

1 A. Yes.

2 Q. These two incidents show evidence that you
3 guys were happy for us having that truck; am I correct?

4 MR. SAATHOFF: I'm going to object:
5 Relevance, asked and answered, cumulative.

6 THE COURT: Sustained.

7 BY MR. SMITH:

8 Q. You show evidence of being happy for me having
9 that truck; am I correct?

10 MR. SAATHOFF: Asked and answered,
11 cumulative.

12 THE COURT: Sustained.

13 MR. SMITH: Well, it's in the records,
14 so...

15 BY MR. SMITH:

16 Q. Ms. Humphrey, on Page 46, I wanted you to
17 start on Line 6?

18 A. Six?

19 Q. Yes. Okay. This is where I first entered the
20 room on the day of the meeting. Okay? When you, Don,
21 Dora, and me were gathered in the living room.
22 Following me?

23 A. Yep.

24 Q. Line 6 on Page 46 starts, I stood there in
25 front of you when you come back out of the kitchen, and

1 I explained to Don that I had witnessed some of the
2 loads that he's hauled with his old truck. Okay? And I
3 stood there and told him that \$5,000 -- now, I'm going
4 to stop there for a second. You just said that it was
5 you guys suggesting that he gave me the \$5,000. But any
6 way -- the \$10,000, I mean. But anyway I said, I stood
7 there and told him that \$5,000 -- if he wanted me to
8 continue to help you, I explained to him that \$5,000 was
9 not going to buy a truck worthy of hauling those type of
10 loads. And you said -- then I asked; am I correct? And
11 you said, yes. Because I think he thought the same
12 thing. So if the two of you exchanged those ideas, he
13 pretty much thought the same thing. Then I explained to
14 you that I'm getting to a point, okay? I went on to
15 say, when I explained that to him, the first thing he
16 said was that we can afford to go up to \$10,000; am I
17 correct? You said, yes. I said, then that angered you.
18 You said, yes.

19 MR. SAATHOFF: Your Honor, I'm going to
20 object. This is improper impeachment. He hasn't asked
21 her a question.

22 THE COURT: You've got to ask her some
23 questions, sir. You can't just read from a deposition.

24 BY MR. SMITH:

25 Q. Okay. You're looking at it then, Barb?

1 A. Yes.

2 Q. I'm on 20. When I asked, and it angered you?
3 What did you say on 21?

4 A. Yes, it angered me.

5 Q. Okay. On 22 I went on to say, the first words
6 out of your mouth was, oh, so he's got the house; am I
7 correct? Do you see that?

8 A. Yeah.

9 Q. On Line 22, he's got the house. Got, not
10 going to get. He's got the house, and he's getting a
11 new truck. Do you see that?

12 A. Yes.

13 Q. Okay. I went on to say, and with that, you
14 jumped up and you ran out of the front door; am I
15 correct? Mr. Matthew Saathoff said, listen to his
16 question and answer his question. You said -- read what
17 you said on Line 2.

18 MR. SAATHOFF: Your Honor, I'm going to
19 object. He's simply reading from the deposition.

20 THE COURT: You've got to ask her a
21 question, sir.

22 BY MR. SMITH:

23 Q. What did you say on Line 2, Ms. Humphrey?

24 MR. SAATHOFF: I'm going to object.

25 There's no question pending regarding --

1 THE COURT: Overruled.

2 MR. SMITH: Thank you, Your Honor.

3 THE WITNESS: What now? What's your
4 question?

5 BY MR. SMITH:

6 Q. Page 47, Line 2. Go back to 46 and let me
7 correct this. Okay. Under 22 of Line 46 -- I mean,
8 Page 46, Line 22 I say -- after you said, yes. I said,
9 the first words out of your mouth was, oh, so he's got
10 the house, and he's getting a new truck. And with that,
11 you jumped up, you ran out of the front door, am I
12 correct? Matthew Saathoff cut in and said, listen to
13 his question, and answer his question. We're on
14 Page 47, Line 2. What did you say, Ms. Humphrey?

15 MR. SAATHOFF: Again, there's no question
16 pending. It's improper impeachment.

17 THE COURT: Overruled.

18 MR. SMITH: Thank you, Your Honor.

19 BY MR. SMITH:

20 Q. What did you say, Ms. Humphrey?

21 A. I said, I was upset with that statement. Yes,
22 I went to the front door.

23 Q. Then I said, you went out the house. What did
24 you say?

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

1 Q. I said, Lynn followed you out?

2 A. Yes.

3 Q. And you said, yes, correct?

4 A. Yes.

5 Q. Okay. So that shows there that Don had
6 already forgiven the loan when he instructed you to
7 write me the check for \$10,000, and that's what made you
8 jump up and run out of the house; am I correct?

9 A. No. Because the first words out of my mouth
10 was, you've already been living in the house for three
11 years, and now you're going to be getting the truck.

12 Q. Answer my question, Ms. Humphrey.

13 MR. SAATHOFF: Your Honor, I'm going to
14 ask --

15 THE COURT: She answered it and said,
16 no, sir.

17 BY MR. SMITH:

18 Q. Okay. Well, like you said, I got the house
19 because he had sat there and forgiven the loan. And
20 when he told you to give me the \$10,000 that's when you
21 jumped up.

22 MR. SAATHOFF: Your Honor, I'm going to
23 object: Asked and answered, cumulative.

24 THE COURT: Sustained.
25

1 BY MR. SMITH:

2 Q. Turn to Page 80, Ms. Humphrey.

3 A. Eighty?

4 Q. Yes. Okay. Let me know when you have it.

5 A. I'm at 80.

6 Q. Okay. This was on Matthew Saathoff's
7 cross-examination. So if I asked you any questions back
8 then that you disagree with, you had your opportunity
9 here. Look at Line 15. Matthew Saathoff asked you
10 directly, did you ever make the statement, so now he has
11 a house and a car? "Yes" or "no"? What did you say?

12 A. I said a house and a truck.

13 Q. You corrected him. Do you see what I'm
14 saying?

15 A. Yes.

16 Q. And then he said a house and a truck. And you
17 said?

18 A. Yes.

19 Q. Okay. And then Matthew Saathoff asked you,
20 okay. And what did you mean by that? Would you read
21 what you said, your answer?

22 A. Line 21?

23 Q. Twenty-one, correct.

24 A. Don had wanted to give him the house, the
25 \$25,000 that he put up front for the house, and then the

1 \$10,000 was towards the truck. Because Don had said,
2 well, we need a heavy duty truck because we were going
3 to haul rock and all that stuff. So the truck was
4 supposed to be for future use for him to help me with
5 the apartments.

6 Q. Okay. Then Matthew Saathoff started asking
7 you leading questions. He said, so when you made the
8 statement, so now he has the house and a truck, that
9 didn't mean -- okay -- he had the house free and clear?
10 What did you say, Ms. Humphrey?

11 A. Correct. You didn't have it free and clear.

12 Q. Matthew Saathoff asked you, he still owed
13 money on it? And you said?

14 A. Yes. He still owed money towards the house.

15 Q. Okay. Then Matthew Saathoff said final
16 question. Did you ever hear Don say, I forgive the
17 loan? And you said?

18 A. Never heard that, no.

19 Q. So the point is, you've shown excitement in
20 your email when you said, hi there you new truck owners,
21 that you was happy for us with the truck; am I correct?

22 MR. SAATHOFF: Asked and answered,
23 cumulative.

24 THE COURT: Sustained.
25

1 BY MR. SMITH:

2 Q. Ms. Humphrey, clearly your deposition shows
3 when you said he's got the house, that's past tense; am
4 I correct?

5 A. No. I meant that you had a house to live
6 in --

7 MR. SMITH: No.

8 MR. SAATHOFF: Your Honor, let her answer
9 the question.

10 THE COURT: Mr. Saathoff, you be quiet.

11 MR. SMITH: Thank you, Your Honor.

12 THE COURT: Let me handle that.

13 MR. SMITH: Thank you, Your Honor.

14 THE COURT: Sir, she has a right to
15 answer, so you can't cut her off.

16 MR. SMITH: I apologize. When you
17 constantly listen to lies, it's frustrating.

18 MR. SAATHOFF: Your Honor, can we let her
19 finish answering the question?

20 MR. SMITH: Yes, sir.

21 THE COURT: Yes. Do you have more to
22 that answer, ma'am?

23 THE WITNESS: What was the question?

24 BY MR. SMITH:

25 Q. The question, Ms. Humphrey, is the fact that

1 when you said he's got the house, that was speaking in
2 past tense; am I correct?

3 A. It meant you were living in the house. He's
4 already got the house. You're living in the house for
5 three years. And now we need a truck.

6 Q. Ms. Humphrey, we were talking about forgiving
7 the loan; am I correct?

8 MR. SAATHOFF: Asked and answered,
9 cumulative.

10 THE COURT: Overruled.

11 MR. SMITH: Thank you, Your Honor.

12 BY MR. SMITH:

13 Q. Am I correct, Ms. Humphrey? The meeting was
14 about the forgiveness of the loan and the purchase of
15 the truck; am I correct there?

16 A. No. No. The meeting was supposed to be about
17 --

18 Q. Not supposed, ma'am. About.

19 A. Okay. It was meant to be for the truck, and
20 then you guys started talking about the house. And Don
21 was sick. So when you were talking about the truck, he
22 wanted you to have a new truck as it says everywhere so
23 you could help haul the rock and mulch and all that
24 stuff.

25 Q. So when he told you -- he was sick when he

1 told you to write the \$10,000 check, correct?

2 A. Of course he was. He didn't want to part with
3 that truck, but...

4 Q. Huh? Okay. And when you ran out of the house
5 and Dora went out behind you, when I came out, you
6 actually told me that he wasn't thinking right; am I
7 correct?

8 A. He was sick, Mr. Smith.

9 Q. Am I correct?

10 MR. SAATHOFF: Asked and answered.

11 THE COURT: Overruled.

12 BY MR. SMITH:

13 Q. Am I correct? "Yes" or "no"?

14 When I came out there where you and Dora was,
15 you was holding the water hose getting ready to take it
16 out back. You told me face-to-face that he didn't know
17 what he was doing; am I correct? This was after he
18 instructed you to write the \$10,000 check? It's not
19 funny to me, Ms. Humphrey.

20 A. Well, the check got written for the truck, so
21 I honored his wishes.

22 Q. Okay. But you just said he wasn't thinking
23 right, he was sick.

24 A. He was sick. He was dying, Ed.

25 Q. Why would you honor a wish like that? \$10,000

1 is a lot of money, Ms. Humphrey.

2 A. Yes, it is. You're telling me.

3 Q. Why would you honor a wish like that?

4 A. Because he wanted you guys to have the truck
5 that would work.

6 Q. He gave me the remainder of the loan too,
7 Ms. Humphrey, at the same time.

8 A. No --

9 MR. SAATHOFF: Your Honor, I'm going to
10 object.

11 THE COURT: Let her finish, Mr. Saathoff.

12 BY MR. SMITH:

13 Q. So why didn't you say he was sick for
14 forgiving me that? Why didn't you say he was sick for
15 doing that?

16 A. He wasn't giving you the house.

17 Q. That's not what I'm asking you, Ms. Humphrey.
18 The document -- your deposition showed that he did.
19 He's got the house, now he's getting a new truck. So
20 I'm asking you directly. At that meeting where you,
21 Don, Dora, and me were gathered in that living room,
22 there was two conversations; one about the truck, one
23 about the house. When he told you to write the \$10,000
24 check, that's when you jumped up. And your email has
25 shown that you were not angry about that truck; am I

1 correct?

2 MR. SAATHOFF: Asked and answered,
3 cumulative.

4 THE COURT: Overruled.

5 BY MR. SMITH:

6 Q. Which means that you were angry because he had
7 given me -- because he had relinquished the house.

8 MR. SAATHOFF: Asked and answered,
9 cumulative.

10 BY MR. SMITH:

11 Q. And release that payment.

12 THE COURT: Overruled.

13 BY MR. SMITH:

14 Q. That's what you was angry about; am I correct?

15 A. No. No. I was angry about the fact that you
16 already had a house that you were living in and now we
17 have to deal with a truck that didn't work. So I had to
18 sell it, now you're going to get a new truck. And
19 that's what kind of made me mad there. Now, later on
20 when I said, hi there you new truck --

21 MR. SMITH: I didn't ask you that.

22 MR. SAATHOFF: Your Honor, she's not done
23 answering.

24 THE COURT: Ma'am, do you have more to
25 say to that?

1 THE WITNESS: That was a later date.

2 There was no sense in holding a grudge about being mad
3 about the truck because Don was already gone, and I was
4 hoping that you guys would help me with the new truck,
5 and it never did come to be because of this.

6 BY MR. SMITH:

7 Q. So Don was already gone? That's what you're
8 saying?

9 A. What's the date on your email?

10 Q. It doesn't matter.

11 A. Yes, it does matter.

12 Q. You just said that was a later date because
13 Don was already gone. You just said that, Ms. Humphrey.
14 Okay? But if you look at the -- Don didn't die until
15 August 24th; am I correct?

16 A. Twenty-fourth.

17 Q. Look at this. This is after July. This is
18 before Don died not after Don was gone. That's August
19 8, 2023 [sic]. Hi there you new truck owners. Do you
20 see that?

21 A. Yes.

22 Q. That was not after Don died.

23 THE COURT: Sir, that's not been offered
24 or marked or received, so she can't testify about it.

25 MR. SMITH: I'm frustrated, Your Honor.

1 THE COURT: I understand. But I've just
2 got to play by the rules. And it needs to be offered
3 and marked and received -- marked, offered, and
4 received.

5 BY MR. SMITH:

6 Q. Now, you've testified that Don had a signed
7 will -- even though we couldn't get it from your
8 lawyers -- you testified that you guys did, that you did
9 it together; am I correct?

10 A. We already established that.

11 MR. SAATHOFF: Asked and answered,
12 cumulative.

13 THE COURT: Next question, sir.

14 BY MR. SMITH:

15 Q. You filed this affidavit saying that you was
16 entitled to my property per the will; am I correct?

17 MR. SAATHOFF: Asked and answered,
18 cumulative.

19 THE COURT: Sustained.

20 We've already been over that, sir.

21 BY MR. SMITH:

22 Q. Ms. Humphrey, did you know that your attorneys
23 were trying to change your affidavit?

24 MR. SAATHOFF: Foundation.

25 THE COURT: Overruled.

1 MR. SMITH: Thank you, Your Honor.

2 BY MR. SMITH:

3 Q. Did you know your attorneys was trying to
4 change your affidavit because they knew it was illegal?

5 MR. SAATHOFF: Foundation, relevance,
6 hearsay.

7 THE COURT: If you have any knowledge of
8 that, ma'am.

9 THE WITNESS: I don't have any knowledge
10 of that. I trust in my lawyers.

11 MR. SMITH: Can I offer this as proof,
12 Your Honor?

13 THE COURT: You can make an offer of
14 proof on something if you want, sir. Otherwise, it has
15 to come in as normal evidence, which means you have to
16 lay foundation and so on and so forth.

17 MR. SMITH: Ms. Humphrey filed this
18 affidavit.

19 THE COURT: We need a question, sir.

20 MR. SMITH: Sir?

21 THE COURT: Are you making an offer of
22 proof? Is that what you're doing?

23 MR. SMITH: Yes, sir.

24 THE COURT: I apologize. Get it marked
25 though, first.

1 MR. SMITH: Sorry about that.

2 (Exhibit No. 166-169

3 marked for identification.)

4 THE COURT: What number is it, sir?

5 MR. SMITH: This is 166, sir.

6 THE COURT: You're making an offer of
7 proof?

8 MR. SMITH: Yes.

9 THE COURT: Tell me what it would show if
10 it was received. That's basically what you do.

11 MR. SMITH: This is an affidavit. And I
12 won't interview you, Ms. Humphrey, because I know you
13 wouldn't know anything about it.

14 THE COURT: She's not part of your offer
15 of proof. Well, she could be, I guess. I'm not saying
16 that.

17 MR. SMITH: But I've got a tape recorder
18 in my thing there where Matthew Saathoff gave this
19 Nicole Seckman Jilek one -- and she's asking me on that
20 tape to allow them to change this affidavit. They moved
21 it from on Line 5 -- they're moving it from, I am
22 entitled to the real property per the will to the first
23 option. So I'm going to leave this up there.

24 THE COURT: So that should conclude your
25 offer of proof?

1 MR. SMITH: Yes, sir.

2 THE COURT: All right. 166 will be
3 received under an offer of proof.

4 (Exhibit No. 166 is hereby made a
5 part of this bill of exceptions, and
6 can be found in a separate volume of
7 exhibits.)

8 MR. SAATHOFF: Can I see what 166 is?

9 THE COURT: Sure.

10 MR. SAATHOFF: Your Honor, just for the
11 record, I'm going to object to that. It's a two-page
12 document that's unsigned.

13 MR. SMITH: It's already in, Matt.

14 MR. SAATHOFF: It's not signed. There's
15 nothing of who drafted it or anything.

16 MR. SMITH: The only reason it's not
17 signed is because --

18 THE COURT: That's enough, sir. You
19 don't need to explain it. Okay. You've made your offer
20 of proof, and I've received it under that subject, or
21 excuse me, under that category.

22 BY MR. SMITH:

23 Q. Okay. Ms. Humphrey on the day that you grew
24 angry, on the day of the meeting between you, me, Don,
25 and Ms. Prosolow, and you jumped up and ran out of the
door, you testified earlier that you and Don had been

1 together long enough that you could pretty much read
2 where he was going with things; am I correct?

3 MR. SAATHOFF: Asked and answered,
4 cumulative.

5 THE COURT: Keep going forward, sir.

6 MR. SMITH: Say what?

7 THE COURT: Keep going forward. You
8 already asked that question and she answered it.

9 BY MR. SMITH:

10 Q. When Don forgave the loan, you knew -- I'm
11 asking you. Did you know that he was about to tell you
12 to put it in writing because he couldn't write; am I
13 correct?

14 A. No, he never.

15 Q. What?

16 A. No.

17 Q. Well, you've shown that you was excited about
18 the truck, so the house could have been the only reason
19 you ran out.

20 MR. SAATHOFF: Asked and answered,
21 cumulative.

22 THE COURT: Overruled.

23 MR. SMITH: Thank you, Your Honor.

24 BY MR. SMITH:

25 Q. Am I correct? You said you was angry about

1 the statement. You've shown evidence and Don showed
2 evidence -- even though he's dead now -- but I have the
3 pictures of both of you being excited for us to have the
4 truck.

5 MR. SAATHOFF: Asked and answered.

6 BY MR. SMITH:

7 Q. So the only reason you could have run out of
8 that house, or the only reason you had to run out of
9 that house was because, like you said, you was angry
10 about the statement he had forgiven the remainder of the
11 loan.

12 A. No. I was mad about the additional \$5,000
13 that was required to get a truck for you. The \$5,000
14 from selling the old truck wasn't enough, then you had
15 to top it off with \$5,000 more. So that you already had
16 a house and now you're getting a truck and it was at our
17 expense. That's why I was mad.

18 Q. Okay. Just like Ms. Prosolow didn't know the
19 date of the meeting we had in the living room, you also
20 testified that you didn't know the date of it, the exact
21 date; am I correct? Or do you?

22 A. I don't remember the exact date of the
23 meeting, no.

24 Q. Okay. So you and Ms. Prosolow are in the same
25 shoes then, neither one of you can remember the exact

1 date?

2 A. Right.

3 Q. Okay. Well, guess what, I don't either.

4 That's why I wrote in the records between late June and
5 July.

6 I want to ask you this. In your affidavit --
7 who filed that affidavit, by the way? You or Elizabeth?

8 A. Who filed the affidavit?

9 Q. Yes. The affidavit that was filed on
10 September 26th that got this whole ball rolling, did you
11 file it or did Elizabeth Humphrey file it?

12 MR. SAATHOFF: Objection to foundation.

13 THE COURT: Did you file it, ma'am?

14 THE WITNESS: That was with John

15 Chatelain my lawyer?

16 BY MR. SMITH:

17 Q. Correct, your name is on the document.

18 A. It would have been me.

19 Q. Huh?

20 A. It would have been me.

21 Q. You did file it or it could have been?

22 A. Well, if I brought it forward, I would have to
23 take responsibility for it.

24 Q. I'm not asking for your thoughts,

25 Ms. Humphrey. I'm asking --

1 A. I can't remember then exactly.

2 Q. Did you file it? Your name is on the
3 document. You should know.

4 A. It should be me then.

5 Q. Not should be.

6 A. Okay. It's me.

7 Q. Okay. You filed it?

8 MR. SAATHOFF: Your Honor, I'm going
9 to -- the continually badgering of the witness is -- and
10 just because she signed it, doesn't mean her attorney
11 didn't file it.

12 THE COURT: Overruled. That's not an
13 objection, so go ahead, sir. Let's move on a little
14 bit. We've been on this --

15 MR. SMITH: The proceedings -- I don't
16 mean to talk over you. Go ahead. I'm sorry.

17 THE COURT: That's all right. We've been
18 on this for a while, so let's move on a little bit.

19 THE WITNESS: Proceedings from July 16,
20 2020.

21 THE COURT: What are you looking for? I
22 didn't hear you.

23 MR. SMITH: Transcript of proceedings
24 from a court hearing we had on July 16, 2020.

25 MR. SAATHOFF: They're not in evidence.

1 THE COURT: Yeah, I don't think that's in
2 evidence anywhere, sir.

3 MR. SMITH: For the record, if I can read
4 this.

5 THE COURT: You can't just read from it,
6 sir, no.

7 MR. SMITH: Well, I'll put it this way.

8 THE COURT: You can do it in your closing
9 argument maybe but not as evidence.

10 BY MR. SMITH:

11 Q. Anyway, Ms. Humphrey, you're saying that you
12 filed it?

13 MR. SAATHOFF: Asked and answered,
14 cumulative.

15 THE COURT: Sustained.

16 BY MR. SMITH:

17 Q. Okay. Ms. Humphrey, I'm going to give --
18 there's a lot of pages here. These are the email
19 exchanges between you and me. Okay. It's marked as
20 Exhibit 161. So if you want to, I would prefer you to
21 just keep them in order as I read down.

22 MR. SAATHOFF: Your Honor, I'm going to
23 object. We've never seen these emails prior. They're
24 not on the exhibit list.

25 THE COURT: He's not offered them yet.

1 He's just asked her to look it over.

2 So, ma'am, please do so.

3 MR. SMITH: Well, they're marked, so I
4 will offer.

5 THE COURT: You've got to wait until she
6 gets a chance to look it over, sir.

7 THE WITNESS: Am I looking for something
8 in particular?

9 BY MR. SMITH:

10 Q. You're looking to see if those are email
11 exchanges between me and you.

12 A. Yes. Mostly involving the Webster Street
13 apartment complex.

14 Q. Doesn't matter. Try to keep them in order.

15 A. I've seen it, all 81 pages.

16 Q. Fifty-five emails?

17 A. I may have got them messed up.

18 Q. Are you done with it?

19 A. Uh-huh.

20 Q. You do recognize them?

21 A. Uh-huh, yes.

22 MR. SMITH: Your Honor, I move to admit
23 these into the record.

24 THE COURT: Sir, there's no sufficient
25 foundation. All she said under oath is that she

1 recognizes them. That's all I know is she knows what
2 they are, but that's all she said.

3 BY MR. SMITH:

4 Q. Okay. We're going to go through these one at
5 a time, Ms. Humphrey, and try to make it as fast as
6 possible. No guarantees.

7 THE COURT: Well, you don't need to go
8 through the contents of them, sir, because they haven't
9 been received yet. But she needs to at least give me
10 some more description as to what they are before I can
11 say she's laid foundation.

12 MR. SMITH: These depositions, Your
13 Honor -- excuse me. These emails, Your Honor --

14 THE COURT: Not to me. She's got to
15 testify. You've got to ask her questions.

16 BY MR. SMITH:

17 Q. Ms. Humphrey, take a look at that very first
18 email that you have there. It's dated July 9, 2017, and
19 you sent that to me at 6:10 p.m.; is that correct?

20 A. Yes.

21 MR. SAATHOFF: Your Honor, again,
22 testifying regarding what's in the document. The
23 document is not in evidence.

24 THE COURT: That's sustained, sir.

25 Sir, she's just got to give me a general

1 understanding that she recognizes what these things are,
2 not exactly what they say.

3 BY MR. SMITH:

4 Q. You do recognize these?

5 A. Yes.

6 Q. Look at the second one. That's from a Monday,
7 July 10, 2017, at 7:21, do you recognize that?

8 MR. SAATHOFF: Your Honor, I'm going to
9 again object as he's talking about the documents and
10 their content.

11 THE COURT: Well, let's let him go a
12 little further with that. Overruled.

13 MR. SMITH: Thank you, Your Honor.

14 THE WITNESS: I see it.

15 BY MR. SMITH:

16 Q. Okay. Do you see a date on the next one
17 that's July 29, 2017?

18 THE COURT: Sir, the dates are relevant
19 as to roughly when they are. I'll give you that. But I
20 don't need you to go through the contents of them to lay
21 foundation. I need her to tell me what they are. I
22 don't know what they are. They could be a bunch of
23 mathematical formulas because all she's told me is she
24 recognizes them. You tell me what they are, but you're
25 not the right person to tell me that.

1 MR. SMITH: These emails are to lay the
2 foundation of Donald --

3 THE COURT: You have to ask her to lay
4 the foundation. You have to ask her questions as to
5 what these things are.

6 BY MR. SMITH:

7 Q. Ms. Humphrey, let's go back to the very first
8 one.

9 THE COURT: Sir, I've never even heard
10 her say that they're emails. As far as I'm concerned,
11 it could be some math work that you did. I don't know.
12 See, you've got to have her identify what these things
13 are.

14 MR. SMITH: I asked her one earlier, and
15 she did identify them.

16 THE COURT: You've got to lay foundation,
17 so you've got to do that. Ask her questions.

18 BY MR. SMITH:

19 Q. Ms. Humphrey, on July 9, 2017, was Donald
20 Humphrey able to work?

21 A. Was what?

22 MR. SAATHOFF: Your Honor, I missed --

23 BY MR. SMITH:

24 Q. Was Mr. Humphrey able to work?

25 MR. SAATHOFF: Objection: Outside the

1 pleading.

2 THE COURT: Overruled.

3 THE WITNESS: That's in July of 2017?

4 BY MR. SMITH:

5 Q. July 9th, 2017.

6 A. Yes. He's getting ready for surgery tomorrow
7 at UNMC --

8 THE COURT: Ma'am, I don't want you read
9 them for me. Okay. Just answer his questions. He
10 wants to know if he --

11 THE WITNESS: He asked if he was working.
12 No, he wasn't working. He was getting ready for
13 surgery.

14 BY MR. SMITH:

15 Q. Was he able to work?

16 MR. SAATHOFF: Objection: Relevance.

17 THE COURT: Overruled.

18 THE WITNESS: He was able to work but not
19 at full capacity. He was having dialysis, kidney
20 failure.

21 BY MR. SMITH:

22 Q. Look at the very first one, Ms. Humphrey,
23 July 10, 2017.

24 MR. SAATHOFF: Again, Your Honor, I'm
25 going to object. These aren't in evidence.

1 THE COURT: He's not having her read from
2 the documents. He just asked her to use that date and
3 ask if he was able to work, I assume. He hasn't even
4 asked the question yet.

5 BY MR. SMITH:

6 Q. Was Donald Humphrey able to work on July 10,
7 2017?

8 A. No, he was having to have surgery.

9 Q. July 29, 2017. Was he able to work that day?

10 MR. SAATHOFF: I'd ask the witness not to
11 look at the documents in front of her.

12 THE COURT: Ma'am, just answer the
13 question the best you can, okay, without the documents
14 because they haven't been offered into evidence. So if
15 he asked you if he was able to work on a certain date,
16 you're more than welcome to answer whether you recall
17 that or not.

18 MR. SAATHOFF: But not based on what you
19 have in front --

20 THE COURT: Don't read from the exhibits
21 before that, okay, because they're not evidence. Just
22 your best recollection to the question.

23 BY MR. SMITH:

24 Q. I'm handing you Exhibit 127, what's been
25 marked as Exhibit 127. Ms. Humphrey, would you please

1 turn to interrogatory No. 11.

2 THE COURT: Sir, she's not going to be
3 able to read from that interrogatory or -- or the
4 interrogatories, I apologize. I thought you were still
5 saying emails.

6 MR. SMITH: No, sir.

7 THE COURT: I'll listen a little better.

8 MR. SMITH: Whatever you do, I'm --

9 THE COURT: My mistake. So go ahead.

10 BY MR. SMITH:

11 Q. Look at my Interrogatory No. 11, Ms. Humphrey.

12 A. Yes.

13 Q. John Chatelain asked you to describe any labor
14 provided by Edward Smith to Donald and Barbara Humphrey
15 or their properties from January 2017 to the present.
16 What did you answer?

17 MR. SAATHOFF: Your Honor -- you said
18 Interrogatory No. 11. My interrogatory No. 11 states,
19 state with specific factual and legal basis you denied
20 all of --

21 THE COURT: Are you sure you've got the
22 right interrogatory, Mr. Smith?

23 BY MR. SMITH:

24 Q. My mistake. No. 10, Ms. Humphrey.

25 A. No. 10?

1 Q. Yes, ma'am.

2 MR. SAATHOFF: Well, Interrogatory No. 10
3 states, state the specific facts --

4 THE COURT: Let's let him ask his
5 questions.

6 BY MR. SMITH:

7 Q. You got it?

8 A. Yes.

9 Q. Okay. John Chatelain asked you do you contend
10 that Edward Smith has been paid in full for any labor he
11 provided to Donald and Barbara Humphrey or any
12 properties owned by them? Describe your basis for each
13 contention. And what did you say? Your answer?

14 MR. SAATHOFF: Your Honor, this is not
15 relevant as the unjust enrichment claim of the
16 Defendants has been kicked by the Supreme Court and this
17 Court's prior orders.

18 MR. SMITH: Your Honor, these emails are
19 directly relevant with what I'm doing now.

20 THE COURT: They're not emails.

21 MR. SMITH: No, no.

22 THE COURT: You just said emails.

23 MR. SMITH: I did say emails that time.

24 But what I'm saying is, what I'm getting at, these
25 emails prove a fact in these interrogatories and

1 complaint.

2 THE COURT: Go ahead with your
3 interrogatory. Overruled.

4 MR. SMITH: Thank you.

5 BY MR. SMITH:

6 Q. So anyway, I read No. 10 to you, Ms. Humphrey.
7 What did you say? What answer did you give?

8 A. Do you want me to read it?

9 Q. Yes, please.

10 A. Ed submitted statements for which he was
11 properly paid at the rate of the \$15 per hour per his
12 request. There was no other price for his work ever
13 discussed.

14 Q. Okay. You have here that I submitted
15 statements; is that correct?

16 A. Yes, and receipts.

17 Q. Do you have any of those receipts?

18 MR. SAATHOFF: Objection: Relevance.

19 THE COURT: Overruled.

20 MR. SMITH: Thank you, Your Honor.

21 BY MR. SMITH:

22 Q. Do you have any of those receipts or
23 statements?

24 A. They're probably in my file for that year in
25 my box in storage.

1 Q. Ms. Humphrey, your attorneys -- when you filed
2 your motion for summary judgment, your attorney admitted
3 in here I filed a motion to compel these documents, both
4 the statements and the invoices that you're constantly
5 claiming throughout your interrogatory. I filed a
6 motion to compel these documents. Your attorney never
7 turned these documents over. In your summary judgment
8 under the document annotated statements for undisputed
9 facts, okay, in support of the Plaintiff's motion for
10 summary judgment he admitted that there were no
11 statements or invoices.

12 THE COURT: Sir, is there a question
13 there?

14 MR. SAATHOFF: Well, Your Honor --

15 THE COURT: Let him ask the question.

16 BY MR. SMITH:

17 Q. The question is, do you have invoices and
18 statements that I gave you for payment?

19 MR. SAATHOFF: A number of objections:
20 Outside the scope of the pleadings, outside the
21 relevance of this case because their case for unjust
22 enrichment has already been done, there's no order to
23 compel, and it's off base for the case-in-chief that'
24 before the Court.

25 THE COURT: The Court will sustain it as

1 to relevance.

2 MR. SMITH: Your Honor.

3 THE COURT: Those are not relevant, sir.

4 And I don't need an argument, but thank you anyhow.

5 BY MR. SMITH:

6 Q. Ms. Humphrey, do you have any statements or
7 invoices that prove --

8 MR. SAATHOFF: Objection.

9 BY MR. SMITH:

10 Q. -- that I gave you these invoices and
11 statements for payment?

12 MR. SAATHOFF: Objection: Relevance.

13 THE COURT: Sustained. That wouldn't be
14 relevant to any kind of cause of action that's still
15 before the Court at this time. That matter is over with
16 so to speak.

17 BY MR. SMITH:

18 Q. Let's take a look at Interrogatory No. 11,
19 Ms. Humphrey.

20 A. Okay.

21 Q. John Chatelain asked you to describe any labor
22 provided by Edward Smith to Donald and Barbara Humphrey
23 or their properties from January 2017 to present. What
24 did you tell him?

25 MR. SAATHOFF: Objection: Relevance.

1 THE COURT: Overruled. Go ahead and
2 answer, if you know anything, ma'am.

3 MR. SMITH: Thank you, Your Honor.

4 THE WITNESS: Do you want me to read that
5 answer.

6 BY MR. SMITH:

7 Q. I do, Ms. Humphrey.

8 A. General unskilled labor, building block walls,
9 hauling blocks, and digging dirt, landscape work, vinyl
10 floor installation and painting, all under the direct
11 supervision of Donald Humphrey, retired school teacher
12 who enjoyed teaching others how to do things.

13 Q. So you're saying here that my job duties was
14 all done under the direct supervision of Donald
15 Humphrey; am I correct?

16 MR. SAATHOFF: Objection, again,
17 relevance.

18 THE COURT: Sir, why is any of that
19 relevant?

20 MR. SMITH: Sir?

21 THE COURT: Why is any of that relevant?

22 MR. SMITH: Because these 55 emails show
23 that Don Humphrey was not even on the job site.

24 THE COURT: We're not fighting over the
25 job sites. That's not a cause of action before the

1 Court.

2 MR. SMITH: Yes. But they're claiming in
3 here, sir, that he was on the job sites, and that I was
4 on only his help.

5 THE COURT: But whether he was or wasn't
6 doesn't have any relevance to the ultimate issue whether
7 or not this loan was forgiven and/or anything
8 accompanying that, so I don't believe its relevant. So
9 sustained.

10 MR. SMITH: It does show impeachment.

11 THE COURT: Okay. I mean, if you think
12 there might be some impeachment there, you can try. Go
13 ahead. You've got to keep an eye on the clock.

14 MR. SMITH: I am. Thank you.

15 THE COURT: Mr. Saathoff is going to be
16 entitled to 15 minutes for rebuttal. And we do end at
17 4:30. For security reasons and so forth, we try to end
18 at 4:30, meaning our deputies like us out of the
19 building.

20 MR. SMITH: I thought he said five
21 minutes left. I'm just, you know --

22 THE COURT: I'm just trying to remind you
23 because you don't do this every day for a living.

24 MR. SMITH: I'm watching.

25

1 BY MR. SMITH:

2 Q. Ms. Humphrey, let's go to Interrogatory
3 No. 18. Do you got it?

4 A. Yes.

5 MR. SMITH: For purposes of impeachment,
6 Your Honor.

7 THE COURT: Okay.

8 BY MR. SMITH:

9 Q. Ms. Humphrey, Interrogatory No. 18 said, state
10 with specificity the basis for your denial of the
11 allegations in Paragraph 38 of Defendants' counterclaim,
12 and you answered what?

13 MR. SAATHOFF: Your Honor -- nevermind.
14 I'll with draw my objection.

15 THE COURT: Go ahead and answer, ma'am.

16 THE WITNESS: You want me to read the
17 answer?

18 BY MR. SMITH:

19 Q. I do, ma'am.

20 A. This allegation was denied because it was not
21 true. All apartments were not restored by Defendant.
22 At all relevant times, Don Humphrey did the work with Ed
23 Smith as his helper.

24 Q. Again, Ms. Humphrey, these emails show Don was
25 not there. He was in the hospital.

1 THE WITNESS: That's the relevance of
2 them. Okay?

3 THE COURT: All right. Okay.

4 BY MR. SMITH:

5 Q. Let me ask you a quick question. When you and
6 Don hired Dora and me, did you hire me as a maintenance
7 worker, or as a construction worker?

8 A. As a helper to Don, whatever he needed done.

9 Q. Did you hire me as a maintenance worker to
10 help with maintenance around the apartment building or
11 construction worker to build --

12 MR. SAATHOFF: Objection: Relevance.

13 THE COURT: Sustained.

14 BY MR. SMITH:

15 Q. Was I working maintenance for you?

16 MR. SAATHOFF: Asked and answered,
17 relevance.

18 THE COURT: Sustained.

19 MR. SMITH: For purposes of impeachment,
20 Your Honor.

21 THE COURT: Well, go ahead. You can ask
22 the next question if you'd like. Yes.

23 BY MR. SMITH:

24 Q. No. 19, Ms. Humphrey. John Chatelain asked
25 you to state with specificity the basis for your denial

1 for allegations in Paragraph 39 of the Defendants'
2 counterclaim. And your answer was what?

3 MR. SAATHOFF: Again, I would object
4 based on relevance.

5 THE COURT: I haven't heard her answer
6 yet, so overruled.

7 BY MR. SMITH:

8 Q. You answered what, Ms. Humphrey?

9 A. This allegation is denied because the
10 Defendant did not construct anything. Don Humphrey did
11 the work with Ed Smith serving as his assistant with
12 common labor for \$15 per hour.

13 MR. SMITH: Again, Your Honor, that was
14 for purposes of impeachment. I have emails proving that
15 Don was not capable or able to build these walls.

16 (Discussion had off the record.)

17 BY MR. SMITH:

18 Q. Ms. Humphrey, I'm handing you what's been
19 marked as 169. Do you recognize that picture?

20 MR. SAATHOFF: Sir, do you have copies
21 for me?

22 MR. SMITH: No, I do not. You have
23 copies in the records.

24 MR. SAATHOFF: Was this listed on your
25 exhibit list?

1 MR. SMITH: I'm not talking to you, Matt.
2 Goodbye. Everything you filed so far is bull.

3 THE WITNESS: Yes, that's the wall that
4 was built in my backyard where I live.

5 BY MR. SMITH:

6 Q. Who built this wall?

7 A. You and Don and my grandson Jordan.

8 Q. Ms. Humphrey, the emails show evidence that
9 Don was in the hospital. I built those walls alone.

10 A. No. No, you did not. This was before Don got
11 sick because my grandson was out there, Jordan.

12 Q. Ms. Humphrey, I have an email here where
13 you're telling me when I get through with the front I
14 can go ahead to the wall. Don was in surgery. Okay?

15 A. No.

16 MR. SMITH: Your Honor, I move to file
17 this as evidence.

18 THE COURT: 169?

19 MR. SMITH: Yes, sir.

20 THE COURT: Any objection?

21 MR. SAATHOFF: Relevance, foundation,
22 outside the pleadings. It's not dated. We don't know
23 who took the picture, when the picture was taken, or any
24 other foundational evidence to support it.

25 THE COURT: Overruled. Exhibit 169 will

1 be received.

2 (Exhibit No. 169 is hereby made a
3 part of this bill of exceptions, and
4 can be found in a separate volume of
5 exhibits.)

6 MR. SAATHOFF: Your Honor, also add that
7 it wasn't disclosed on their exhibit list.

8 THE COURT: I understand that but
9 Mr. Smith is representing himself.

10 And you know what, Mr. Smith, I've got to
11 think Ms. Prosolow -- I always have a hard time with
12 your last name, ma'am. You're a party to this matter
13 too and you have a right to put on your case. Are you
14 intending to putting on some evidence on your own in
15 addition to what Mr. Smith is doing here? When he's
16 done, when he rests, then we're going to move to you.
17 And I'm going to ask you if you have any witnesses, and
18 we've got to get all that on too. Are you going to have
19 anything different than what Mr. Smith is doing here?

20 MS. PROSOLOW: No, I'm not.

21 THE COURT: Okay. So you know that for
22 your own schedule, Mr. Smith.

23 MR. SMITH: Okay.

24 BY MR. SMITH:

25 Q. Ms. Humphrey, we've looked at the wall at your
property, correct?

1 A. Yes.

2 Q. And you say Mr. Humphrey and me worked that
3 together. I say the email evidence proves different.

4 MR. SAATHOFF: Asked and answered.

5 BY MR. SMITH:

6 Q. I'm handing you a document marked as
7 Exhibit 167. Do you recognize that property?

8 THE COURT: 167, sir?

9 MR. SMITH: Yes, sir.

10 THE WITNESS: Yeah, this is a different
11 location. This is at my 12-plex apartment complex.

12 BY MR. SMITH:

13 Q. On Webster Street?

14 A. On Webster Street.

15 Q. Now, that's one of the properties you rent.
16 That's an apartment building, correct?

17 A. Yes.

18 Q. And the email where you said when I'm done
19 with the front I can go to the back -- when Don was
20 still in the hospital, he was talking about this
21 property because he mentioned that in the email.

22 MR. SAATHOFF: I'm going to object. The
23 emails aren't in evidence.

24 THE COURT: He can ask her about them,
25 but go ahead, sir. Overruled.

1 BY MR. SMITH:

2 Q. That's your apartment building, and that's a
3 wall being built behind that apartment building,
4 correct?

5 A. This was done after my house was done because
6 Don ran the skid loader at my house, our house, and then
7 this one came later. So he couldn't do as much with
8 this as you did.

9 Q. Ms. Humphrey, take a real think back. Okay.
10 It was because I did this one to his satisfaction that
11 he allowed me to do the wall at your house. This was
12 done first; am I correct?

13 A. I don't see what this has to do with why we're
14 here.

15 Q. Because you said that Don was present and
16 doing the work with me as his helper?

17 A. Yes.

18 Q. You said that he was there supervising me all
19 the time. I'm saying that 55 emails sitting there say
20 that Don was nowhere on site.

21 A. I didn't say he was there all the time on the
22 site. He might have supervised you from the bedside or
23 the phone.

24 Q. The bedside?

25 A. Or from home.

1 Q. Oh, God, Ms. Humphrey. This is Webster
2 Street. Your home is on 3922 Terrace Drive.

3 A. That's not my house number. That's Webster
4 Street.

5 Q. I know this. That's what I'm saying. You
6 just said he did this -- he supervised me from the bed,
7 even your bedroom is --

8 A. No, being --

9 Q. -- in the front of your house. The --

10 A. -- a supervisor does not mean you have to
11 be --

12 Q. -- wall is in the back.

13 A. -- on the property to supervise.

14 THE COURT REPORTER: One at a time,
15 please.

16 MR. SMITH: I apologize. I apologize.

17 THE COURT: Let's move on, sir. You're
18 kind of getting --

19 MR. SMITH: Anyway, Your Honor, I'd like
20 to motion this into evidence.

21 THE COURT: 167, any objection?

22 MR. SAATHOFF: Foundation, relevance, not
23 disclosed evidence on the witness list or exhibit list.

24 THE COURT: Exhibit 167 will be received.

25 MR. SMITH: Thank you. Victoria, I'm

1 sorry.

2 (Exhibit No. 167 is hereby made a
3 part of this bill of exceptions, and
4 can be found in a separate volume of
5 exhibits.)

6 THE COURT: You might want to keep going
7 forward towards the key points of this case, sir,
8 because you indicated also you might call Ms. Prosolow
9 again?

10 MR. SMITH: Yes. And Matt Saathoff said
11 the same thing.

12 THE COURT: And you've only got so much
13 time, so key up on the important stuff.

14 MR. SMITH: We're here to determine
15 ownership of the property, of the house.

16 THE COURT: Don't talk to me until you
17 get to closing argument, sir, okay? Meaning, in that
18 manner, meaning that type of argument. Just when you're
19 done with this witness, let me know. And Mr. Saathoff
20 gets some time to cross-examine her, if he has any
21 desire to do so.

22 BY MR. SMITH:

23 Q. Ms. Humphrey, you said that Don buying -- or
24 giving me the money to purchase the truck was on
25 condition that we help you; am I correct?

 A. That was the intent that you would help me.

1 Q. But still you had testified that it was on the
2 condition that we continued to help you, that's why --
3 you said that's why he gave us the loan for the truck --
4 I mean, the money for the truck, not the loan; am I
5 correct?

6 | A. I thought I just answered that. Yes.

7 Q. Thank you. So in order for us to continue to
8 help you, we would have to either quit -- in order for
9 us to not help you, we would either have to quit and
10 default on what he gave me the money for or you had to
11 fire us, so which did happen? Did we quit, or did you
12 fire us?

13 MR. SAATHOFF: Objection: Relevance,
14 outside, and asked and answered.

15 THE COURT: Overruled.

16 MR. SMITH: Thank you, Your Honor.

17 | BY MR. SMITH:

18 Q. Did we quit, or did you fire us?

19 | A. I let you all go because your weren't --

20 Q. So you fired us?

21	A. Yes.
----	---------

22 MR. SAATHOFF: She wasn't done answering
23 the question.

24 MR. SMITH: She stopped talking, Matt.
25 Would you stop interrupting me, please?

1 THE COURT: Don't talk between each
2 other. Next question, sir. And I'm going to give you
3 just a few more minutes with this witness because you're
4 about running out of time. You've got time. I'm not
5 cutting you short. I just want you to focus on stuff
6 that's more, I think, legally important than what you're
7 focusing on. But it's your trial, so you do what you
8 want. That's just a little suggestion I'm giving you.

9 MR. SMITH: Well, I appreciate your
10 suggestion.

11 BY MR. SMITH:

12 Q. My main question -- one of my main questions
13 to you, Ms. Humphrey, is do you have any evidence
14 whatsoever that would tell the Court that Donald
15 Humphrey did not forgive the loan?

16 MR. SAATHOFF: Objection: Relevance,
17 calls for ultimate legal conclusion.

18 THE COURT: Overruled.

19 BY MR. SMITH:

20 Q. Do you have any evidence, Barbara, or
21 Ms. Humphrey, that says Don did not forgive the loan?

22 A. You mean in writing?

23 Q. In writing.

24 A. There was nothing in writing.

25 Q. Okay.

1 A. It was a big loan. It was \$16,000 that you
2 owe us yet. So there was no forgiveness of the loan.

3 Q. What was the original amount?

4 A. Of the loan?

5 Q. Yes. For the house, yes.

6 A. \$25,000-plus something.

7 Q. Okay. And according to your documents, or
8 Elizabeth's documents, you said I had only paid \$8,000?

9 A. \$8,000-plus something.

10 Q. Can you explain to the Court why this man --
11 I'm not asking you to think like he thinks, okay,
12 because he's dead and speculation and, you know,
13 whatever.

14 Can you explain to the Court why this man
15 would give me \$25,000? Okay. To be exact, \$25,219.92.
16 Why would he give me that amount of money? According to
17 your calculation, you say I only paid \$8,000 and left
18 \$16,000, correct?

19 A. Approximately.

20 Q. Okay. Why would he give me another \$10,000 on
21 top of that which would put that money back up over
22 \$26,000? That's over \$900 more than the original loan.
23 Why would he do that, Ms. Humphrey?

24 A. He didn't do that.

25 Q. Didn't you write the check, Ms. Humphrey?

1 A. That wasn't for the house. That was for the
2 truck.

3 Q. It doesn't matter.

4 A. You're talking the truck on one hand and then
5 the house on the other hand. The house was a \$25,000
6 loan.

7 Q. Did the \$10,000 come out of both of you guys'
8 pockets?

9 A. I'm sorry?

10 Q. The \$10,000, the check you wrote?

11 A. Yes.

12 Q. It doesn't matter whether it was for the house
13 or for the truck.

14 A. Yes, it did.

15 MR. SAATHOFF: Your Honor, I'm going to
16 object based on relevance. The two have nothing to do
17 with each other.

18 THE COURT: Overruled. Keep going, sir.

19 MR. SMITH: Thank you, Your Honor.

20 BY MR. SMITH:

21 Q. Why would this man give me \$25,000? It
22 doesn't matter whether it was for the house or a semi
23 truck. Why would he give me \$25,000, Ms. Humphrey, and
24 then, what, three weeks before his death he come out of
25 pocket and cough up another \$10,000, which would put me

1 back up over the \$25,000 he originally loaned me by 900
2 and some dollars. Why would he do that, Ms. Humphrey?
3 I won't ask you why would he do that because I'm really
4 asking you to speak for him. But I'm asking you, does
5 that make any sense?

6 MR. SAATHOFF: Objection: Relevance,
7 foundation, speculation.

8 THE COURT: Overruled.

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

10 BY MR. SMITH:

11 Q. Let me help you answer it. Because the loan
12 was forgiven.

13 MR. SAATHOFF: Objection: Move to
14 strike. He's not testifying.

15 THE COURT: Overruled.

16 MR. SAATHOFF: Asked and answered.

17 THE COURT: Overruled.

18 MR. SMITH: Thank you, Your Honor.

19 BY MR. SMITH:

20 Q. Why would he do that, Ms. Humphrey? I mean,
21 if I loaned you \$25,000 and I hadn't paid it back in
22 full, you think I could come to you -- say I loaned it
23 to you to go to the grocery store -- a lot of groceries,
24 but let's say I did that. Okay? And you say -- let's
25 say that you paid it down and still owed me \$16,000. Do

1 you think I could come to you and get \$10,000 to go over
2 here and buy a pair of shoes? Could I? "Yes" or "no"?

3 MR. SAATHOFF: Objection: Compound
4 question, foundation, relevance.

5 THE COURT: Overruled.

6 MR. SMITH: Thank you.

7 THE COURT: Answer the question, if you
8 know, ma'am. Go ahead and answer the best you can, if
9 you can.

10 BY MR. SMITH:

11 Q. Let me ask it again, Ms. Humphrey, to make it
12 a little bit simpler for you. Okay? If I gave you
13 \$25,000, okay, yeah -- if I gave you \$25,000 and you
14 paid \$10,000 back, and I still owed you \$15,000, okay?
15 Let's just say I bought some corn with it, could I come
16 back to you before that loan was paid off? Could I come
17 back to you and get another \$10,000 from you and your
18 wife and go over there and buy a bush of tomatoes with
19 it? Would you loan me that money, Ms. Humphrey?

20 MR. SAATHOFF: Objection: Relevance,
21 foundation, speculation.

22 THE COURT: Overruled.

23 BY MR. SMITH:

24 Q. Would you loan me that extra \$10,000, Ms.
25 Humphrey?

1 THE COURT: Answer the question if you
2 can, ma'am.

3 THE WITNESS: I can't answer his
4 question.

5 BY MR. SMITH:

6 Q. It's a simple "yes" or "no".

7 A. No, it's not a simple yes or no.

8 Q. Yes, it is. Either you have forgiven me of
9 the other money and then trust me with this, or you are
10 going --

11 A. Don trusted you to pay the loan back for the
12 \$25,000. And that was going along just fine for three
13 years until he died, and then you stopped paying on the
14 loan. He wanted you to have the truck so that you could
15 help me --

16 THE COURT: You've got to let her finish.
17 Sir, you've got to let her finish.

18 THE WITNESS: I'm trying to answer your
19 question.

20 MR. SMITH: Your Honor, she's burning
21 time.

22 THE COURT: She has a right to answer
23 your question. Let her finish answering your question.

24 MR. SMITH: But she's not answering the
25 question.

1 THE COURT: The Court determined she is,
2 and I get to make that determination. So you've got to
3 be quiet for a minute.

4 MR. SMITH: Lips zipped.

5 THE COURT: Go ahead, ma'am. Finish your
6 answer, if you'd like.

7 THE WITNESS: I'm done.

8 BY MR. SMITH:

9 Q. So I'll ask it again. If I owed you \$25,000
10 for buying a bushel of corn over here and I hadn't paid
11 all that money back, and I approach you and said I need
12 \$10,000 to go buy me a bush of tomatoes, would you give
13 it to me?

14 MR. SAATHOFF: Asked and answered,
15 speculation, foundation.

16 THE COURT: I'll give her one more time
17 to answer if she can answer.

18 THE WITNESS: I can't answer that
19 question. It's too ridiculous.

20 MR. SMITH: And it's the same thing with
21 Don, Ms. Humphrey.

22 THE COURT: Sir, you've got to ask
23 questions. You can't lecture or make statements.
24 You've got to ask questions.

25

1 BY MR. SMITH:

2 Q. So did you decide to give me the \$10,000, or
3 was it Don's suggestion that you write me a check for
4 \$10,000?

5 MR. SAATHOFF: Asked and answered,
6 cumulative.

7 THE COURT: Sustained. I believe the
8 testimony already was, sir, that her husband asked her
9 to do it, and she's stated that.

10 MR. SMITH: You're correct, Your Honor.

11 BY MR. SMITH:

12 Q. And we've already made the determination that
13 the \$400 you claim in the complaint for petition was not
14 accurate. We've already determined -- so when Don
15 forgave the remainder of the loan, did you say he didn't
16 put it in writing? And I'm asking you similar. Do you
17 have any written documents that say he didn't forgive
18 it?

19 MR. SAATHOFF: Asked and answered.

20 THE COURT: Sustained. I believe she
21 said she does not, sir.

22 BY MR. SMITH:

23 Q. Ms. Humphrey, you've already testified over
24 and over and over that Don couldn't write; am I correct?

25 A. He couldn't write, that's correct.

1 Q. He couldn't do nothing for himself?

2 A. Very little.

3 Q. And if he needed to go to the bathroom, he had
4 a pouch that connected to his stomach; am I correct?

5 A. Yes.

6 Q. And if he needed to go to the bathroom, you
7 had to help him go; am I correct?

8 A. Yes.

9 Q. That's providing he could even make it because
10 he had the pouch on him. So everything that he needed,
11 he had to depend on you to do it; am I correct?

12 A. Well, yeah, me and others.

13 Q. So you said earlier, testified earlier, that
14 whenever -- well, that you guys had been together so
15 long that you could pretty much read each other's mind;
16 am I correct?

17 A. We already established that, didn't we?

18 MR. SAATHOFF: Asked and answered.

19 THE COURT: Sustained.

20 BY MR. SMITH:

21 Q. Okay. So when you jumped up -- during the
22 gathering when the loan was forgiven, when you jumped up
23 and ran out of the house -- "yes" or "no" -- was that
24 for the purpose of knowing that he was fixing to ask you
25 to put it in writing?

1 MR. SAATHOFF: Asked and answered.

2 THE COURT: Overruled.

3 THE WITNESS: There was no forgiveness of
4 the loan, so there was no reason to ask anything in
5 writing. There was no forgiveness of the loan.

6 BY MR. SMITH:

7 Q. Why did you run out of the house?

8 MR. SAATHOFF: Asked and answered.

9 THE COURT: Sustained.

10 MR. SMITH: And we've covered Joe's
11 recording. Clearly that was fraud or false. I'm
12 talking to myself, Your Honor.

13 THE COURT: Pardon me, sir?

14 MR. SMITH: I was just talking to myself,
15 thinking outloud.

16 THE COURT: Okay. I didn't quite hear
17 you, so I wanted to make sure I did.

18 BY MR. SMITH:

19 Q. Under Interrogatory No. 20, Ms. Humphrey, I'm
20 not sure if we covered that or not. John had asked you
21 to state with specificity the basis for your denial of
22 the allegations in Paragraph 40 of the Defendants'
23 counterclaim. And, of course, you answered it.

24 MR. SMITH: Your Honor, this is for
25 purposes of impeachment.

1 THE COURT: All righty.

2 MR. SMITH: I'm running late with it.

3 THE COURT: Ask the question, and we'll
4 go from there.

5 BY MR. SMITH:

6 Q. So I read it again, Interrogatory No. 20,
7 state with specificity the basis for your denial of the
8 allegations in Paragraph 40 of Defendants' counterclaim.
9 What did you answer?

10 A. You want me to read it outloud?

11 Q. Yes, please.

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

16 Q. Okay. Even though you know I was the one
17 doing the work when Don was in the hospital, correct?

18 MR. SAATHOFF: Objection: Asked and
19 answered, relevance.

20 THE COURT: Sustained.

21 MR. SMITH: For purposes of impeachment,
22 Your Honor.

23 BY MR. SMITH:

24 Q. Ms. Humphrey, under Interrogatory No. 22, John
25 Chatelain asked you to state with specificity the basis

1 for your denial of allegations in Paragraph 42 of the
2 Defendants' counterclaim. What did you answer?
3 Outloud, please.

4 MR. SAATHOFF: Again, relevance and
5 outside the pleadings.

6 THE COURT: Let her answer.
7 Go ahead and answer, ma'am.

8 THE WITNESS: Barbara and Don paid the
9 amount that Ed had asked for, \$15 only as Don's helper.
10 \$15 was the value of Ed's work per the paries'
11 agreement.

12 THE COURT: All right. Mr. Smith, we're
13 going to take our afternoon break. When we get back, it
14 seems logical to me you should be able to be done with
15 this person within the next 10 minutes.

16 MR. SMITH: Your Honor, I'm not being
17 argumentative or anything like that, and I hope you
18 don't take it that way, but I'm going to go back in
19 history just real quick.

20 THE COURT: We're not going to go back
21 over what you've already asked.

22 MR. SMITH: No, no, no. It's nothing
23 like that. I want to point out something with Matthew
24 Saathoff. He loves burning the clock.

25 THE COURT: He hasn't done anything.

1 You've had the clock all day, sir, so let's don't talk
2 about that. Are you able to finish up with her in the
3 next ten minutes or so? Not right now, meaning after we
4 take a break.

5 MR. SMITH: No, I won't be able to.

6 THE COURT: Well, I'm going to give you a
7 half hour with her. When we get back at 3:00, I'm going
8 to give you until 3:30.

9 MR. SMITH: I thought trials last, Your
10 Honor, until all the evidence was entered.

11 THE COURT: Well, it's time to finish up
12 the evidence, so you're going to have until 3:30. And
13 then Mr. Saathoff is going to be able to cross-examine
14 her, and then you get to redirect her. She comes back
15 to you for more questions, and then he gets to recross
16 her. And we're finishing today. And by the time we get
17 back, we'll have an hour and a half. And then also, he
18 has 10 minutes of rebuttal or so. So we're going to
19 have to do all that in an hour and a half. So you're
20 going to get until about 4:15 to finish her direct and
21 her redirect, and then he gets to cross in between there
22 and recross -- unless he doesn't cross, that's up to
23 him. But that's where we're at, sir. Okay? So keep
24 that in mind.

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

1 okay, but I'll follow your orders.

2 THE COURT: I understand that answer.

3 MR. SMITH: If I say okay, I might be
4 giving up an appeal or something. You never know.

5 THE COURT: I understand your
6 comments, sir, very much.

7 (2:48 p.m. - Recess taken.)

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1 (At 3:01 p.m., with parties present
2 as before, the following proceedings were had,
3 to-wit:)

4 THE COURT: We're back on the record
5 after an afternoon break.

6 Ma'am, I'm going to remind you you're still
7 under oath.

8 THE WITNESS: I got you. Thank you.

9 THE COURT: Now, you go, Mr. Smith.

10 BY MR. SMITH:

11 Q. So Ms. Humphrey, do you believe that you
12 actually own half of my property?

13 A. Actually more than half of your property, yes.

14 Q. Can I ask you why you say more than half?

15 A. Because Don put in 71 percent of the money to
16 buy the house, and you put in, like, 29 percent of the
17 money. So technically speaking, we owned more than
18 half.

19 Q. Okay. So you're saying Don put in \$25,000 and
20 I put in \$10,000, correct?

21 A. Correct.

22 Q. But you're not calculating what you claim I
23 paid, the \$8,000, correct?

24 A. Yeah, I've got that recorded that you paid for
25 three years -- each month for three years, sure.

1 Q. But you claim that I only paid \$8,000 before
2 the loan was forgiven. You claim that I only paid
3 \$8,000, correct?

4 A. \$8,000 plus something or other.

5 Q. Okay. Well -- and you claim that I still owed
6 \$16,000, correct?

7 A. Approximately, yes.

8 Q. In my way of calculation, of calculating, if I
9 put in \$10,000 and go along with what you claim I paid
10 which is \$8,000, that's \$18,000 compared to what you say
11 I owe you, \$16,000. So you do not own the bigger end of
12 it, okay? In fact, you own none of it.

13 MR. SAATHOFF: Your Honor, move to strike
14 as no question being asked.

15 THE COURT: Overruled. He's asking her a
16 question of what she understands.

17 THE WITNESS: My name is on the deed, on
18 the title.

19 BY MR. SMITH:

20 Q. Because you fraudulently put it on there.
21 I'll ask you again -- and I'm not trying to be
22 argumentative or anything like that. You said that Don
23 had a will, a signed will. Okay? You already testified
24 to that. And you also testified -- well, the document
25 speaks for itself like Matthew Saathoff is so often

1 saying. This document speaks for itself that you was
2 entitled to the property, half my property per the will.
3 You also sat there and testified -- well, I'll just put
4 it this way, that is what this document says, right?

5 MR. SAATHOFF: Asked and answered,
6 cumulative.

7 THE COURT: Overruled.

8 BY MR. SMITH:

9 Q. That is what this document said -- correct? --
10 that you was entitled to half of my property per the
11 will?

12 MR. SAATHOFF: For the record, I'll note
13 my objection asked and answered and cumulative.

14 THE COURT: Overruled.

15 BY MR. SMITH:

16 Q. Am I correct, Ms. Humphrey?

17 A. I look at it half of the house is mine because
18 of the --

19 Q. We're going by evidence, ma'am --

20 A. -- wife of the deceased gets the property.

21 Q. What did we do with the affidavit?

22 A. My will has been updated.

23 Q. Your will but not Don's will.

24 What does Exhibit 165 look like? Look at Line
25 5 again. And I know you've answered it before. I want

1 you to make sure you understand what you're telling me
2 and telling this Court. You told me --

3 MR. SAATHOFF: Your Honor, I'm going to
4 object, asked and answered, cumulative, further it's
5 outside the pleadings in their answer. They don't raise
6 any affirmative defenses regarding this alleged defect.

7 THE COURT: Overruled.

8 MR. SMITH: Thank you, Your Honor.

9 BY MR. SMITH:

10 Q. You do not have to read the entire page,
11 Ms. Humphrey.

12 A. Well, there's only two answers to No. 5.
13 Either I am the wife of the deceased --

14 Q. And which one did you chose?

15 A. And the other is I am entitled to the real
16 property per the will of the deceased and I have made an
17 investigation.

18 Q. Well, that's the one we're using, the one you
19 marked on there that you was entitled to it, my property
20 --

21 A. This was the lawyer.

22 Q. -- per the will.

23 A. Yeah, the lawyer did this.

24 Q. Am I correct? That's what you're looking at
25 on that?

1 A. That's what I'm looking at.

2 Q. Okay. You also testified -- and I know you've
3 answered it before, but I'm clarifying this. You
4 testified that Don had a will, a signed will; am I
5 correct?

6 MR. SAATHOFF: Asked and answered,
7 cumulative.

8 THE COURT: Sustained.

9 BY MR. SMITH:

10 Q. You testified that my property was not in
11 Don's will; am I correct?

12 MR. SAATHOFF: Asked and answered,
13 cumulative.

14 THE COURT: Sustained.

15 BY MR. SMITH:

16 Q. Ms. Humphrey, I'm going to hand you back
17 what's marked as Exhibit 165. You identified those as
18 the properties that you and Mr. Humphrey owned together;
19 is that right?

20 A. Yes.

21 Q. Was any of those properties in his will?

22 MR. SAATHOFF: Objection: Relevance.

23 THE COURT: Overruled.

24 MR. SMITH: Thank you, Your Honor.

25 BY MR. SMITH:

1 Q. Do you need me to ask the question again?

2 A. They were in a will and trust, actually.

3 Q. But they were in his will?

4 A. Yes.

5 Q. Does it seem kind of fishy to you that my
6 property wasn't in his will?

7 A. No.

8 MR. SAATHOFF: Objection: Relevance,
9 asked and answered, cumulative.

10 THE COURT: Overruled.

11 MR. SMITH: Thank you, Your Honor.

12 BY MR. SMITH:

13 Q. Does it seem fishy to you, Ms. Humphrey, that
14 of all the properties you guys have, my property was the
15 only property that was not in the will?

16 A. No. There's another property in Arkansas
17 that's not in the will.

18 Q. Did I ask you that?

19 A. Well, I'm explaining to you that your house
20 and this one in Arkansas was not. They're not in the
21 will.

22 Q. Is the picture of the Arkansas house on there?

23 A. No, I don't think so.

24 Q. What did I show you here?

25 A. These are the Omaha properties. But I'm

1 telling you the Arkansas house is not in the will.

2 Q. Do we will in Arkansas, Ms. Humphrey? "Yes"
3 or "no"?

4 A. No.

5 Q. Do we live in Omaha, Nebraska. Ms. Humphrey?
6 "Yes" or "no"?

7 A. Yes, we do. But you asked about the only
8 property, so it's not.

9 Q. Excuse me. Are those buildings, those
10 properties, are they in Arkansas, Ms. Humphrey?

11 A. No.

12 Q. Are they in North Carolina where your other
13 property was? "Yes" or "no"?

14 MR. SAATHOFF: Objection: Relevance.

15 THE COURT: Overruled.

16 BY MR. SMITH:

17 Q. Are they in North Carolina, Ms. Humphrey?

18 A. No.

19 Q. They're here in Omaha, Nebraska, correct?

20 A. Yes.

21 Q. And those properties are in Don Humphrey's
22 will; am I correct?

23 MR. SAATHOFF: Objection: Asked and
24 answered, cumulative.

25 THE COURT: Overruled.

1 THE WITNESS: Yes, they're in the will.

2 BY MR. SMITH:

3 Q. But my property was not in the will, was it?

4 MR. SAATHOFF: Objection: Asked and
5 answered.

6 THE COURT: Sustained.

7 BY MR. SMITH:

8 Q. But you put in here that she was entitled to
9 it per the will. I don't know how that works. And as
10 you're saying 71 percent is what he put down and so much
11 for me put down, tenants in common -- even though we
12 wasn't -- but tenants in common each partner owns equal
13 shares; am I correct?

14 MR. SAATHOFF: Objection: Legal
15 conclusion, misstates the law.

16 THE COURT: Overruled. If you
17 understand, ma'am.

18 THE WITNESS: I don't understand what
19 you're --

20 BY MR. SMITH:

21 Q. If he put in the \$99, Ms. Humphrey, and I put
22 in \$1 and we consider ourselves equal partners, okay, if
23 it's tenants in common, than we both own a 50 percent
24 share of that.

25 MR. SAATHOFF: Objection: Outside --

1 well, legal conclusion, foundation, relevancy.

2 THE COURT: Ma'am, if you have --
3 overruled.

4 If you have any idea how that works, but if
5 you don't, you don't.

6 THE WITNESS: I don't.

7 BY MR. SMITH:

8 Q. You and Don had a lot of properties, which
9 I've shown that; am I correct?

10 A. Yes.

11 Q. This was the first property I attempted to
12 buy; am I correct?

13 A. Yes.

14 Q. Okay. So while you all -- while you and Don
15 knew the laws of real estate properties and how to go
16 about purchasing these release properties, I did not,
17 did I?

18 MR. SAATHOFF: Objection: Relevancy,
19 foundation.

20 THE COURT: Overruled.

21 THE WITNESS: I don't know what your
22 education level was about it.

23 BY MR. SMITH:

24 Q. You asked me one time, and I voluntarily gave
25 it to you, what grade I completed in school. And I said

1 seventh -- well, I said I graduated the seventh, went to
2 the 8th, failed, went to the 9th, failed, went to the
3 10th, failed. Did two weeks in the 11th and dropped
4 out. Do you remember that conversation? You've asked
5 me more than once. Am I correct?

6 A. Yes.

7 Q. So you knew along with Don and the rest of
8 your family what my education level was?

9 A. That had nothing to do with it.

10 MR. SAATHOFF: Objection: Relevance.

11 MR. SMITH: You can't -- just answer me
12 Ms. Humphrey -- depending on what the judge says.

13 THE COURT: Overruled.

14 THE WITNESS: Yes, I knew what your
15 education level was.

16 BY MR. SMITH:

17 Q. And you and Don took advantage of that; am I
18 correct?

19 MR. SAATHOFF: Objection: Argumentative.

20 THE COURT: Sustained.

21 BY MR. SMITH:

22 Q. Did you take advantage of that, my education
23 level?

24 MR. SAATHOFF: Objection: Relevance,
25 foundation.

1 THE COURT: Overruled.

2 If you can answer that, ma'am.

3 THE WITNESS: No, I did not take
4 advantage of your education level.

5 BY MR. SMITH:

6 Q. And you don't believe that's what you're doing
7 now?

8 A. No.

9 Q. Let me ask you this. Don gave me the job
10 working for you all starting off with \$10 an hour
11 because I was sick and I was receiving SSI; am I
12 correct?

13 A. Yes.

14 Q. At that time when he hired me, my SSI was on,
15 I think, \$816 a month. And I was paying you all \$440 a
16 month in rent; am I correct?

17 MR. SAATHOFF: Hold on. Objection to
18 foundation as to time frame of this.

19 THE COURT: Overruled.

20 BY MR. SMITH:

21 Q. Am I correct, Ms. Humphrey?

22 A. You were a tenant of ours. I don't recall --

23 Q. Paying over \$400 a month.

24 A. Okay.

25 Q. So he knew that the amount of money that I had

1 coming in wasn't enough for me to hold on to a
2 lifestyle, any type of a lifestyle. And so he gave me
3 that job because I asked for the job; am I correct?

4 MR. SAATHOFF: Objection: Foundation as
5 to what she knew regarding --

6 THE COURT: Overruled.

7 THE WITNESS: You wanted to work for him,
8 right.

9 BY MR. SMITH:

10 Q. And he did hire me?

11 A. Yeah, he hired you.

12 Q. And after that we became friends like I
13 thought you was to us, and you and Dora became close.
14 Every birthday you guys was taking us out for fish
15 sandwiches, fish dinners, I would say, big dinners,
16 okay. And we appreciate that. Don't get me wrong. And
17 don't think this case, Ms. Humphrey, has me angry with
18 you because I'm not and neither is Dora, but the point
19 is -- we're not. Okay? The point is is that we took
20 you all to be friends. And when Don hired me, our
21 relationship grew closer; am I correct.

22 MR. SAATHOFF: Objection: Foundation.

23 THE COURT: Overruled.

24 BY MR. SMITH:

25 Q. Am I correct, Ms. Humphrey?

1 A. Yeah, you became friends.

2 Q. And it lasted for 10 years?

3 A. Uh-huh.

4 Q. Am I correct?

5 A. Uh-huh, yes.

6 Q. And only after Don died and you, Elizabeth,
7 and Joe started the conversation with me at your
8 property -- at your personal residence on Terrace
9 Drive -- only then was a decision made to file this
10 lawsuit; am I correct?

11 MR. SAATHOFF: Objection: Relevance,
12 foundation.

13 THE COURT: Overruled.

14 THE WITNESS: No, that's not accurate.
15 You didn't make the September payment for 2018. And you
16 said when we were outside working there that because Don
17 had died, you didn't owe me the money anymore for the
18 house. And that he had forgiven the loan --

19 BY MR. SMITH:

20 Q. Just answer --

21 THE COURT: Let her finish, sir.

22 THE WITNESS: There was never anything in
23 my mind or in his mind or in writing about that.

24 BY MR. SMITH:

25 Q. You just answer the question, Ms. Humphrey. I

1 said not until you all confronted me about the loan,
2 okay, about what you say we still owe, that I still owe,
3 that the decision's been made to file this lawsuit, and
4 you did answer in an amount of words. I'll put it that
5 way. Okay.

6 Again, I would revert back to the tape
7 recording that Mr. Saathoff here entered into evidence.
8 Okay. Even though Elizabeth was -- she was at the
9 gathering that me, you, and Joe, and her was at,
10 correct?

11 A. In the kitchen, yes.

12 Q. In the kitchen, correct. And she was louder
13 than any of us because she was trying get me to sign
14 that document, what she call a writ to own document; am
15 I correct?

16 MR. SAATHOFF: Objection: Best evidence.
17 The recording is the best evidence.

18 THE COURT: Overruled.

19 BY MR. SMITH:

20 Q. Am I correct, Ms. Humphrey? Oh, I'm sorry.

21 THE COURT: Overruled.

22 BY MR. SMITH:

23 Q. Am I correct, Ms. Humphrey?

24 A. She wasn't trying to get you to sign anything.
25 She was trying to see if you wanted to own it, rent to

1 own, and put it in different legal paperwork instead of
2 having me on there.

3 Q. Then that would be trying to be getting me to
4 sign it.

5 A. She was suggesting that route, but she wasn't
6 trying to get you to sign it. She didn't have any legal
7 documents or paperwork to have you sign it. She was
8 making a suggestion.

9 Q. She asked me to do the same thing when we were
10 at John Chatelain's; am I correct?

11 MR. SAATHOFF: Objection: Hearsay.

12 THE COURT: Overruled.

13 If you were there, ma'am, and you have
14 personal knowledge of that.

15 MR. SMITH: Thank you, Your Honor.

16 BY MR. SMITH:

17 Q. Whether we were --

18 A. She may have suggested that in front of John
19 Chatelain, the other lawyer.

20 Q. And she kept trying to intimidate me. She
21 kept saying, we don't want you to lose your home.
22 That's how she was trying to get me to sign it. We
23 don't want you to lose your home over and over and over.
24 Am I correct about that?

25 MR. SAATHOFF: Objection: Argumentative.

1 THE COURT: Overruled.

2 BY MR. SMITH:

3 Q. Would you answer the question, please?

4 A. Well, she didn't want you to lose the house.

5 Q. Well, she kept saying it to me; am I correct?

6 A. She might have. I don't know.

7 Q. Might have. Like I say, the reason I'm asking
8 these questions is because the recorder that Matthew
9 Saathoff turned into the Court as evidence didn't have
10 Elizabeth's voice on there anywhere?

11 A. Oh, she's on there. She just speaks so
12 softly. Unlike me, she speaks very softly.

13 Q. She wasn't speaking softly that day,
14 Ms. Humphrey. She was standing --

15 A. She was there.

16 Q. I know she was there.

17 A. She was there.

18 Q. Was Joe Hendrix saying anything much?

19 A. He was there too. As a matter of fact, they
20 were supposed to be here to testify. They were both
21 there.

22 Q. Well, I don't know if you know this or not --
23 and I'm rounding this up, Your Honor. I don't know if
24 you know this or not, but Joe Hendrix made a demand,
25 either we allow the tape in and leave him out, or bring