sir, as to why I should not --

24 MR. SMITH: Evidence-wise is he's
25 twisting what was actually said.

1 THE COURT: Ma'am, do you have any
2 objection? I know you're on the witness stand, but
3 you're also a Defendant. Do you have any objection?

4 THE WITNESS: No, I don't. I don't have
5 an objection to what Mr. Smith said.

6 THE COURT: The Court will sustain the
7 objection that it's duplicative. We already have a
8 record.

9 MR. SAATHOFF: Very good.

10 BY MR. SAATHOFF:

11 Q. Tell the Court about Mr. Smith's memory issues
12 from your own personal experience with him.

13 A. Well, he was quite ill. And he has had
14 problems, when he first became ill. Now he does pretty
15 good. He takes medication, so he's okay. But during
16 that period back in 2003, he did lose some of his
17 memory.

18 Q. And you still notice memory issues today; is
19 that correct?

20 A. Only, you know, trying to remember far back.

21 Q. Okay.

22 A. I don't see memory issues from day-to-day.

23 Q. Ma'am, I believe you just testified that he
24 has memory issues, correct? That was your testimony
25 about a minute ago?

1 A. Yes. And I'm talking about when he became
2 ill, which was in 2002, 2003. Part of his memory of
3 that time was wiped out. Now, going forward, he
4 remembers things fine. But that period is a blank to
5 him.

6 Q. So as you're sitting here today under oath,
7 you see no memory issues with him here today?

8 A. Not as a normal person. I mean, other than
9 age. I mean, we all have little memory glitches because
10 of our age.

11 Q. Do you have memory issues as well?

12 A. Because of my age, yes. Mainly misspelling.
13 I used to be an excellent speller.

14 Q. Would you agree with me that you were not
15 involved in the original loan-making decision between
16 Mr. Smith and Mr. Humphrey?

17 A. Yes, I was involved. Not as far as signing
18 the papers. But it was because when Mr. Humphrey asked
19 Smith what he wanted during the trip to North Carolina
20 --

21 MR. SAATHOFF: Your Honor, I'm going to
22 object based on hearsay.

23 THE COURT: Overruled.

24 THE WITNESS: Well, Mr. Humphrey asked
25 him if he could have anything --

1 MR. SAATHOFF: Your Honor, there's not a
2 question pending.

3 THE WITNESS: Oh, I'm sorry.

4 THE COURT: You've got to wait for a
5 question, ma'am.

6 THE WITNESS: I'm sorry.

7 MR. SAATHOFF: And I would ask that
8 Mr. Smith be directed not to motion, waive, or direct
9 the witness in any fashion as he just did.

10 MR. SMITH: I'm simply asking her to
11 watch the clock, Your Honor.

12 BY MR. SAATHOFF:

13 Q. So you were involved in the loan decision
14 process?

15 A. Just that I had stated to Mr. Smith that I
16 would like my own home, and that's what prompted him
17 to...

18 Q. Did you know any of the terms or conditions of
19 the loan?

20 A. I know that Mr. Humphrey wanted to give --

21 Q. Ma'am, the question is, did you know any of
22 the terms of the loan? "Yes" or "no"?

23 A. No.

24 Q. Did you know the original loan principal
25 amount?

1 A. No.

2 Q. Did you know the interest rate on the loan?

3 A. No.

4 Q. Did you know the payment schedule?

5 A. Can I go back to the interest?

6 Q. No. Did you know of the payment schedule?

7 A. No.

8 Q. Did you see any of the payments made?

9 A. No.

10 Q. Did you write any of the checks for any of the
11 payments?

12 A. No, I did not.

13 Q. Did you have any reason to dispute that the
14 checks that are in evidence state loan repayment or
15 house repayment?

16 A. Well, I know that when Don forgave the loan --

17 Q. Ma'am, that's a "yes" or "no".

18 A. No.

19 Q. And you would agree you never saw the real
20 estate purchase between the sellers, Mr. Smith and
21 Mr. Humphrey, correct?

22 A. Yes, I did. I saw the Fannie Mae gave him the
23 loan because he had never owned a home before.

24 Q. Okay. Have you ever seen any of the
25 amortization schedules that Mr. Smith put together?

1 A. No.

2 Q. I'm going to show you what's in your
3 deposition in this matter. Ma'am, I just asked you if
4 you've seen the real estate purchase agreement, you said
5 yes. At your deposition I asked you specifically --
6 Page 25, Lines 15 through 18 -- have you ever seen the
7 real estate purchase, who signed the real estate
8 purchase agreement. You just testified, yes. Under
9 oath you testified, no; is that correct?

10 A. Yes, I did.

11 Q. Okay.

12 A. And can I say why? Because --

13 Q. No. There's not a question pending.

14 THE COURT: She can explain herself,
15 Mr. Saathoff. Go ahead.

16 THE WITNESS: We've been doing this court
17 thing for over five years now. I have seen all the
18 paperwork now. I've seen the deeds. I've seen the
19 signatures on the deed. I've heard the tape recordings
20 about no interest on the loan. You know, things I never
21 was privy to or part of I've seen, I've heard, I've
22 looked at.

23 BY MR. SAATHOFF:

24 Q. Okay. Let me rephrase my question. At the
25 time the house was purchased in question, you never saw

1 the real estate purchase agreement, correct?

2 A. No, I did not.

3 Q. You don't know who signed the real estate
4 purchase agreement either, do you?

5 A. Not as of back then.

6 Q. Okay. And you don't know the purpose of that
7 real estate purchase agreement either, do you?

8 A. I did know the purpose. He explained to me
9 that he was getting the house.

10 MR. SMITH: Objection: Your Honor,
11 hearsay.

12 THE COURT: Overruled.

13 BY MR. SAATHOFF:

14 Q. Mr. Smith was getting you a house?

15 A. He explained what he told Don about I'd always
16 wanted a home.

17 Q. Do you remember in your deposition I asked you
18 all of your knowledge that you have regarding this case.
19 Do you remember your answer?

20 A. Not much.

21 Q. Very limited knowledge, correct?

22 A. Yes.

23 Q. So would you agree with me you have no
24 firsthand knowledge other than the alleged single
25 conversation where you allege that Mr. Humphrey forgave

1 the loan, correct?

2 A. I do know that when the house was ever brought
3 up --

4 Q. Ma'am, that's a "yes" or "no"?

5 A. Could you please repeat it.

6 Q. So would you agree with me you have no
7 firsthand knowledge other than the alleged single
8 conversation where you allege Mr. Humphrey forgave the
9 loan, correct?

10 A. Yes.

11 Q. You don't allege and you don't make any
12 statements of any other times he allegedly forgave the
13 loan. As you just said, there's only that one time,
14 correct?

15 A. No, it was twice.

16 Q. Okay. So you've changed your testimony today?

17 A. No, I have not. I said that earlier that I
18 also heard him say it at the hospice house.

19 Q. Was it your understanding that Mr. Humphrey
20 intended it to be a gift upon his death?

21 A. I wouldn't say upon his death, no.

22 Q. When would you say it was intended to be a
23 gift?

24 A. Mr. Humphrey was worried about his wife should
25 he die or not be able to take care of her being

1 incapacitated.

2 Q. So there was a contingency on this gift?

3 A. It was that we help Barb out.

4 Q. So the contingency of the gift, as you
5 understood it, you help Barb out, he gets the house. Is
6 that the contingency?

7 A. The contingency was that we would remain by
8 Barb's side helping her and, you know, even if it was
9 just being a friend.

10 Q. So is it your sworn statement or testimony as
11 you sit here today the gift was contingent, "yes" or
12 "no"?

13 A. She fired us.

14 Q. Ma'am, was the gift contingent, "yes" or "no"?

15 A. No.

16 Q. Do you remember your testimony in your
17 deposition where you stated that it was contingent?

18 A. It was contingent but, you know --

19 Q. That's all I needed.

20 A. -- we were unable to do anything.

21 Q. You just testified it was contingent, yes?

22 A. Yes.

23 Q. So you were agreeing with me, the alleged gift
24 was contingent on future behaviors? Yes?

25 A. It was --

1 Q. "Yes" or "no"?

2 A. No.

3 MR. SMITH: Objection, Your Honor. He's
4 badgering the witness and clearly she's confused.

5 THE COURT: Overruled.

6 BY MR. SAATHOFF:

7 Q. You just testified it was contingent? Yes?

8 A. He had no idea that she was going to act the
9 way she did.

10 Q. Ma'am, you just testified it was contingent?
11 Yes?

12 A. No.

13 Q. So now you're changing your testimony again?

14 A. I know what the truth is. I'm sticking to the
15 truth.

16 Q. Ma'am, did you just testify that the gift
17 allegedly was contingent? "Yes" or "no"?

18 A. Yes, I did.

19 Q. Okay. So are you going to change your
20 testimony today?

21 A. I'm saying that --

22 Q. Are you going to change your testimony?

23 MR. SMITH: Objection: Your Honor.
24 Badgering the witness.

25 THE WITNESS: If need be. But you're not

1 going to put a lie in my mouth, no.

2 BY MR. SAATHOFF:

3 Q. So was the contingency a lie?

4 A. No.

5 Q. So it was contingent allegedly? Yes?

6 A. It was just like Don would give me \$20 for
7 cleaning up a bigger mess, and he would tell me, don't
8 tell Barb.

9 MR. SAATHOFF: Your Honor, I'm going to
10 object based on hearsay, nonresponsive.

11 THE COURT: Overruled.

12 Go ahead and answer, ma'am.

13 BY MR. SAATHOFF:

14 Q. Do you know how the property was titled when
15 it was purchased? "Yes" or "no"?

16 A. No, I don't.

17 Q. You don't know who the titled owners were
18 whether it was first purchased, do you?

19 A. I know it was Don and Ed.

20 Q. So you do know who the titled purchasers were
21 -- or titled owners were at the time of the purchase,
22 correct?

23 A. Obviously. And Eddie made the mistake of
24 putting Don's name on the title. He didn't know what
25 that would do. You know, he thought it was just a way

1 to guarantee the loan.

2 Q. Well, it was a way to guarantee the loan,
3 wasn't it?

4 A. Yeah, but it was Eddie's choice. I mean, he
5 didn't know about title deeds.

6 Q. You would agree he had the right to go obtain
7 an attorney, correct?

8 A. He had the right what?

9 Q. Go get a title attorney to help him through
10 the purchase process, right?

11 A. He didn't think that was necessary. He was
12 with a friend. A friend was helping him out.

13 Q. There was a real estate agent involved in
14 this, correct?

15 A. Yes, his friend.

16 Q. There was a title company involved in this,
17 correct?

18 A. I guess. I don't know the details.

19 Q. Okay. And you would agree that Don Humphrey's
20 name was placed on that title to secure the loan
21 payments, correct? Yes?

22 A. At Edward's -- Edward's -- what's the word I'm
23 looking for? Edward's decision. It was Mr. Smith's
24 decision.

25 Q. Have you seen any documentation signed by

1 Donald Humphrey that support your contention the loan
2 was forgiven?

3 A. No.

4 Q. Have you ever seen any documentation signed by
5 Barbara Humphrey the loan was forgiven.

6 A. I haven't seen any documents that the loan
7 wasn't forgiven.

8 Q. Ma'am, that wasn't -- now, is the trial. Do
9 you have a document before you signed by Donald Humphrey
10 that the loan was forgiven? "Yes" or "no"?

11 A. It was intent. No.

12 Q. Do you have any documents that state that
13 Donald gifted this property to Ed Smith that was signed
14 by Donald Humphrey? "Yes" or "no"?

15 A. No.

16 Q. Do you have any documents removing Donald
17 Humphrey's name from the title of this property? No.
18 Strike that.

19 Do you have any documents signed by Donald
20 Humphrey or Barbara Humphrey removing Donald or
21 Barbara's interest from this real estate in question?
22 "Yes" or "no".

23 A. Since I'm not on the deed, why would I have
24 those documents?

25 Q. Well, you're in a relationship with Mr. Smith;

1 is that correct?

2 A. We are best friends.

3 Q. Are you not significant others?

4 A. No.

5 Q. And you understand he testified that you guys
6 are significant others, correct?

7 A. That's possible. We've been friends for --
8 since 1995. I had cancer in '96. He helped me through
9 all the stages. At one time we were involved, and then
10 we decided best friends. Why mess up something that's
11 already working.

12 Q. So do you have any documents to support your
13 contention signed by Barbara Humphrey and/or Donald
14 Humphrey removing the Plaintiff's interest from this
15 property? "Yes" or "no"?

16 A. I wouldn't. I'm not part of the deal.

17 Q. Has Mr. Smith showed you any documents?

18 A. No. But that's his business.

19 Q. Okay.

20 A. He didn't show me when he made the loan
21 payments either.

22 Q. Are you aware of any documents that were
23 prepared or signed at the time the real estate was
24 purchased that outline a loan was made by Mr. Humphrey
25 to Mr. Smith? "Yes" or "no"?

1 A. No.

2 Q. Are you aware of the delivery of any items,
3 documents, or symbols to Mr. Smith from Mr. Humphrey
4 which demonstrate tangibly that Mr. Humphrey forgave the
5 loan? "Yes" or "no"?

6 A. He wasn't able to write, so he couldn't have
7 written anything out.

8 Q. How do you know he wasn't able to write?

9 A. Because he couldn't even hold a cup to drink
10 out of. It had to have a bent straw, and it was given
11 to him to drink, and he didn't hold it.

12 Q. Ma'am, can you tell me the specific date that
13 you allege this loan was forgiven? "Yes" or "no"?

14 A. No.

15 Q. Can you tell me the specific day of the week?
16 "Yes" or "no"?

17 A. I believe it was a Saturday or Sunday. It was
18 a weekend, I believe.

19 Q. Ma'am, I'm sorry that you might not understand
20 my question. Do you know the specific day of the week?
21 "Yes" or "no"?

22 A. No, I don't.

23 Q. And you understand -- you testified earlier
24 that Don was in a recliner when this conversation
25 occurred?

1 A. Yes, he was.

2 Q. And you testified that he moved from the
3 recliner to another piece of furniture, correct?

4 A. No, I did not. He stayed in the recliner.

5 Q. At the time that he was in that recliner, did
6 he have tubes hooked up to him for dialysis?

7 A. He had a bag.

8 Q. The question was, ma'am, did he have tubes
9 hooked up to him for dialysis?

10 A. I don't know that. I don't know one way or
11 the other.

12 Q. Okay. You could see tubes. If he had tubes
13 in him, that would be something visible, correct?

14 A. Probably, yes.

15 Q. Do you remember seeing tubes?

16 A. No. I do know that he was hooked up on a bag.

17 Q. Ma'am, the question was do you remember seeing
18 tubes? "Yes" or "no"?

19 A. No, I don't remember.

20 Q. Do you know what he was wearing?

21 A. No.

22 Q. Do you know if he had shoes on?

23 A. Yes. He had slippers on.

24 Q. Do you know what he was wearing for clothes?

25 "Yes" or "no"?

1 A. Pants and shirt. But what color, what -- no,
2 I wouldn't.

3 Q. You understand that Mr. Smith could not have
4 purchased this property without the loan from
5 Mr. Humphrey, correct?

6 A. Yes. I don't know for certain. I do know
7 that Mr. Smith had received a big settlement check from
8 an accident he was in.

9 Q. But do you know if he could have qualified for
10 a loan on his own?

11 A. I know he didn't have significant credit. But
12 whether he could have paid for it in cash, I don't know.

13 Q. And are you -- I think I asked this, but I'm
14 not sure. Did you ever help him with any of the
15 amortization schedules he put together?

16 A. No.

17 Q. Did you ever see any of the amortization
18 tables he put together before trial started?

19 A. Before trial started, no.

20 Q. And you understand that Mr. Smith testified in
21 his deposition that this wasn't a specific gift,
22 correct?

23 MR. SMITH: Objection, Your Honor,
24 hearsay.

25 THE COURT: Sustained.

1 MR. SAATHOFF: It's a party opponent.

2 THE COURT: Sustained.

3 MR. SAATHOFF: Your Honor, I do not have
4 any further questions for Ms. Prosolow.

5 THE COURT: Any redirect, sir, of this
6 witness?

7 MR. SMITH: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. SMITH:

10 Q. Ms. Prosolow.

11 A. Yes.

12 Q. Mr. Saathoff -- listen to my question before
13 answering.

14 THE COURT: Sir, you need to sit back
15 down when you ask questions. If you want to show her
16 something, you can, but then you need to sit back down.
17 If you have an exhibit you want to show her, you can
18 walk up and show it to her and ask a question or two,
19 but then you've got to sit back down.

20 MR. SMITH: Okay. Thank you.

21 THE COURT: That's part of the courtroom
22 decorum rules.

23 BY MR. SMITH:

24 Q. Mr. Saathoff for the second time has asked you
25 about the relationship that you and I share?

1 A. Yes.

2 Q. There are times where we get in situations
3 where we say we're just friends. There are times when
4 we say we're more than friends. But we're not lovers;
5 am I correct?

6 A. That's true.

7 Q. Thank you. You talked with your sister -- I
8 think it was 2019 -- and you was explaining to her the
9 situation that Barb put us in with this house?

10 A. Uh-huh.

11 Q. You explained to her that Ms. Humphrey wanted
12 us to pay her \$16,000. When your sister -- I had
13 already told them that we didn't owe the money. And
14 your brother-in-law, your sister's husband, decided
15 instead of going through the headache to just go ahead
16 and pay what they wanted. And they sent us -- and I say
17 us -- \$17,000; am I correct?

18 A. That's correct.

19 Q. Mr. Saathoff is asking you did they give you
20 that money. Did they put that money in your bank
21 account?

22 A. No, they did not.

23 Q. Did they put that money in my bank account?

24 A. Yes, they did.

25 Q. So they didn't loan you the money as he's

1 claiming?

2 A. That's true.

3 Q. They loaned me the money?

4 A. That's true.

5 Q. Thank you. Mr. Saathoff asked you about the
6 date that I made the last payment on the loan.

7 A. Uh-huh.

8 Q. Clearly, in my view, you were confused. So I
9 will rephrase that from the way he asked it. We had two
10 payments to make. One to Cox Cable and one to MUD on
11 July 3rd; am I correct?

12 MR. SAATHOFF: Objection: Improper
13 rehabilitation, and it misstates the prior testimony in
14 evidence.

15 THE COURT: Overruled.

16 Go ahead and answer, ma'am.

17 THE WITNESS: Yes.

18 BY MR. SMITH:

19 Q. I had two checks to write, one for Cox Cable
20 and one for MUD. Both of those payments were due on
21 July 5th; am I correct?

22 A. That's correct.

23 Q. You've seen the checkbook where I've written
24 those two checks, correct?

25 A. Yes.

1 MR. SAATHOFF: Objection: Foundation and
2 leading.

3 THE COURT: Overruled.

4 MR. SMITH: Thank you, Your Honor.

5 BY MR. SMITH:

6 Q. Am I correct when I say those two checks, MUD
7 and the Cox Cable, was written on July 3rd?

8 MR. SAATHOFF: Objection: Foundation.

9 THE COURT: Overruled.

10 THE WITNESS: That's true.

11 BY MR. SMITH:

12 Q. You saw me write the check to Don and -- well,
13 to Don or Barb on July 3rd at the same time -- well, not
14 at the same time, a couple hours after I had written the
15 check for MUD and Cox Cable. Before I put the checkbook
16 up, I had written the check to Ms. Humphrey; am I
17 correct?

18 MR. SAATHOFF: Objection: Form,
19 foundation, leading.

20 THE COURT: Overruled.

21 BY MR. SMITH:

22 Q. Am I correct?

23 A. Yes. Can I add to that?

24 Q. No. Just a "yes" or "no".

25 After I had written that check, this was

1 before Mr. Humphrey forgave the loan; am I correct?

2 MR. SAATHOFF: Objection: Form,
3 foundation --

4 THE WITNESS: Oh, yes.

5 THE COURT: Overruled.

6 BY MR. SMITH:

7 Q. This was before Mr. Humphrey --

8 MR. SAATHOFF: Your Honor, if I could --
9 she cut my objection off. It was form, foundation, and
10 hearsay.

11 THE COURT: All right. Overruled.

12 MR. SMITH: Thank you, Your Honor.

13 BY MR. SMITH:

14 Q. I had given the check to Ms. Humphrey; am I
15 correct?

16 MR. SAATHOFF: Foundation.

17 THE COURT: Overruled.

18 BY MR. SMITH:

19 Q. "Yes" or "no"?

20 A. Yes, you had.

21 BY MR. SMITH:

22 Q. When Don forgave the loan, it was in August,
23 but the check was already made out for August 3rd; am I
24 correct?

25 MR. SAATHOFF: Objection: Foundation,

1 form.

2 THE COURT: Overruled.

3 BY MR. SMITH:

4 Q. So --

5 A. Can I add to that?

6 Q. No. Simply "yes" or "no".

7 Ms. Humphrey already had the check before Don
8 forgave the loan?

9 MR. SAATHOFF: Objection: Foundation.

10 THE COURT: Overruled.

11 THE WITNESS: We discussed whether she
12 was going to get it back or not.

13 BY MR. SMITH:

14 Q. "Yes" or "no"?

15 A. Yes.

16 Q. When Don and I -- okay. Let me put it this
17 way. You were not involved in any decisions Don and I
18 made on the loan that he loaned me, the \$25,219.92,
19 correct?

20 A. Yes.

21 MR. SAATHOFF: Objection: Foundation and
22 relevance.

23 THE COURT: Overruled.

24 BY MR. SMITH:

25 Q. So again, you were not involved in any of

1 those decisions; am I correct?

2 A. That's true.

3 Q. Did you go to DRI Title with me when Don and I
4 and Judy Dooley was there when Don and I purchased?

5 A. No, I did not.

6 Q. Okay. So you have nothing to do with this
7 house whatsoever?

8 A. No, I do not.

9 Q. Nor the purchase of this property?

10 A. No, I do not.

11 Q. Okay. When Mr. Humphrey forgave the loan, who
12 was all present?

13 MR. SAATHOFF: Your Honor, I'm going to
14 object, misstates the testimony, hearsay, foundation.

15 THE COURT: Overruled.

16 BY MR. SMITH:

17 Q. Answer the question. Who was present during
18 the gathering or the meeting when Don forgave the loan?

19 MR. SAATHOFF: Also cumulative.

20 THE COURT: Overruled.

21 THE WITNESS: It was Don and Barb, myself
22 and you.

23 BY MR. SMITH:

24 Q. Thank you.

25 Ms. Humphrey was sitting within three feet of

1 her husband on the right-hand side; am I correct?

2 MR. SAATHOFF: Foundation, cumulative.

3 THE WITNESS: Yes.

4 THE COURT: Overruled.

5 THE WITNESS: She actually moved spots.

6 BY MR. SMITH:

7 Q. She had gone in the kitchen and gotten

8 Mr. Humphrey some water; am I correct?

9 A. Yes.

10 Q. When she come back out, she had a straw in the

11 cup that she held up to his mouth so he could drink

12 because he couldn't hold a cup; am I correct?

13 A. Yes.

14 MR. SAATHOFF: Objection: Foundation,

15 relevance.

16 THE COURT: Overruled. She was there.

17 She stated she was there.

18 BY MR. SMITH:

19 Q. Have you ever seen Don get up and walk -- no.

20 Let me rephrase that. After Don fell during August --

21 or let's just say through July and August, did you ever

22 see Don walk around the house by himself?

23 MR. SAATHOFF: Objection: Foundation as

24 to the year.

25 THE COURT: Overruled.

1 BY MR. SMITH:

2 Q. Go ahead.

3 A. No, he was in a small wheelchair they had
4 gotten for him.

5 Q. And the day he forgave the loan, he was
6 sitting in the recliner, I was sitting on his left,
7 Ms. Humphrey was on his right; am I correct?

8 A. That's true.

9 MR. SAATHOFF: Objection: Hearsay,
10 foundation.

11 THE COURT: Overruled.

12 MR. SMITH: Thank you, Your Honor.

13 BY MR. SMITH:

14 Q. Now, Mr. Saathoff wanted to know what
15 Mr. Humphrey was wearing on the evening that he forgave
16 the loan. Did you pay any attention to what he was
17 wearing?

18 A. No. I did notice his slippers though.

19 Q. Did you remember what you was wearing?

20 A. No.

21 Q. Do you remember what I was wearing?

22 A. No.

23 Q. Last, do you remember what Ms. Humphrey was
24 wearing?

25 A. No, I do not.

1 Q. Okay. At that gathering, let me put it this
2 way.

3 (Exhibit No. 159
4 marked for identification.)

5 MR. SAATHOFF: Mr. Smith, do you have a
6 copy for me?

7 MR. SMITH: This is marked as 159.

8 BY MR. SMITH:

9 Q. Ms. Prosolow, I'm handing you what's been
10 marked as 159. Do you recognize that?

11 MR. SAATHOFF: Your Honor, I'm going
12 to -- well, never mind.

13 BY MR. SMITH:

14 Q. Just look at the picture.

15 A. Uh-huh.

16 Q. What is it?

17 A. I believe it's --

18 Q. Look at the picture.

19 A. Okay. It's a pickup truck.

20 Q. Who's -- what do you know that truck from?

21 A. It's Don's old truck.

22 Q. Do you know what happened to that truck?

23 A. It was sold.

24 Q. By who?

25 A. By Ms. Humphrey.

1 Q. Was her daughter, Elizabeth Humphrey -- or did
2 she say that her daughter, Elizabeth Humphrey and her
3 son-in-law, Joe Hendrix had anything to do with that
4 sale?

5 MR. SAATHOFF: Objection: Hearsay,
6 foundation, relevance.

7 THE COURT: Sustained on hearsay.

8 BY MR. SMITH:

9 Q. Where was that truck when it was towed?

10 A. It was in our driveway.

11 Q. You heard Ms. Humphrey say in her testimony on
12 the 10th or the 11th of April that this truck was never
13 at our house or at my house and you are contradicting
14 her answer?

15 A. That's true.

16 MR. SAATHOFF: Objection: Improper
17 impeachment.

18 THE WITNESS: Overruled.

19 BY MR. SMITH:

20 Q. You're saying now that this truck was at our
21 house?

22 A. Yes, it was in the driveway when it was towed.

23 Q. Parked in the driveway. And do you remember
24 me calling Don and informing him that the fuel pump had
25 gone out?

1 MR. SAATHOFF: Objection: Foundation.

2 THE WITNESS: Yes, I do.

3 THE COURT: Overruled.

4 MR. SMITH: Thank you, Your Honor.

5 THE COURT: Sir, would you like to offer
6 that exhibit into evidence?

7 MR. SMITH: Yes, sir. I'm sorry.

8 THE COURT: Then you have to offer it.

9 MR. SMITH: Offer it into evidence.

10 THE COURT: Any objection?

11 MR. SAATHOFF: Yes. Foundation,
12 relevance, and it's an undisclosed exhibit pursuant to
13 their exhibit list.

14 THE COURT: Overruled.

15 Exhibit 159 will be received.

16 (Exhibit No. 159 is hereby made a
17 part of this bill of exceptions, and
18 can be found in a separate volume of
19 exhibits.)

19 (Exhibit No. 160
20 marked for identification.)

21 BY MR. SMITH:

22 Q. Ms. Prosolow, I'm handing you what's marked
23 160. Do you recognize that?

24 A. Yes, I do.

25 Q. What is it?

1 A. It is a small note that Barb sent me letting
2 me know that she no longer needed my services and that
3 it was my final payment for cleaning the entryways on
4 Webster Street.

5 Q. There's an envelope on this?

6 A. Yes.

7 Q. What's the date on that?

8 A. September 26, 2018.

9 Q. Okay. From -- Mr. Humphrey died on
10 April 24th; is that correct?

11 A. That is true.

12 MR. SAATHOFF: Hold on a second. Was
13 that April 24th?

14 MR. SMITH: I mean August 24th, I
15 apologize.

16 THE WITNESS: Oh, I'm sorry.

17 BY MR. SMITH:

18 Q. Of 2018; is that correct?

19 A. Yes.

20 MR. SMITH: Thank you, Mr. Saathoff.

21 BY MR. SMITH:

22 Q. His memorial service was held on August 30,
23 2018; is that correct?

24 A. Yes, it was.

25 Q. His funeral was held on August 31st of 2018;

1 am I correct?

2 A. That's true.

3 Q. Did you see Ms. Humphrey -- now, you was at
4 the funeral, right?

5 A. Yes, I was.

6 Q. And you was at the memorial; am I correct?

7 MR. SAATHOFF: Your Honor, I'm going to
8 object on this line of questioning. It's outside of
9 direct, it's outside of cross, and it has no relevance
10 to --

11 THE COURT: Overruled.

12 MR. SMITH: Your Honor --

13 THE COURT: Go ahead and keep asking,
14 sir.

15 BY MR. SMITH:

16 Q. Did you ever see Barbara Humphrey from the
17 date August 31st, 2018, of Don's funeral, up until this
18 lawsuit was filed on September 26 of 2018?

19 A. No, I did not.

20 Q. Not once?

21 A. No.

22 Q. Okay. You heard Ms. Humphrey say last week --
23 well, on April 10th or 11th, 2023, you heard
24 Ms. Humphrey state that she and you, Ms. Prosolow, had
25 been involved in communications or settlement

1 negotiations is the way she formed it. Did you and
2 Ms. Humphrey ever talk about settlement in this case?

3 MR. SAATHOFF: Objection. This is
4 outside the --

5 THE WITNESS: No, we did not.

6 THE COURT: Overruled.

7 THE WITNESS: Sorry.

8 BY MR. SMITH:

9 Q. So you're saying you did not?

10 A. No, I did not.

11 Q. Did you even see Ms. Humphrey between August
12 31, 2018, the date of Don's funeral, and September 26,
13 2018?

14 A. Was September 26th, the day we had the
15 meeting?

16 Q. No. September 26th was the date that this
17 case was filed.

18 A. No, I did not.

19 Q. Okay. I've gone over and helped Ms. Humphrey
20 repair her basement wall at her residence, and I
21 mentioned this to you, correct?

22 A. Yes.

23 MR. SAATHOFF: Objection. I'm not sure
24 who's testifying here.

25 THE COURT: Overruled.

1 BY MR. SMITH:

2 Q. Did you go with me over to Ms. Humphrey's
3 house?

4 A. No.

5 Q. To repair that basement?

6 A. No, I did not.

7 Q. So you didn't see her then either?

8 A. No.

9 Q. I came home, I explained to you that
10 Ms. Humphrey, her daughter Elizabeth, and her
11 son-in-law, Joe Hendrix had confronted me about a loan
12 that I felt wasn't due -- I mean, had been forgiven; am
13 I correct?

14 A. Yes, you did.

15 MR. SAATHOFF: Objection: Hearsay.

16 THE COURT: Sir, you need to sit back
17 down unless you have more exhibits.

18 MR. SMITH: I'd like to put this into
19 evidence.

20 THE COURT: Exhibit what? What number?

21 MR. SMITH: 160.

22 THE COURT: Any objection?

23 MR. SAATHOFF: Relevance, cumulative.

24 It's already been offered and received prior.

25 THE COURT: Exhibit 160 will be received.

1 MR. SMITH: Thank you, sir.

2 (Exhibit No. 160 is hereby made a
3 part of this bill of exceptions, and
4 can be found in a separate volume of
5 exhibits.)

6 (Discussion had off the record.)

7 MR. SMITH: Your Honor, that's going to
8 be all for this witness.

9 THE COURT: Any recross?

10 RECROSS-EXAMINATION

11 BY MR. SAATHOFF:

12 Q. During the time that you've resided at the
13 property in question, have you ever paid rent to
14 Mr. Smith?

15 MR. SMITH: Asked and answered, Your
16 Honor. Objection.

17 THE COURT: I think you asked if she paid
18 rent or any loans.

19 MR. SAATHOFF: The question I believe I
20 asked was if she ever paid rent or loan payments to the
21 Humphreys, not to Mr. Smith.

22 THE COURT: Yeah. I apologize. I didn't
23 catch that.

24 MR. SMITH: Objection, Your Honor, asked
25 and answered.

THE COURT: Overruled.

1 Go ahead and answer.

2 THE WITNESS: No, I have not.

3 BY MR. SAATHOFF:

4 Q. So you've lived there rent free?

5 A. Yes, I have.

6 MR. SAATHOFF: I don't have anything
7 else.

8 THE COURT: Ma'am, you may step down.
9 Thank you very much.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Mr. Smith, your next witness.

12 MR. SMITH: I'd like to call Barbara
13 Humphrey, Your Honor.

14 THE COURT: Ma'am, you need to come back
15 up here, please.

16 MR. SMITH: Good morning, Ms. Humphrey.

17 THE COURT: One second, sir.

18 Slide that microphone a little closer to you,
19 ma'am, so I'll be sure to hear you okay. Raise your
20 right hand.

21 BARBARA HUMPHREY,
22 having been first duly sworn,
23 was examined and testified as follows:

24 THE COURT: Tell me your name, please.

25 THE WITNESS: Barbara Humphrey.

1 THE COURT: Thank you very much.

2 All right, Mr. Smith.

3 DIRECT EXAMINATION

4 BY MR. SMITH:

5 Q. Good morning, Ms. Humphrey.

6 A. Good morning.

7 MR. SMITH: Your Honor, this is for
8 purposes of perjury.

9 THE COURT: Just ask her questions, sir.

10 BY MR. SMITH:

11 Q. Ms. Humphrey, on April 24, 2018 -- excuse me,
12 I'll retract that.

13 On August 24, 2018, which is the day Don died,
14 I met with Don's sister Ruth, Elizabeth Humphrey, and
15 Joe Hendrix at the hospice house on that same evening;
16 am I correct?

17 MR. SAATHOFF: Objection: Foundation.

18 THE COURT: Overruled.

19 BY MR. SMITH:

20 Q. Am I correct?

21 A. I don't know if you met with them.

22 Q. Okay. Maybe this will remind you or help you
23 remember. When you walked in the room that evening,
24 Don's sister Ruth was standing at the end of the bed
25 right next to the door, Elizabeth in the middle, Joe on

1 the opposite side. When you walked in the room that
2 evening, Ruth told you that I had spoke to Don and his
3 finger twitched. That was the first response that Don
4 had shown them all day, correct?

5 MR. SAATHOFF: Objection: Hearsay,
6 foundation.

7 THE COURT: Sustained. You don't have to
8 answer, ma'am. Sustained, what Ruth may have told you
9 would have been hearsay.

10 BY MR. SMITH:

11 Q. On August 24th, 2018, the day Don died, when
12 you walked in the room that evening, I was already
13 there, correct?

14 A. I don't recall. That's the day he died. It
15 was pretty traumatic for me.

16 Q. If you remember, Ms. Humphrey, when I went
17 home you called me at 11:00 at night to tell me Don had
18 passed away; is that correct?

19 A. I don't recall what I did that day.

20 Q. Did you send me an email saying Don had passed
21 away?

22 A. I don't recall.

23 Q. Don died August 24, 2018; am I correct?

24 A. Yes.

25 Q. After Don died, I only come and met with you

1 to collect payments for work; is that correct?

2 A. I'm sorry?

3 Q. After Don died, the only time you saw me was
4 when I would come to you for payments; am I correct?

5 A. The only time I saw you?

6 Q. Yes, ma'am.

7 A. Was to collect money?

8 Q. The only time you saw me was for me to collect
9 money from you for the work I was doing on the
10 properties; am I correct?

11 A. I don't recall.

12 Q. Okay. Ms. Humphrey, I'm handing you what's
13 been marked as Exhibit 160. Do you recognize that?

14 A. Yes.

15 Q. What is it?

16 A. It was the final payment to Lynn for cleaning
17 the Webster Street apartment.

18 Q. Was there -- you didn't give her that \$60 in
19 cash face-to-face, did you?

20 MR. SAATHOFF: Objection: The document
21 speaks for itself. It's a posted stamped envelope of a
22 letter.

23 THE COURT: Overruled.

24 Go ahead and answer if you can, ma'am.

25

1 BY MR. SMITH:

2 Q. Did you give her -- I mean, you didn't give
3 her that \$60 face-to-face, correct?

4 A. I don't remember face-to-face. I remember
5 paying her, but...

6 Q. Ms. Humphrey the document is in your hand.
7 Clearly it wasn't face-to-face because you mailed it to
8 her. It's right there in your hand, ma'am.

9 A. Okay.

10 Q. So I'll ask you again. You did not give her
11 that \$60 face-to-face, did you?

12 A. It looks like I mailed to her.

13 Q. Not looks like. I want a "yes" or "no"
14 answer.

15 A. I mailed it.

16 Q. "Yes" or "no"?

17 A. Yes.

18 MR. SAATHOFF: She answered the question
19 that she mailed it.

20 THE COURT: Overruled.

21 MR. SMITH: Thank you, Ms. Humphrey.

22 BY MR. SMITH:

23 Q. Now, if you had seen Ms. Humphrey before you,
24 Elizabeth, Dora, and myself met at John Chatelain's
25 office, you would have gave her that money then,

1 wouldn't you?

2 MR. SAATHOFF: Objection: Speculation
3 foundation.

4 THE COURT: Overruled.

5 MR. SMITH: I'm directly asking the
6 witness. I apologize.

7 THE COURT: Overruled.

8 MR. SMITH: I apologize.

9 THE COURT: Answer if you can.

10 THE WITNESS: I can't answer. I don't
11 know.

12 BY MR. SMITH:

13 Q. Ms. Humphrey, if you had seen -- you knew you
14 owed Ms. Prosolow the \$60; am I correct?

15 MR. SAATHOFF: Objection.

16 THE COURT: Overruled.

17 THE WITNESS: Yes. I always paid.

18 Whoever worked for me, I always paid them.

19 BY MR. SMITH:

20 Q. So "yes" or "no" did you owe the money?

21 A. Yes. It says on here, yes.

22 Q. And if you had seen her in the flesh, you
23 would have given her that money at that time; am I
24 correct?

25 MR. SAATHOFF: Objection: Speculation.

1 THE COURT: Overruled.

2 Go ahead and answer, if you can, ma'am.

3 THE WITNESS: I don't know.

4 BY MR. SMITH:

5 Q. "Yes" or "no", Ms. Humphrey?

6 A. I can't answer it.

7 Q. Every other time you've paid either me or
8 Ms. Prosolow, you paid us in hand -- cash money in hand;
9 am I correct?

10 A. I try to, yes.

11 Q. So you would send her that money in cash. I
12 know because she opened it.

13 So my point is, my question is, if you had
14 seen her face-to-face, as you guys had, as you had done
15 had over a ten-year span -- if you had seen her
16 face-to-face before September 26, 2018, the day that was
17 mailed -- if you had seen her, then you would have gave
18 that money to her in cash; am I correct?

19 MR. SAATHOFF: Form, foundation,
20 speculation, compound question.

21 THE COURT: Overruled.

22 Go ahead and answer, if you can, ma'am.

23 THE WITNESS: I usually paid you guys in
24 cash.

25

1 BY MR. SMITH:

2 Q. I didn't ask you that, Ms. Humphrey. I asked
3 you a direct question.

4 A. If I had seen her face-to-face, I would have
5 paid her.

6 Q. You would have paid her in cash, correct?

7 A. Yes.

8 Q. Okay. Which means that you hadn't seen her
9 from the time Mr. Humphrey died or from Mr. Humphrey's
10 funeral on August 31st, 2018, until we met at John
11 Chatelain's office on September 26 of 2018. So that
12 entire span you never saw her, did you?

13 MR. SAATHOFF: Objection: Foundation.

14 THE COURT: Overruled.

15 BY MR. SMITH:

16 Q. "Yes" or "no," Ms. Humphrey?

17 A. I don't remember.

18 Q. Think back.

19 A. I can't remember.

20 Q. Okay. Let me ask you this. You stated, you
21 testified under oath that you and Ms. Prosolow had a
22 conversation about settling the situation with the
23 property before you filed the case; am I correct?

24 A. I don't think I understand the question.

25 Q. Okay. Did you and Ms. Humphrey -- excuse me,

1 did you and Ms. Prosolow ever talk about settling the
2 situation with the house?

3 A. She wasn't a part of the deed.

4 Q. "Yes" or "no"? "Yes" or "no"?

5 A. No.

6 Q. You didn't.

7 Ms. Humphrey, on the 10th or 11th of April,
8 2023 -- okay? -- just last month you sat there and you
9 testified under oath -- and I'm sure it's in the record
10 there -- you testified under oath that you and
11 Ms. Prosolow had conversations about settling this case.
12 Now, you're saying you did not. So which one of these
13 is the truth? Did you have conversations with
14 Ms. Prosolow about settling this case?

15 A. Settling this case --

16 Q. Well, about settling the situation with the
17 house? Okay. You said we owed you \$16,000; am I
18 correct?

19 A. Yes.

20 Q. Did you and Ms. Prosolow have any
21 conversations whatsoever, whether it was in Mississippi,
22 Alaska, last month, a year or two ago? Did you ever
23 have any conversations with Ms. Prosolow about settling
24 this \$16,000?

25 A. Yes.

1 Q. You just said you did not.

2 A. Well, I changed my mind --

3 Q. You can't change your mind, Ms. Humphrey.

4 THE COURT: Sir, you've got to let her
5 answer.

6 Go ahead and answer, ma'am.

7 THE WITNESS: I'm thinking that it was
8 probably when you guys came over to our house in July.

9 BY MR. SMITH:

10 Q. In July, Ms. Humphrey?

11 A. Of 2018 to discuss the truck. And the house
12 was brought up, the loan on the house was brought up, so
13 that's probably when it happened.

14 BY MR. SMITH:

15 Q. I'm not looking for probablies. I want to
16 know for sure, for certain. The Court wants to know for
17 sure, for certain did you have that conversation. Now,
18 you're saying in April you said yes. You just said no.
19 Now, you're saying yes again and that you changed your
20 mind. Then you say, well, I think it was brought up in
21 July. I've got news for you, Ms. Humphrey, the meeting
22 that we held about the house and the truck -- okay --
23 was either in late June or early July. And at that
24 time, Dora Prosolow was sitting by your front door; am I
25 correct?

1 MR. SAATHOFF: Objection: Compound
2 question, form, foundation.

3 THE COURT: Overruled.

4 BY MR. SMITH:

5 Q. Am I correct? Or let me put a picture in your
6 head. Dora was by the front door. I was sitting next
7 to Don on his left side. Don was sitting here. You was
8 sitting this close to Don where you could hold his water
9 to his mouth; am I correct?

10 A. That was in July of 2018. I just said that.

11 Q. Okay. Now, Dora was sitting there. She
12 wasn't saying a word. The conversation was between Don
13 and I; am I correct?

14 A. Yes, it was from what I heard of it because I
15 moved from that sofa to the kitchen.

16 Q. You went in the kitchen, you got him a glass
17 of water. When you come back out, you gave him some
18 water because he couldn't hold his hands, he couldn't
19 lift his hands; am I correct?

20 A. Correct.

21 Q. So he couldn't write; am I correct?

22 MR. SAATHOFF: Objection: Relevance.

23 THE COURT: Overruled.

24 BY MR. SMITH:

25 Q. He couldn't write; am I correct?

1 A. He couldn't do much of anything.

2 Q. He couldn't write, "yes" or "no"?

3 A. He couldn't write.

4 Q. So there was no way -- when he forgave that
5 loan, there was absolutely no way that he could put it
6 in writing, could he?

7 MR. SAATHOFF: Objection: Form,
8 foundation, compound question, relevance.

9 THE COURT: Overruled.

10 BY MR. SMITH:

11 Q. There was no way he could say --

12 A. He didn't forgive the loan.

13 Q. Mrs. Humphrey, let me ask you this. When we
14 were sitting there, the conversation was about two
15 things that you just said it was. It was about the
16 house and it was about the truck, the new truck. Okay.
17 Well, it was about the old truck that you guys took and
18 sold, correct?

19 A. It was supposed to be about the truck, the old
20 truck, yes.

21 Q. You jumped up and ran out of the house after
22 Don said certain things; am I correct?

23 A. I left through the front door.

24 Q. You ran out of the front door?

25 MR. SAATHOFF: Objection. Misstates the

1 testimony and badgering the witness.

2 THE COURT: Overruled.

3 BY MR. SMITH:

4 Q. I'm going to pass on that and get back to it.
5 Because I'm going to check these emails into evidence,
6 and that's the only reason I'm passing on it now, but I
7 will come up on it.

8 But Don was sitting there. We was talking
9 about how you, Don -- or you, Joe, and Elizabeth come to
10 my house took the truck out of my driveway. Now, I'll
11 ask you like I asked Ms. Prosolow. Where was the truck
12 when you guys sent the tow truck to tow it away? Was it
13 at my house, or was it at your house?

14 A. I don't remember where the truck was when it
15 was towed away.

16 Q. It's funny, Ms. Humphrey, that you're saying
17 that. Because when Mr. Saathoff asked you about it last
18 week -- or not last week, but on April 10th or 11th, you
19 was absolutely certain that it wasn't in my driveway.
20 That's in the records, Ms. Humphrey. So think again
21 before you --

22 MR. SAATHOFF: I'm going to object again
23 based on misstates the testimony, badgering the witness.

24 THE COURT: Overruled.

25 THE WITNESS: The truck had to be towed.

1 BY MR. SMITH:

2 Q. I didn't ask you that, Ms. Humphrey.

3 A. I don't remember where the --

4 Q. I'm asking --

5 A. I don't remember where was truck was when it
6 was towed. We're talking five years ago.

7 Q. It doesn't matter when we're talking,
8 Ms. Humphrey. So let me do it this way. Let me mark
9 these emails because this is the answer to all your
10 memory loss.

11 THE COURT: We don't need to speak, sir.
12 If you need to mark them, go ahead and mark them.

13 MR. SMITH: I apologize, Your Honor.

14 (Exhibit No. 161
15 marked for identification.)

16 BY MR. SMITH:

17 Q. Mrs. Humphrey, you've already testified that
18 you got up and you ran out of the house during the
19 meeting in July of 2018?

20 MR. SAATHOFF: Your Honor, I'm going to
21 object. It misstates the testimony.

22 THE COURT: Overruled.

23 BY MR. SMITH:

24 Q. You testified --

25 A. I walked out the front door.

1 Q. Ma'am.

2 A. I walked out the front door.

3 Q. You walked out, or you ran out?

4 A. I left because I was mad, so I might have been
5 walking fast.

6 Q. Mad about? You were mad about?

7 A. Yeah, I was mad.

8 Q. Mad about what, ma'am?

9 A. You guys came over to discuss the truck, the
10 old truck, which the diesel engine blew, so I ended up
11 selling that truck. And then your conversations went on
12 about the house, which you had already been living in
13 for three years, and now you guys wanted a truck. So it
14 just multiplied in my head, and I decided to leave the
15 room and walk outside.

16 Q. Are you sure -- "yes" or "no" -- are you sure
17 that we wanted the truck? It's not funny.

18 A. You wanted the old truck, yes. Don wanted to
19 give you the old truck. But because the diesel engine
20 was failing and we had already taken it to Bennington to
21 a specialist engineer out there, he said this is going
22 to be too much money.

23 Q. And you remember that?

24 A. Of course I do because that was Don's beloved
25 truck.

1 Q. But you can't remember where the truck was
2 when it was towed?

3 A. No.

4 Q. And you can't remember --

5 A. The truck had died several times. It even
6 died at Webster Street when you were --

7 Q. It doesn't matter, Ms. Humphrey.

8 A. Yes, it does because --

9 THE COURT: Let her answer, sir.

10 THE WITNESS: It had died several times.
11 So wherever it was when it died that time and got towed,
12 I don't know. You were with me in the truck at Webster
13 Street when we were hauling stuff, and it died right
14 there at one point. I remember that one. But I don't
15 know where it was when it got towed. I just remember
16 taking it out to CarMax and selling it.

17 MR. SMITH: Okay. The records for
18 Ms. Humphrey's May 29 deposition is already on record
19 and Mr. Saathoff already has a copy. So I'd just like
20 to sit here and read off what she said in her
21 deposition.

22 THE COURT: You can't really just read it
23 off, sir. You've got to ask her questions from it.

24 BY MR. SMITH:

25 Q. Ms. Humphrey, I'm going to hand you this so

1 you can take a look at it as you go, if it's okay.

2 (Discussion had off the record.)

3 MR. SMITH: Mrs. Humphrey, I'm handing
4 you what's been marked as Exhibit 115.

5 (Discussion had off the record.)

6 BY MR. SMITH:

7 Q. Ms. Humphrey, on April 10 or the 11 during
8 trial, 2023, Matthew Saathoff directly asked you where
9 was the truck or was the truck at my house in my
10 driveway when it was towed. And you testified under
11 oath that it was not at my house; am I correct?

12 MR. SAATHOFF: Is there a transcript of
13 what he's trying to impeach her on?

14 THE COURT: Overruled. He asked the
15 question whether she knows, yes or no.

16 BY MR. SMITH:

17 Q. Am I correct, Ms. Humphrey?

18 A. Can you repeat the question, please.

19 Q. On April 10th or 11th, 2023, sitting right
20 where you're sitting now in that same chair under oath,
21 your attorney Matthew Saathoff directly asked you, was
22 the truck at my house when the tow truck picked it up,
23 towed it out to Elkhorn, Nebraska, took it off before
24 stopping anywhere else and sold it -- he didn't ask all
25 that but he directly asked you was it at my house when

1 it was towed. And you said that it was not; am I
2 correct?

3 MR. SAATHOFF: Objection: Improper
4 impeachment. The record speaks for itself.

5 THE COURT: Overruled.

6 THE WITNESS: What page are you looking
7 at?

8 BY MR. SMITH:

9 Q. I'm asking you directly what you said on the
10 10th. And it's not in this page. It's not in your
11 deposition. I'm looking for impeachments, for purposes
12 of impeachment.

13 A. Well, like I said before, I don't remember
14 where the truck was when it was towed.

15 Q. But you told Matthew Saathoff on April 10th or
16 11 that it wasn't in my yard. You remember that,
17 correct?

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

19 Q. Well, it's in the record --

20 A. If it's in the record, then I must have said
21 it.

22 Q. For purposes of impeachment. Ms. Humphrey,
23 turn to Page 43 in your May 29, 2020, deposition. Page
24 43.

25 A. Okay.

1 Q. We're going to start on Line 6. Let me know
2 when you find that.

3 A. Okay.

4 Q. My question was, and I had taken the truck
5 over to my house; is that correct? Mr. Saathoff
6 interrupted with form and foundation. Then I said, you
7 can answer if you'd like. And then you said, I guess,
8 it's correct -- that's correct. Then I said, "yes" or
9 "no". Mr. Saathoff, she answered the question, sir.
10 Me, it sounds like she said, I guess. Then you, okay,
11 yes.

12 This indicates -- this says that it was in my
13 yard; isn't that correct?

14 MR. SAATHOFF: What --

15 MR. SMITH: It's Page 43 of her May 29,
16 2020 deposition. I'm on Page 43.

17 THE WITNESS: I don't see what you're
18 looking at.

19 BY MR. SMITH:

20 Q. Is there a Page 43 in there? Would you like
21 me to come up and look for it?

22 A. Yes, please. I don't see what you're talking
23 about.

24 THE COURT: You can look and see if it's
25 there, sir.

1 MR. SMITH: Is that okay?

2 THE COURT: You can look and see if it's
3 there.

4 THE WITNESS: I'm on Page 43.

5 (Discussion had off the record.)

6 MR. SAATHOFF: It's actually Line 6
7 through Line 22.

8 MR. SMITH: I'm looking for it,
9 Mr. Saathoff.

10 THE COURT: He'll do it, Mr. Saathoff.

11 BY MR. SMITH:

12 Q. Do you see it, Ms. Humphrey?

13 A. What am I looking for?

14 Q. Look for Line 6 right here where I'm saying --
15 do you see it or is this different? It shouldn't be
16 different.

17 A. It's not what I have.

18 MR. SMITH: Your Honor, this is the
19 actual deposition and the one the Court has is
20 different.

21 THE COURT: I don't know what to say,
22 sir, I didn't take them, so...

23 MR. SMITH: Well, I've got mine -- I got
24 these copies directly from the court reporter, from
25 Quinn's.

1 THE COURT: Is that a certified copy?

2 MR. SMITH: I think I made copies of it.
3 I'll just have to return the certified copy to the
4 Court, if possible. But this is her --

5 THE COURT: Not if you don't have it
6 today, sir. And they're not necessarily admissible, the
7 deposition themselves either without agreement.

8 MR. SMITH: I'm just trying to point out
9 what she said.

10 THE COURT: You can ask her if she
11 recalls her deposition testimony and if she recalls
12 saying that. That's more than fair.

13 BY MR. SMITH:

14 Q. Anyway, Ms. Humphrey, just listen to me. Or
15 at least it will be in the records. Okay.

16 On Page 43 of your May 29, 2020 deposition --
17 I'm going to start over here. On Line 6 I had asked,
18 and I had taken the truck over to my house; is that
19 correct? Mr. Saathoff: Form and foundation. Me: You
20 can answer, if you'd like. And then you said, I guess.
21 Then me, "Yes" or "no"?

22 MR. SAATHOFF: Your Honor, that misstates
23 actually what the testimony states.

24 THE COURT: No, that's not an objection,
25 Mr. Saathoff. He can ask if that's what she recalls

1 saying.

2 BY MR. SMITH:

3 Q. Mr. Saathoff: She's answered the question,
4 sir. Me: It sounds like she said, I guess. Then you
5 said, okay. Yes. Then I went on to say, thank you.
6 And then I completed that question with, and you,
7 Elizabeth and Joe sent a tow truck to my house to pick
8 that truck up; is that correct? And you said, because
9 it wasn't working properly. And I said, yes or no? And
10 you said, yes, it was hauled away. This shows evidence
11 that the truck was at my house, Ms. Humphrey. The truck
12 was at my house.

13 A. Okay.

14 Q. Even though you testified on April 10th or
15 11th under questioning from Matthew Saathoff that it was
16 not at my house.

17 A. I didn't keep track of the truck all the time,
18 so it might have been at your house.

19 Q. So I ask you the same questions I asked
20 Ms. Prosolow. And I want to make clear. I think I've
21 asked you before. But I want to know for certain, did
22 you and Dora Prosolow have any conversations about
23 settling this case before you filed the lawsuit? "Yes"
24 or "no"?

25 A. Yeah, we wanted to settle it before I had to