

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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3
4 ELIZABETH HOWARD)

5 Appellant,)
6)

7 vs.)

8 SHAUGHNAN L. HUGHES)
9)

10 Respondents,)
11 _____

12 **APPENDIX TO:**

13 **APPELLANT’S OPENING BRIEF**

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16 **Volume Two**

17 **AA 0101-AA 0298**
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Case No. 64463

Dist. Court Case No. 15DC-100876

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2 ORIGINAL
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4 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF

5 NEVADA

6 IN AND FOR CHURCHILL COUNTY
7

8 -oOo-

9 SEAN L. HUGHES , :

10 Plaintiff, :

11 vs. :

: Case No. 15-0876

12 ELIZABETH HOWARD, :

: Dept No.

13 Defendant. :
14 =====

15
16 TRANSCRIPT OF PROCEEDINGS

17 BENCH TRIAL

18 February 6, 2017

19 Fallon, Nevada
20

21
22
23 SUNSHINE LITIGATION SERVICES

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A P P E A R A N C E S

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1 ***.***

2 FALLON, NEVADA, FEBRUARY 6, 2017, 9:00 A.M.

3 ***.***

4
5 THE COURT: Please be seated.

6 Good morning. This is Case Number 15-0876,
7 Sean L Hughes, plaintiff versus Elizabeth C Howard,
8 defendant. Mr. Hughes is present represented by his
9 attorney, Justin Townsend. Ms. Howard is also present
10 represented by her attorney Charles Kozak.

11 This is the time set for trial in this
12 matter. Before commencing, does either party wish to
13 invoke the rule of exclusion?

14 MR. TOWNSEND: We would, your Honor.

15 THE COURT: Very well. Then what I'm going
16 to ask is any witnesses or potential witnesses, I'm
17 going to ask you to wait outside and to not discuss
18 your testimony with anybody who else in this case
19 until you're called to testify. Then I'm going to ask
20 counsel to make sure that each of their witnesses
21 comply with the rule of exclusion.

22 So if you would just make yourselves
23 comfortable outside, I'll start there. Do you have
24 any witnesses, I see one person who is standing in the

1 courtroom.

2 Does either party wish to make an opening
3 statement?

4 MR. TOWNSEND: I can make a brief opening
5 statement, your Honor.

6 THE COURT: Okay, go ahead. You can stand or
7 be seated counsel, either way.

8 MR. TOWNSEND: I'll be seated, your Honor.

9 Your Honor, as we mentioned in our Trial
10 Statement, this is a case of several rebuttable
11 presumptions that are created when one party executes
12 a deed in favor of another party.

13 Number one, there's a rebuttal presumption
14 under the statutes that the person executing such a
15 document intends the natural consequences of that
16 document. There's also case law to suggest that when
17 one party executes a deed in favor of herself and
18 others, there's a presumption that she intends to gift
19 one-half of the value of that property absent
20 obviously anything to rebut that presumption.

21 That's where we are I believe in this case.
22 Ms. Howard executed a deed in favor of herself and my
23 client, Mr. Hughes, as joint tenants. Therefore,
24 there is a presumption that the parties hold the

1 properly equally in joint tenancy. Unless she can
2 show something to indicate otherwise, the parties own
3 this property as joint tenants fifty-fifty ownership
4 thereof.

5 In addition to the presumption of equal
6 ownership, Mr. Hughes acted in such a way as to
7 believe that he owned the property. After acquiring
8 the property, after moving into the property and prior
9 to moving into the property, he performed substantial
10 labor on the property erecting various improvements on
11 the property that he would not have done had he
12 believed that he did not in fact own the property in
13 joint tenancy with Ms. Howard.

14 In Defendant's Trial Statement, defendant
15 raises again for the first time a new affirmative
16 defense, that's the defense of statute of frauds. I
17 just wanted to address that right from the get go.
18 Number one, that's an affirmative defense that's
19 raised again for the first time on the eve of trial
20 and we would object to any evidence whatsoever going
21 to that defense.

22 Number two, there is a deed and so the
23 statute of frauds cannot apply because there is a
24 written instrument evidencing the terms of the party's

1 understanding that Ms. Howard was transferring the
2 property in joint tenancy to herself and Mr. Hughes
3 and we intend to put on evidence of Mr. Hughes' labor
4 efforts on the property to show that he did and always
5 did understand that he was an owner of the property,
6 had every intention of living there with Ms. Howard
7 and his daughters as a family unit and when things
8 soured, as they obviously did, all he seeks today is
9 to obtain what is rightfully and legally his and
10 that's all I have, your Honor.

11 THE COURT: Mr. Kozak, would you like to make
12 an opening statement?

13 MR. KOZAK: Yes. Thank you, your Honor.

14 We think this presumption is going to be
15 rebutted because of the following: The overwhelming
16 evidence is going to be that Mrs. Howard actually paid
17 for the entire amount of the property, that her mother
18 put an addition on the property and paid for that
19 totally with her own funds, that there never really
20 was an intention that he be the joint owner, and we
21 feel that he should be compensated for what he did
22 which was some labor that he performed on the
23 property.

24 So we view this as really an accounting

1 exercise as to what, if any, reasonable compensation
2 he should receive for what the work that he did on the
3 property. You know, he was living there with his two
4 daughters. He was actually not contributing much to
5 all the utilities and to all the day-to-day expenses
6 of the property and therefore, he should be
7 compensated somewhat for what he did which was
8 basically to clean up the property, we admit that. He
9 also did some work on excavation to put in rail
10 fencing and he helped, and so did my client, to put
11 fencing around the entire property. Other than that
12 -- and I should also mention she put an improvement on
13 the property, a garage for which she paid entirely
14 another \$26,000.

15 So if you add up all the money that my client
16 put into the property, that her mother put into the
17 property, it overwhelmingly adds up to I would say
18 probably more than \$200,000 in this property. Mr.
19 Hughes didn't put hardly anything into it except for a
20 limited amount of labor. So that's basically what our
21 presentation will be, your Honor.

22 THE COURT: Thank you.

23 So let's address the issue of the statute of
24 frauds. Do you want to add anything before I rule on

1 that issue?

2 MR. TOWNSEND: On the statute of frauds?

3 THE COURT: Yes.

4 MR. TOWNSEND: No, other than there's a
5 written document.

6 THE COURT: And --

7 MR. KOZAK: And, your Honor, we're not
8 talking about the actual deed itself.

9 THE COURT: Sure.

10 MR. KOZAK: There was a deposition taken
11 where Mr. Hughes said that there was an agreement that
12 this property -- separate and apart from the deed that
13 there was an agreement that this would be a joint
14 venture and that's what we're referring to.

15 THE COURT: Do you agree that it's an
16 affirmative defense?

17 MR. KOZAK: Well, the statute of frauds is I
18 think a matter of law and I'm not so sure it is an
19 affirmative defense, it's an element of the claim that
20 he's making that he has to prove. So if he doesn't
21 prove it --

22 THE COURT: Here's what the court previously
23 ruled is that any evidence -- and I was going to
24 address this at some point and this is as good a time

1 as any. The court has previously ruled that no
2 affirmative defenses that weren't allowed will be
3 allowed or that weren't pled.

4 Now, whether it's a defense or affirmative
5 defense, the court will only consider evidence that
6 goes towards a defense and not an affirmative defense,
7 but I think instead of having an objection on every
8 case, I'll make -- I'm going to do a written ruling in
9 this case one way or another I'll identify whether the
10 court considered evidence as defense or an affirmative
11 defense.

12 Does that make sense what my ruling is going
13 to be on this issue?

14 MR. KOZAK: Yes, your Honor.

15 MR. TOWNSEND: Yes, your Honor.

16 THE COURT: Okay. Thank you.

17 So there wouldn't be a need to make -- there
18 will be a continuing objection I'm assuming from your
19 side I'm assuming on anything that you think relates
20 to an affirmative defense but if the court finds that
21 it relates to a defense, then I'll allow it in.

22 MR. TOWNSEND: Okay.

23 THE COURT: Mr. Townsend, you may call your
24 first witness.

1 MR. TOWNSEND: Okay. We call Sean Hughes,
2 the plaintiff.

3 THE COURT: Mr. Hughes, would you please take
4 the witness stand. If you would face the clerk and
5 raise your right arm to take the oath of a witness.

6 (The witness was sworn.)

7 THE COURT: Please be seated.

8 SHAUGHNAN HUGHES

9 EXAMINATION

10 BY MR. TOWNSEND:

11 Q Okay.

12 Sean, would you please state your name and
13 spell it for the record?

14 A Sean Hughes, do you want me to spell it?

15 Q Yes, please.

16 A S H A U G H N A N, last name H U G H E S.

17 Q Okay.

18 And I'm just going to call you Sean, that's
19 what you go by; right?

20 A Sure.

21 Q Where were you raised, Sean?

22 A In California.

23 Q Okay, do you have kids?

24 A Yes, I do.

1 Q Okay.
2 What are their names?
3 A Savannah and Fallon.
4 Q And do you currently have custody of them?
5 A Yes, I do.
6 Q Okay.
7 What are their ages?
8 A Savannah is 18 and Fallon is 16.
9 Q Okay.
10 Can you briefly rundown what your
11 occupational history is?
12 A I was a truck driver from the age of 18 to 33
13 and then I began doing coin buying for a company, took
14 a hiatus from truck driving for a number of years and
15 back into commercial here just a few years ago and I
16 currently drive for the Fallon Toyota Auto Mall.
17 Q Okay.
18 When did you meet the defendant, Ms. Howard?
19 A In either October or September of 2009.
20 Q And what was your occupation at that time?
21 A At that time, I was with a coin buying
22 company. I was just buying articles off of the
23 public.
24 Q And what was that name of that company?

1 A Gold Star.

2 Q And you would buy coins off of the public you
3 said?

4 A Yes, sir.

5 Q And then would you attend conventions, trade
6 shows, that sort of thing?

7 A Not trade shows but conventions that the --

8 Q What would you do at those shows?

9 A I would just be a representative to purchase
10 articles off of the public.

11 Q Okay.

12 How did you meet Ms. Howard?

13 A She was a client of mine.

14 Q She had some coins to sell?

15 A Yes, sir.

16 Q Okay.

17 Can you describe that just real briefly that
18 first meeting?

19 A I had met her -- she came in as a client, sat
20 down. She displayed her coins. We talked a little
21 bit. I bought her coins in entirety. She had some
22 other coins at home and she said she would follow up
23 the next day or so and bring back some more coins.

24 We had a little bit of small talk the first

1 time we met and hit it off pretty good the second time
2 around and that kind of concluded that entire
3 introduction.

4 Q Okay. So she did come back?

5 A Yes.

6 Q Did you continue seeing Ms. Howard after
7 that?

8 A Yes.

9 Q At what point did your relationship with her
10 become romantic?

11 A Pretty quick, maybe within the week.

12 Q Okay.

13 So you started dating basically from that
14 point on?

15 A Yes.

16 Q At some point, did you move in with Ms.
17 Howard?

18 A Yes, but way later than -- when I was on the
19 road, I would come and stay with her and her mother
20 for a couple of weeks at a time in 2009.

21 Q Where did you live at that time?

22 A At the time I met her?

23 Q Yes.

24 A Well, my address was in Nevada but I stayed

1 with her and her mom and then between that, I would be
2 on the road I stayed with my company.

3 Q And where did she live?

4 A Susin City, California.

5 Q Generally where is that?

6 A Near San Francisco.

7 Q When did you guys decide to move in together
8 full-time?

9 A I want to say it was the summer of 2010.

10 Q Okay.

11 So eight or nine months after you met her?

12 A Yes.

13 Q And when or where did you move in together?

14 A To Fallon, Melanie Drive here in Fallon.

15 Q So you decided, with her, to move to Fallon
16 at that point?

17 A Yes.

18 Q Was she from Fallon?

19 A No.

20 Q So that was a decision that you guys made to
21 move to Fallon together?

22 A Yes.

23 Q And you said the property you moved into was
24 where in Fallon? If you don't remember the exact

1 address, it's fine.

2 A Yeah. I don't remember the address. I want
3 to say it was 1550 Melanie Drive.

4 Q And that was a property that you leased?

5 A We leased.

6 Q You leased it together?

7 A Yes.

8 Q Both of your names on the lease?

9 A Yes.

10 Q How long did you live at that address?

11 A Just a little bit over a year I do believe.

12 Q And from there, where did you move?

13 A We went to 5110 Stillwater Road.

14 Q Okay.

15 Again, you leased that property?

16 A Yes.

17 Q Both names on the lease?

18 A Yes.

19 Q How long did you live there?

20 A Physically, we lived there I probably want to
21 say about eight or nine months.

22 Q Okay.

23 When you first moved in together with Ms.
24 Howard, did you have custody of your daughters?

1 A In 2010?

2 Q Right?

3 A No.

4 Q Okay.

5 At what point did you get custody of your

6 daughters?

7 A In 2011.

8 Q Okay.

9 Where were you living at that point?

10 A On Melanie. Our first year lease was about

11 to be up by the time they came.

12 Q And you have primary physical custody of your

13 daughters?

14 A I have primary physical custody.

15 Q Does your daughter's mother have visitation

16 rights?

17 A She does but she doesn't do anything with

18 them.

19 Q So you have your daughters full-time?

20 A Pretty much, yeah.

21 Q And you've basically had them full-time since

22 2011?

23 A Correct.

24 Q Okay.

1 A There's only twice that they went to visit
2 their mom, I think.

3 Q Okay.

4 Did you and Ms. Howard discuss marriage at
5 any time?

6 A Yes.

7 Q Did you discuss marriage while you were
8 living together in Fallon?

9 A Yes.

10 Q Did you have any definite plans for that?

11 A No.

12 Q Just something you talked about?

13 A Just talked about.

14 Q Did you want to marry her?

15 A Yes.

16 Q At some point, did you and her discuss
17 purchasing a home together?

18 A Yes.

19 Q Do you recall about when those conversations
20 started?

21 A Actually, we talked about purchasing the one
22 that we leased, it actually was up for sale if we
23 wanted to buy it.

24 Q Which property was that?

1 A This is the Melanie property.
2 Q Okay.
3 So it was for sale?
4 A It had been for sale but not necessarily
5 advertised for sale. The owners would sell it if we
6 wanted to look into that.
7 Q Did you have any interest in buying that
8 particular property?
9 A Yeah, actually we did.
10 Q How much did they want for it?
11 A I think they wanted \$85,000.
12 Q Okay.
13 Did you contact any realtors about purchasing
14 a home?
15 A We did end up contacting a realtor at that
16 time and I do not remember her name.
17 Q Okay.
18 Did she show you any properties?
19 A She did, yeah.
20 Q Do you remember what brokerage she was with?
21 A I want to say that she was with Ponti Realty.
22 Q Okay.
23 Did you apply for financing for a home?
24 A Not at that time we didn't. She kept showing

1 us houses that were either pending sale or already
2 sold, and we got kind of irritated with that so we
3 abandoned that whole idea and we just kind of put it
4 on a hiatus at that time.

5 Q Okay, for about how long?

6 A I don't know, a couple of months, I think.

7 Q And did you contact another realtor?

8 A I don't know if we contacted any realtor
9 after her, I'm not sure.

10 Q It was more --

11 A I don't think there was any other ones after
12 her.

13 Q Okay.

14 It was more just on your own looking for
15 properties?

16 A Yeah. We always were looking for
17 properties --

18 Q When did you apply for financing?

19 A We actually applied for financing through the
20 USDA, it was the most official --

21 Q Okay.

22 Can you explain how that process went?

23 A We both went in and inquired about it. We
24 were going to fill out an application for assistance

1 through the USDA. Everything actually went through
2 pretty good. We actually got approved for the
3 assistance of it, but there was a little bit of a
4 transition time getting funds to get the appropriation
5 to give money for the program, it was a four to
6 six-month timeframe before they get the money required
7 to be funded but they advised us to get in our
8 application. Before we completed the application,
9 they said there was a little bit of a hang up anyways
10 because Elizabeth had an I.R.S. debt that she had to
11 settle first before we could completely consummate the
12 USDA loan but it could be on standby, it was not a big
13 deal because there was a lapse anyways.

14 Q To your knowledge, did Ms. Howard take care
15 of that I.R.S. debt?

16 A I do believe so. I went with her to I.R.S.

17 Q Okay.

18 Were you ever finally approved for a loan
19 through the USDA?

20 A I don't actually remember if we were finally
21 approved for a loan.

22 Q Do you recall approximately when all of this
23 was taking place?

24 A I want to say 2011.

1 Q And you were living on the Stillwater
2 property?

3 A Yes.

4 Q Was it during this time that Ms. Howard
5 obtained a third-party settlement?

6 A Yes, it was.

7 Q Okay.

8 Did you and her discuss whether or not to
9 continue pursuing financing or to use her settlement
10 to purchase property?

11 A Well, there was a little bit of a difference
12 in between the USDA and the situation you're talking
13 about where we were getting a little bit of financing
14 or helping from my mother and father to get into a
15 house together. They were going to give us a down
16 payment if we needed it for a house over on Allen
17 Road.

18 Q Okay.

19 A We ended up losing that one to another bidder
20 but it was in between that time -- after then, I think
21 it was a month or so that we pursued looking for
22 places after that. She had come across -- her
23 settlement was fairly abrupt in the way it came on.

24 Q Okay.

1 Do you know how much she got in her
2 settlement?

3 A At first, she was only projected to get a
4 fairly small amount and she ended up getting about
5 three times that amount and it was in the last few
6 days of the negotiations. Are you asking me the
7 entire total?

8 Q If you know?

9 A Before there was deductions?

10 Q Right.

11 A I think it was \$390,000.

12 Q Okay.

13 And of that, how much did she actually get?

14 A I think she actually ended up getting in hand
15 \$153,000.

16 Q Okay and is that based on what she told you?

17 A Yes.

18 Q When did you and her decide to use that money
19 to purchase a house?

20 A Almost immediately. We were looking for
21 houses after the one that fell through on Allen Road.

22 Q Okay.

23 Was it her idea to use that money to purchase
24 a house?

1 A Yes.

2 Q As you had been looking at properties
3 together this entire time, was it your understanding
4 that regardless of the fact that she was using that
5 third-party settlement money, that the home you were
6 going to buy was to be both of your home?

7 A Oh, absolutely.

8 Q And that your daughters were going to live
9 with you?

10 A Yes, absolutely.

11 Q When did you first look at the Fulkerson
12 property?

13 A The times are going to be a little odd, it
14 was before she actually got her settlement because we
15 had gone out there a couple of times and we had
16 actually stumbled across it the first time. I was
17 actually looking at a list of properties to go after,
18 and there was one three houses down west of Fulkerson
19 that we actually went to and walked around and liked
20 and as we were driving away from that one, she saw the
21 other property that we ended up buying but didn't even
22 know it was for sale until later on when I got back
23 and I saw it on a listing it had just come up.
24 Everybody said it had been there for weeks but I had

1 never seen it for weeks.

2 I liked that property when I saw it when I
3 first went by it but then now that it was for sale and
4 we inquired a little bit more about it, went out and
5 looked at it one time and then it was very quick. I
6 don't think it was more than maybe a week or so
7 between her getting her resources and the time that
8 that house was really itching on me because it was for
9 sale and I didn't know if it was for sale when we
10 first saw it.

11 Q Between the two of you, did one of you have
12 more responsibility than the other for looking for
13 properties?

14 A Well, I predominantly looked for properties.
15 I don't know if I would designate it as responsibility
16 but I was looking very avidly for property.

17 Q And did Ms. Howard trust you to --

18 A Oh, absolutely.

19 Q Why did you choose the Fulkerson property?

20 A Quite honestly because it was a mess and it
21 was a good bargain for the amount of property that was
22 there. I grew up with a grandfather that had flew
23 airplanes that had an airplane hanger, that's
24 something that really got me was it had a biplane

1 hanger on it. I thought that was just really neat, it
2 had a hay barrack, it had a lot of potential.

3 Q When you say it was a mess, what do you mean?

4 A That's an understatement, it was a disaster.

5 Q Can you describe it?

6 A The person that used to own it, he must have
7 been a car collector or something like that. We got
8 into it. He had lapsed on the house and it went into
9 foreclosure and the bank had cleaned it up quite
10 significantly but there was an awful lot of debris
11 everywhere, engine parts, glass, car parts, it was a
12 quite a mess as far as an old ranch. They had really
13 pretty much incorporated a house, tapped it into a
14 drinking well, domestic agricultural well into a
15 domestic well and there it is, it's a house now. What
16 used to be part of an old ranch.

17 So there was a lot of old amenities to the
18 ranch that were still in place, railroad ties, pens,
19 coral poles, drainage ditches, aqueducts, casants, and
20 so it had a lot of -- and it was dilapidated, it was
21 windblown for probably 30 plus years so it had staged
22 terraces and those had all completely sloughed down.
23 There was sand all the way in the back of the hanger,
24 it was actually pushing into the metal panels of the

1 hanger and rusting them out.

2 So it had a lot of work that needed to be
3 done but it was a pretty good bargain for the meat and
4 potatoes that was there.

5 Q Okay.

6 Who paid for the house?

7 A Elizabeth Howard.

8 Q And how much was that?

9 A \$67,000.

10 Q And how did she pay for it?

11 A I'm sorry?

12 Q How did she pay for it, what funds did she
13 use?

14 A She used the funds from her settlement, cash.

15 Q Was it always your intention and
16 understanding that the property would be owned in
17 joint ownership?

18 A Yes, it was.

19 Q Okay.

20 When did you -- when was the property
21 purchased originally?

22 A I want to say late June.

23 Q Okay.

24 Do we have the -- sorry, your Honor, do we

1 have the exhibit binder up there for him?

2 THE COURT: We will get it.

3 MR. TOWNSEND: Can I hand it to him?

4 THE COURT: Of course.

5 MR. TOWNSEND: Thank you.

6 BY MR. TOWNSEND:

7 Q Now, originally Ms. Howard took the property
8 in her name alone?

9 A Yes, sir.

10 Q Do you recall why or what the circumstances
11 of that --

12 A I think it was just the dynamics of how it
13 was purchased. She was the original purchaser of it,
14 just the dynamics of the way that all worked because
15 she purchased it from the V A Administration.

16 Q Okay.

17 And there was a title company involved?

18 A Yes, there was.

19 Q Okay.

20 Did you discuss putting your name on the deed
21 with Ms. Howard?

22 A Many times.

23 Q Were those conversations initiated by you, by
24 her, by both?

1 A By both, yeah.

2 Q Mutual -- it was a mutual understanding that

3 your name was going to be on title?

4 A Yes.

5 Q If you'll -- you've got the plaintiff's

6 exhibits there in front of you, if you'll turn to tab

7 number one?

8 A Okay.

9 Q Do you recognize that document?

10 A Yes, sir.

11 Q What is it?

12 A What is it?

13 Q Yes.

14 A It's a quitclaim deed.

15 Q Okay.

16 And who is the grantor on that deed?

17 A The grantor is Elizabeth Howard.

18 Q And then who did she deed the property to?

19 A Me.

20 Q Just you? If you'll look at that deed?

21 A Oh, to both of us; is that what you're

22 asking?

23 Q Yeah. So she deeded it to herself and to

24 you?

1 A Yes.

2 Q As joint tenants?

3 A Yes.

4 Q Your Honor, I would like to offer Exhibit 1

5 into evidence.

6 MR. KOZAK: No objection.

7 THE COURT: It will be admitted.

8 (Exhibit 1 was admitted.)

9 BY MR. TOWNSEND:

10 Q Okay. Were you present with Ms. Howard when

11 she executed that deed?

12 A Yes, I was.

13 Q Where did that take place?

14 A At the County Recorder.

15 Q Was anybody else present at that time?

16 A My daughters.

17 Q Okay.

18 Was Ms. Howard coerced in any way to sign

19 this deed?

20 A Absolutely not.

21 Q Was she lucid when she signed this deed?

22 A Absolutely.

23 Q Did you have any indication at all that she

24 was heavily medicated or anything like that?

1 A Absolutely not.

2 Q Did Ms. Howard say anything to you that stuck
3 out to you as she executed that deed?

4 A After the deed was finally executed, the
5 transfer tax came up and she slid the paper over to me
6 and said she's already paid once for her half, this is
7 my half. Right after that she said, "That's a pretty
8 good haul, when was the last time you paid \$274 for a
9 \$35,000 coin."

10 I thought that was intended to be a
11 brilliant thing to come up with considering what I did
12 for a lifestyle and a hobby and all of that. I even
13 equated it to \$27 per acre is what they came out with,
14 and she said I would better I would never get a chance
15 to buy property that cheap again. I thought she was
16 right actually. As she walked out, she had said
17 jokingly of course, "Well, you're going to earn it,
18 that's for sure."

19 Q So when she said "you're going to earn it,"
20 she meant all of the labor that you were about to put
21 in?

22 A Right. She had viewed it several weeks. She
23 knew what was out there to be done.

24 Q Okay.

1 Who's idea was it to go to the Clerk's office
2 on that day?

3 A I think it was both of our idea to do that,
4 to get it on there. We had many talks prior to the
5 signing of the deed, the things that we needed to do
6 to protect ourselves.

7 Q Okay.

8 So when you say to protect ourselves, was Ms.
9 Howard concerned about protecting herself for any
10 reason?

11 A Yes, she was. For many, many years she had
12 talked very poorly about her family, and we were very
13 much so active as a family for her. She presented
14 herself as she really wanted to be a part of this
15 family and it was very cohesive thing that we had
16 going on. She wanted to make sure that she protected
17 me from her family of her half of the property.

18 Q Okay.

19 And so she wanted to get your name on the
20 deed as a joint tenant?

21 A Yes, sir.

22 Q So that if something happened to her, that
23 the property would pass to you without having to deal
24 with her family?

1 A Yes, sir.

2 Q Okay.

3 A And there was other things too that were in
4 part on the previous conversations before we even went
5 down there and that was the encumbrment that both
6 parties need to be on a recorded deed so that one
7 party can't -- for lack of a better way to describe
8 this, go out and swindle the money or get -- turn
9 their house into a cash out on a mortgage, a second
10 mortgage or something like that, refinance it, take
11 off with the house and then the other person is
12 completely out of luck because there's nothing
13 protecting them whatsoever.

14 When you have two people on a deed, neither
15 party can encumber that deed without the authorization
16 of the other.

17 Q And that was your understanding?

18 A That was my understanding.

19 Q Okay.

20 So you mentioned that you paid the transfer
21 tax?

22 A Yes, sir.

23 Q And how much was that?

24 A \$274.70 I believe.

1 Q In addition to the transfer taxes, did you
2 have the responsibility, as you and her understood it,
3 to pay the real property tax on an ongoing basis?

4 A Say this again.

5 Q Did you have the responsibility to pay the
6 property taxes?

7 A I did, yes. I took that on, that was
8 understood that she took the home insurance and I took
9 the property taxes.

10 Q Okay.

11 So if you'll flip to tab number two in the
12 exhibit binder. With apologies to everyone, the
13 copies -- some of these copies are hard to read. We
14 do have the original documents if the court would like
15 to see them.

16 Just thumb through those pages and under tab
17 number two, do you recognize these documents?

18 A Every bit of them.

19 Q What are they?

20 A They're all the receipts from the County.
21 Some are paid on line. Some are paid in person in
22 case and some are -- inaudible.

23 Q So they're all documents dealing with
24 property taxes?

1 A Yes, sir.

2 Q Are they feeling with the property taxes for
3 the property on Fulkerson Road?

4 A Yes, sir.

5 Q Did you pay all of these amounts?

6 A 100 percent.

7 Q On the bottom, there's a Bates stamp. If
8 you'll flip to the page that says Hughes 009, it's
9 back about five pages.

10 A Under tab two?

11 Q Under tab two still, yeah.
12 Did you find that page?

13 A Yes.

14 Q About halfway down, do you see a line where
15 it says "Received From?"

16 A Yes, sir.

17 Q What are the names listed there?

18 A Howard and Hughes.

19 Q Okay.

20 A My copy is really difficult to read.

21 Q Right.
22 Who paid that amount?

23 A I did.

24 Q Okay. Did you pay that in person?

1 A Yes, sir.

2 Q Okay.

3 Down below it says "cash amount," is that how

4 you paid; you paid cash?

5 A Yes.

6 Q Even though it shows both of your names, you

7 actually paid that?

8 A Yes, sir.

9 Q Why do you suppose that it shows both of your

10 names?

11 A I don't know. I think it's whichever clerk

12 printed it up at the time. There's also some I

13 noticed that they actually misspelled my name. So

14 they actually had to type that in independently of an

15 auto print on the receipt. So I think it's just the

16 Clerks specific who did that.

17 Q Okay.

18 Was Ms. Howard ever with you when you paid

19 those taxes?

20 A I do not believe she was ever with me when I

21 paid those taxes.

22 Q If you'll turn to the next page, it's Hughes

23 0010?

24 A Yes.

1 Q Here's one of those where it only shows your
2 name as the person who paid; correct?
3 A Yes and it's misspelled.
4 Q Okay.
5 And there are various others but in short,
6 you paid all of the property taxes?
7 A All of them.
8 Q Do you continue to pay the property taxes?
9 A Yes.
10 Q If you'll turn to the last page under tab
11 two, that's Hughes 00217 on the bottom?
12 A Which one, the last tab?
13 Q You know what --
14 A I've got it right here.
15 Q Okay.
16 Do you see the date there at the top?
17 A Yes, sir.
18 Q What is the date on that?
19 A 7/9/16.
20 Q And this page, what is it?
21 A What's the page that I'm looking at?
22 Q Yes.
23 A It's an online purchase.
24 Q What was the purchase for?

1 A For the taxes.
2 Q The property tax for this property?
3 A Correct.
4 Q Okay.
5 And you paid them in July of 2016?
6 A Correct.
7 Q And that was after you had moved out of the
8 property?
9 A Correct.
10 Q Okay.
11 Your Honor, I would offer --
12 A I paid the last two cycles after I moved out
13 of the property.
14 Q Okay.
15 Your Honor, I would offer Plaintiff's Exhibit
16 No. 2 into evidence.
17 THE COURT: Mr. Kozak?
18 MR. KOZAK: No objection.
19 THE COURT: It will be admitted.
20 (Exhibit No. 2 was admitted.)
21 BY MR. TOWNSEND:
22 Q In addition to paying the property taxes,
23 were there occasions that you paid the property
24 insurance on the property?

1 A Yes.

2 Q Was that before or after you moved out?

3 A After.

4 Q Okay.

5 How many times did you pay the property
6 insurance?

7 A I do believe there was a total of three
8 times.

9 Q Okay.

10 Can you just briefly give the court a
11 description of how that came about that you paid the
12 property insurance?

13 A The very first time I was notified, they had
14 called and I got a message. I returned the call, and
15 I was a little baffled on what this was about. They
16 had mentioned the fact that they had tried to get
17 ahold of Ms. Howard to get a payment from her and
18 there was no reply.

19 They evidently had it set up to where if they
20 didn't get ahold of me within 48 hours as a default
21 payer, that the insurance under the clause it was at
22 lapses and I didn't want that so I ended up paying in
23 lieu of it defaulting to an insurance policy.

24 Q Okay.

1 If you'll turn to tab three in that binder
2 and thumb through those four or five pages; do you
3 recognize these documents?

4 A Yes.

5 Q What are they?

6 A The insurance payments.

7 Q Okay.

8 Are these the payments that you made?

9 A Yes. All these, they show my name on them.

10 Q Okay.

11 One of them I believe is a duplicate, that
12 first page, if you look at the date on the first page,
13 Hughes 0021; do you see the date there?

14 A Yes.

15 Q August 2015, right?

16 A Yes.

17 Q I inadvertently included that page twice.

18 A Okay.

19 Q Turn to the page that is Bates stamped Hughes
20 00219.

21 A Uh-huh.

22 Q Do you see the date on that?

23 A Yes.

24 Q What is the date on that page?

1 A 6/13/16.
2 Q Okay.
3 Can you describe the circumstances in
4 particular of that payment?
5 A This one here?
6 Q Yes.
7 A I know one of these was a late payment and
8 I'm assuming it's this one because it's different. I
9 didn't really keep track of dates. All I know is I
10 didn't want the insurance on my house to lapse so I
11 paid it. I think this is the one that got the late
12 payment or not a late payment, I think it was a
13 penalty or something like that.
14 Q Okay.
15 Did you have a conversation with the Country
16 Financial agent, Don Shank?
17 A Yes, I did.
18 Q And you paid these amounts over the phone?
19 A No. That one when I had a conversation with
20 Don, I actually went in person because I wanted to
21 find out what was going on, it concerned me greatly
22 that the insurance was not being paid, and I went in
23 there to make sure that everything was okay on the
24 house.

1 Q All right.

2 And from your conversations with him, were
3 your concerns alleviated?

4 A No, they were actually exacerbated.

5 Q Okay.

6 In what way?

7 A Well, he had mentioned --

8 MR. KOZAK: I'll object to that, your Honor.
9 This is hearsay.

10 MR. TOWNSEND: I'm not asking what Mr. Shank
11 told him. I'm asking what his impressions were from
12 that conversation.

13 MR. KOZAK: That's the same thing.

14 THE COURT: Overruled.

15 BY MR. TOWNSEND:

16 Q Go ahead.

17 A Mr. Shank had mentioned that Elizabeth had
18 called and was trying to inquire on a method to get me
19 off of the policy.

20 Q Okay.

21 By letting it lapse?

22 A By letting it lapse.

23 THE COURT: Just so the record is clear, I'm
24 only considering this evidence as to his state of mind

1 and not for the truth of what was asserted by Mr.
2 Shank.

3 MR. TOWNSEND: Correct and that was our
4 intention, your Honor. Thank you.

5 BY MR. TOWNSEND:

6 Q Okay.

7 So while you didn't contribute towards the
8 purchase price, you did pay taxes, transfer tax, real
9 property taxes and on at least three occasions, you
10 paid the property insurance; correct?

11 A Yes.

12 Q In addition to those payments, did you make
13 contributions of labor and time to the property?

14 A Yes, I did.

15 Q Okay, let's talk about those.

16 We're going to be in tab four on that page.
17 These are a series of photographs. Before we get into
18 the photographs, again you purchased the property in
19 June, July of 2012; correct?

20 A Yes.

21 Q What was your employment status, at that
22 time?

23 A When we purchased the house, I was still
24 working for Gold Star, but I had been working for

1 quite sometime at home doing their P R work and calls
2 from home, it was much more flexible and I had pretty
3 much done that when I got custody of the kids.

4 Q So you had stopped traveling as much?

5 A Right. I was no longer on the road.

6 Q About how many hours a week were you working
7 at that time?

8 A For them?

9 Q For them.

10 A I want to say maybe -- if the shows are
11 short, anywhere from 20 to -- if they had a three or
12 4-week show, probably up to 30 plus hours.

13 Q So you had time to spend at home with your
14 daughters?

15 A Oh, yeah, right and those hours were very
16 broken up. I could do those any time I wanted to.

17 Q Okay.

18 So you mentioned that the property was a mess
19 when you acquired it. So what was the first thing
20 that you determined to do with the property after you
21 purchased it?

22 A Clean it up, just general grooming, cleaning
23 up all the debris, it had an awful lot of particle
24 debris in it, it had engine parts, metal parts, glass,

1 debris that had to do with Gold Ranch. I found great
2 big huge spools of wire that were buried, car parts
3 that were buried.

4 When we started doing excavation, there was a
5 slab probably half the size of this carpet that was
6 completely buried that we ended up pulling out of
7 there. Old electrical lines from an adjoining
8 property that came over to ours that were live just
9 laying there. Some work around the hanger.

10 Before we had the fence line put up, there
11 was animals that were burrowing under the hanger and
12 they were undermining the concrete and the hanger and
13 that was a real bad thing because then the wind would
14 get in there and just ebb away the rest of it. So I
15 was worried about it breaking off and causing
16 structural integrity problems with the hanger.

17 Q Okay.

18 How long did it take you to clean up the
19 property?

20 A On that, a couple of months.

21 Q Did you move into the property as soon as you
22 purchased it?

23 A No.

24 Q Okay. Approximately when did you and Ms.

1 Howard move into the property?

2 A Physically?

3 Q Right.

4 A Just I think it was September.

5 Q Okay.

6 So from June or July to September

7 approximately, you were working on cleaning the

8 property up?

9 A Yes.

10 Q Okay.

11 What did you do after the property was

12 cleaned up, the next project?

13 A The next project was string lining,

14 surveying, plotting out where I wanted to start

15 putting stuff and lining it, lining the driveway. The

16 driveway was really, really bad. There was no

17 driveway actually, it was just everything off the road

18 just went down into the house. So that was a big

19 project, and I was getting all those items string

20 lined out. I was just doing the primary lower portion

21 of the four and a half acres at that point, cleaning

22 that up and then up to the hanger.

23 Q How big was the property, just for reference?

24 A The property that I initially was going to

1 fence in was four and a half acres, but the entire
2 property was 11.9.

3 Q Okay. Was there an existing fence on the
4 property?

5 A Existing fence, yes, it was just a three tier
6 barbed wire fence with posts and it was very crudely
7 put together in the first place. By the time we
8 acquired the property, a lot of it had rotted out. A
9 lot of it was just a mess, just a conglomeration of
10 wire and poles.

11 Q Okay.
12 So you removed that old fence?

13 A Yes, we did. We had to remove a lot of
14 features first before we did anything else.

15 Q Okay.
16 And then you mentioned that you were
17 repositioning the driveway on the property?

18 A Yes.

19 Q Okay.
20 Briefly describe where the driveway was when
21 you purchased the property.

22 A Okay. Do you have like a chalkboard or a dry
23 erase or anything like that?

24 Q Just describe it, just right side, left side.

1 THE COURT: We do have something available if
2 that's something you would like.

3 MR. TOWNSEND: Sure.

4 THE COURT: Maybe we can just take a couple
5 minute recess. We'll get it in here and come back out
6 and both -- we'll take about five minutes.

7 MR. TOWNSEND: Okay, thank you.

8 (A recess was taken.)

9 THE COURT: Please be seated.

10 We are back on the record on Case Number
11 15-0876, Hughes V Howard. The parties and their
12 respective counsel are all present in the courtroom.

13 Mr. Townsend, you may continue.

14 MR. TOWNSEND: Before we continue, I need to
15 offer Plaintiff's Exhibit No. 3 into evidence.

16 THE COURT: Mr. Kozak?

17 MR. KOZAK: No objection.

18 THE COURT: It will be admitted.

19 MR. TOWNSEND: Thank you.

20 (Exhibit No. 3 was admitted.)

21 BY MR. TOWNSEND:

22 Q All right.

23 Sean, I had asked where the driveway was
24 located on the property?

1 A Can I go over there and do that?

2 Q Yes.

3 A Makes it easier to understand.

4 THE COURT: Of course and can everyone see
5 that where that it's at, Mr. Kozak?

6 MR. KOZAK: Yes.

7 BY MR. TOWNSEND:

8 Q Yes.

9 A This is the west property line, east property
10 line. This is where the hanger is at. This is where
11 the existing house when we purchased it was at.

12 The driveway specifically was beginning way
13 over here and ended up over here and all it was was a
14 completely -- it just rolls right into the house. If
15 you fall asleep driving, you would just crash right
16 into the house if you wanted to and it was pretty wide
17 it was probably over 100 feet long.

18 We ended up getting the garage built here
19 then we had the driveway installed here. I wanted to
20 box this in a little bit differently because I had
21 plans for retaining walls that would flank the house
22 left and right. So I built the ground back up here
23 and here and then came out here with it for another
24 retaining wall.

1 THE COURT: Our JAVS system, did it capture
2 the beginning?

3 THE CLERK: I believe so.

4 MR. TOWNSEND: Just hold on a second.

5 THE COURT: So maybe what I'll do is take a
6 brief recess and get back on and because I want to be
7 able to tell you whether we have JAVS or not. So
8 we'll take a brief recess.

9 (A recess was taken.)

10 THE COURT: Please be seated.

11 We're back on the record in 15-0876, Hughes V
12 Howard. The record should reflect the presence of the
13 parties along with their respective counsel.

14 Counsel, I apologize for that. They informed
15 me that it captured everything until the clerk
16 informed me that it had gone down. So thank you for
17 doing that we may proceed.

18 BY MR. TOWNSEND:

19 Q Okay.

20 Go ahead Sean.

21 A So you can imagine this entire area all the
22 way down the road was just a graceful roll down into
23 the property here. This up here was just clean, right
24 off the road and tapered right into the house. If

1 there was a flood, it would come right into the house.

2 So I ended up bordering this off and then
3 putting the driveway more symmetrical to the garage
4 and I did that because eventually I was going to put
5 blacktop from the approach all the way up to the
6 street. So I had prepared all that for that in the
7 latter part.

8 Q Okay. Thank you Sean.

9 So if you'll turn to Exhibit 4, we're go
10 through these are photos. We'll go through these
11 photos just to describe the work that you did. These
12 first eight photos and I do apologize to the court,
13 most of these photos were taken off of a single disk
14 that was Bates stamped so each photograph doesn't have
15 its own individual number. So I'll try and walk
16 everybody through so we're all on the same page.

17 So the first eight photos or so he if you'll
18 thumb through those, that service photo what does that
19 depict?

20 A This is actually a terminal tie in that I'm
21 coming up to right here. The fence line coming from
22 the west is going to come and tie into this and then
23 I'm going to -- you can see the various markers that I
24 have already embedded into the dirt. Actually,

1 there's a good depiction of the old barbed wire fence
2 part of it that's still there and that was taken out.

3 Q So this is you in the process of getting
4 ready sort of removing the old fence, getting ready to
5 put in the new fence?

6 A Correct.

7 Q That's you in the photo?

8 A Yes, that's me.

9 At this point, I want to make a note too we
10 were not living here. I was just coming over here and
11 working on this in between working from home.

12 Q Okay.

13 And that second photo, what does that depict?

14 A This is a good example of it coming together
15 and realigning the driveway and putting it more
16 comprehensively in front of the garage. In fact
17 Elizabeth is taking a picture right in front of the
18 garage looking at the roadway.

19 You can also see you can see a flank on
20 either side of the fence. The approach, you can see
21 where I have been wheel barreling piling up dirt on
22 either side to start building up the backfill in the
23 beds. Those were going to eventually be flower and
24 tree beds that had Russian sage, indigenous native

1 plants that don't need a lot of water.

2 Q Okay.

3 Are those railroad ties that are in the

4 ground?

5 A Yes.

6 Q And did you install those?

7 A Yes, I did.

8 Q And did you install that gate?

9 A Yes.

10 Q Was that to be the main entry gate to the

11 property?

12 A Yes.

13 Q The next page photo is just a close up of

14 that gate; right?

15 A Yes.

16 Q Okay.

17 And the next photo, what does that depict?

18 A The one -- the gates?

19 Q After the gate?

20 A After the gates, that's Elizabeth and she's

21 rolling up concertino water --

22 Q So Ms. Howard assisted you?

23 A Yes, she did on several occasions.

24 Q Okay.

1 If you'll turn to the next photo. This one
2 does have a Bates number Hughes 00138, who is depicted
3 in this photograph?

4 A That's Savannah there in the picture.

5 Q And what are you doing there?

6 A I'm bringing the bottom of the fence line to
7 come up with the native dirt because I was going all
8 to embed that with base rock so it doesn't blow away.
9 All it would do if I backfilled it with the native
10 dirt is the next wind, it would be half a mile away.

11 I brought the sub straight up to the bottom
12 of the fence line and then I was going to rebury the
13 next three inches of the fence line into the base rock
14 and get it wet or when it rains or whatever, it would
15 harden to keep animals from trying to want to get up
16 under there. We had a big problem with animals
17 running around digging under stuff.

18 Q Okay.

19 And then the next photograph?

20 A That's me on my tractor.

21 Q Okay. We'll come back to the tractor in a
22 second but that's you basically doing the same thing
23 but with the tractor?

24 A Correct.

1 into the driveway because I was thinking for future if
2 we ever did sell this house or even with me if I
3 wanted to drive freight again or whatever, there's two
4 10-foot swinging gates and it's more than plenty with
5 the road and the easement to easily swing a spread
6 axle flatbed or something like that.

7 Q Okay.

8 And this is you and who else in this picture?

9 A My daughter, Savannah.

10 Q Did Savannah assist you in erecting this
11 fence?

12 A Yeah, she did. She dug a lot of the holes.

13 Q By hand?

14 A Yeah because I -- sometimes they were a
15 little too much for me.

16 Q Okay. So that's all on the fence.

17 If you'll turn to the next photo, what does
18 this photo depict? This is Hughes 00131?

19 A Okay, that's me in my tractor that my dad
20 bought for us and then my daughter.

21 Q Why did you need a tractor?

22 A That was to do the excavation work for the
23 retaining walls. There's an awful lot of digging that
24 we were going to do. The tractor wasn't really

1 to a seven-month jump.

2 Q Okay.

3 And so when the tractor that your father had
4 purchased became sort of inadequate, what was the
5 solution that you came up with?

6 A Wheel barrel and shovel for quite a while and
7 that was a lot of work.

8 Q And then did something happen that allowed
9 you to make that process to go quicker?

10 A To excavate?

11 Q Right.

12 A Our neighbor across the street, their cousin
13 was visiting. His name was Hank Savage. He was
14 visiting and actually saw me over there working my
15 tail off. He came over and introduced himself and he
16 said I have a much better solution to this. He said
17 that he would come over the next day or a couple of
18 days later and bring a skip loader up. I think it was
19 a couple of days later. But he came over and we
20 started cutting not this wall but the wall down below.

21 As a matter of fact, if you go back this
22 00250, he was helping me cut this wall right here
23 because this one had gotten bogged down, but I had for
24 a while been already excavating that with a shovel and



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1 wheel barrel, it was a very futile attempt. So Hank
2 came over and saw or he put that skip loader to work
3 helping me out, it was just a help out, a neighborly
4 thing at first. I got a lot done with moving material
5 where that was concerned and it made life pretty easy.
6 He gave me his phone number and said, "If you ever
7 need any more work, let me know." That was going to
8 be in the future. At that time when he gave me his
9 phone number and said "Give me a call," there was a
10 quite a few months that needed to progress first until
11 we got into that.

12 Q You eventually did hire them though?

13 A Yes, we did.

14 Q What were the terms basically for his --

15 A I bargained 40 hours total work for him. He
16 was extremely reasonable for an operator and
17 equipment, \$50 an hour. He recommended that he could
18 keep the price down if he was able to keep the skip
19 loader there and I said, "Not a problem, park it in
20 the hanger or whatever."

21 So he did because he lived in Yerington
22 instead of trailering it back and forth. So he gave
23 me \$50 an hour and do you mean of shots of whi

24 often work and in the future. The only



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1 requirement he really asked was that it was at least
2 five hours of work.

3 Q A day?

4 A Five hours of work, if I called him up to
5 work, at least five hours worth of work. We had
6 bargained a total of 40 hours total because I was
7 estimating that that's what we would need because it
8 was a skip loader that also had an excavator arm in
9 back. I had plotted out what we needed to do, and he
10 just kind of went to work on it one day and we got it
11 finished a couple of months later. It went in phases,
12 it was when he could get there when I was working on
13 that particular project but we got a lot done when I
14 had him up there.

15 Q Okay.

16 A It was a 4-wheel drive, that was one of the
17 benefits to this 4-wheel Drive, it can take loading up
18 the loader and still make traction in the dirt and
19 pushing the dirt.

20 Q So just real quick, the next six photographs
21 depict Mr. Savage with his tractor; correct?

22 A Yes.

23 Q Okay. So we'll skip those six photographs
24 real quick.

1 A I just want to make a reference here though
2 00253, this is where a big bulk part of a couple of
3 days worth of work, I think it was eight hours one day
4 and maybe 10 hours the other day because not only was
5 the arm excavating all this but it was always just
6 placing it into some low spots for me.

7 I was doing walls, as he was pushing up
8 stuff, those walls that you saw those mounds of dirt,
9 I would come out two feet and I would lay down a keel
10 and I would compact base rock by hand behind it and
11 then lay down another one, they terraced.

12 Q Okay. Thank you.

13 All right. So flip forward to the photo of a
14 semi tractor-trailer with some railroad ties on it.

15 A Which one is it?

16 Q The very first with railroad ties; what was
17 -- what were the retaining walls made of?

18 A The retaining walls were made of railroad
19 ties.

20 Q Approximately how many railroad ties were
21 there installed on the property?

22 A From the beginning to the end.

23 Q Correct?

24 A I'm thinking there was close to 900.

1 Q And they would come in on trucks like this?

2 A Only twice would they ever come in on trucks
3 like this. I think this was actually the first big
4 haul.

5 Q Okay.

6 A I think so and then there was another one
7 later.

8 Q So if you turn to the next page, this is
9 another shot of I believe the same tractor; correct?

10 A Oh, yes. You can also see the retaining wall
11 where I brought the dirt up and like put the wall up
12 there.

13 Q And that's at the front of the property?

14 A Yes.

15 Q Okay.

16 The next photo is a picture of the tractor
17 off loading the railroad ties; correct?

18 A Yes.

19 Q And the next photo is a retaining wall; is
20 that right?

21 A Yes.

22 Q Where is that on the property?

23 A That one was the upper retaining wall by the
24 old corral. Elizabeth and I pulled the corral poles

1 out and traded them off to Jason Homer them for the
2 use of his bigger loader on a much bigger project that
3 was coming up and I started using that loader.

4 Q Okay.

5 Who installed all of these railroad ties?

6 A I did.

7 Q Did you have any help?

8 A My daughter helped me from time to time,
9 yeah.

10 Q Okay, did you install them by hand?

11 A Every one of them.

12 Q All 900 railroad ties?

13 A Yes, except for when Savannah would help me
14 lift them up and put them in the holes.

15 Q Sure.

16 Okay. The next photograph, is that back by
17 the old corral as well?

18 A Yes. This is behind the hanger.

19 Q Okay.

20 A If you can imagine all that dirt was all the
21 way up against the hanger, it was wind blown up
22 against the hanger so there's quite a big void back in
23 there. I was able to bring my truck and trailer,
24 bring my 250 and a pull trailer behind there.

1 Q What was the purpose of the retaining walls?

2 A Just to keep the erosion, give us more
3 useable property and keep the erosion from happening.

4 There's two good examples. You have the
5 straight sheer walls that I was putting up to maximize
6 your ability to have room and then the other ones were
7 the terrace walls. They didn't require posts either
8 of them. These uprights actually required posts.

9 Q To hold them in place?

10 A To hold them in place, otherwise you would
11 have sub straight surge when it gets wet and pushes
12 forward.

13 Q Okay.

14 The next two photographs are looking from
15 behind the retaining walls back towards the house;
16 right?

17 A Is it the one that's -- this one?

18 Q You can see the house and some trucks.

19 A Yeah. This one you're talking about?

20 Q Yes. And then the next one as well?

21 A Yes, that's up by the front fence line.

22 THE COURT: Do we have a document camera,
23 would that be easier to identify, you know and display
24 it on the --

1 MR. TOWNSEND: If the court would like to.

2 THE COURT: It's up to you. I do notice that
3 sometimes and in fairness to Mr. Kozak that we're all
4 looking at the same thing.

5 Here's the thing, I did receive a note with
6 our computer problems. We're going to have to take
7 about a 10-minute recess to get those up and running
8 again so we're going to lose our JAVS. We can do that
9 whenever but I thought it might be a good chance so
10 that looking at the same pictures.

11 MR. TOWNSEND: Okay, we can do that.

12 THE COURT: Can we get that set up and we'll
13 just take the recess and that way we can set it right
14 up here and display the pictures so you can see it,
15 Mr. Kozak and his client can see it.

16 MR. TOWNSEND: Okay, that will work. Thank
17 you.

18 THE COURT: We'll take a brief recess.

19 (A recess was taken.)

20 THE COURT: We're back on the record on Case
21 Number 15-0876, Hughes V Howard. The parties are
22 present as is their respective counsel. You may
23 continue.

24 MR. TOWNSEND: Thank you, your Honor. Can I

1 stand right here?

2 THE COURT: Of course.

3 BY MR. TOWNSEND:

4 Q Sean, if you'll talk about this photo what it
5 depicts?

6 A It depicts a really good picture. This is my
7 back is facing the west fence and this is -- when you
8 come out and see those first terraced railroad ties
9 right in front of you, that actually is about a
10 two-foot drop that goes down there terraced just like
11 the ones that you see immediately to the right here.

12 So anyway, so -- oh, there you go. Then it
13 jumps over the driveway, it goes up to the hanger,
14 that was a real bad sandy mess, it was a bunch of base
15 rock I had to put in there to get that compacted.
16 Then on the other side, that's actually the genesis
17 of the retaining wall, it started over there towards
18 the left where you see where the white rock is at
19 right there, that's where I met Hank Savage the very
20 first time and he started helping me out. At that
21 time, it was just a complimentary thing to help out
22 with that little part of the wall right there at
23 first.

24 When you look up in this area here, that was

1 all excavated up there, pushed up there. I started
2 with my tractor but it broke down literally three
3 times trying to push that up, and he had actually done
4 -- that was part of the work I had him do was right up
5 there pushing that stuff up. Then this pile right
6 here is all base rock for -- I'm making a mess out of
7 this, sorry, that's all base rock up there for getting
8 compaction behind the retaining walls.

9 Q Okay.

10 And again, this is just a close up of the
11 same wall?

12 A The same one, yeah.

13 Q Okay.

14 Now, is this the base rock you were talking
15 about?

16 A Yeah. You can see the piles of base rock
17 that were brought in. This is the lower level right
18 in front of the garage approach. Looking to the west,
19 you can see my pickup up there.

20 I brought a lot of railroad ties little bit
21 by bit from over there and I utilized a lot of
22 railroad ties that I unearthed that were still
23 serviceable there on the property when I was doing my
24 cleaning up phase when we first got in there. There

1 was probably about 50 railroad ties that were in place
2 being used by the ranch for some reason. We dug a lot
3 of those up. If they were serviceable and long
4 enough, I used them on the fence line. This is also
5 after the entire fence line is done.

6 Q Okay.

7 And did you lay all of that base rock
8 yourself?

9 A Lay all the base rock, no, that was part of
10 Hank Savage. He would disperse that base rock and
11 then spread it around.

12 Q With his tractor?

13 A With his tractor. We did it with mine also
14 but dragging, the drag implement, it would get bogged
15 down. So his tractor placed the base rock up here. A
16 lot of the stuff that you're seeing down below in this
17 lower area the white rock, I did that with my tractor.

18 Q Okay.

19 A But up top, it was getting really super sandy
20 and he used his four-wheel drive.

21 Q And this is just base rock?

22 A You could see how it's sculpting. See the
23 terraces on this area how they slope down like this,
24 that was what I was doing in this area is building it

1 all back up and compacting it behind. You can really
2 see how it's getting that chiseled look, just building
3 that whole area back up.

4 Q And again just another close up of base rock?

5 A Yeah. You can see the top area way up here,
6 that was the last retaining wall that we've already
7 seen in some other pictures, that real, real super
8 long one that was by those corrals. This is actually
9 where my tractor broke down.

10 You can actually see over here in this area
11 where the grade is still uncut and over here my
12 tractor that was about it, that's where it met it's
13 waterloo is on that wall.

14 Q Okay.

15 Let's talk about this yellow building here,
16 what is that?

17 A That's a garage.

18 Q Okay.

19 Was that existing on the property when you
20 purchased the property?

21 A Yes.

22 Q Who's idea was it to build that garage?

23 A Mine.

24 Q Who designed the garage?

1 A I designed the slab and the garage.

2 Q Okay.

3 What was the purpose -- intended purpose of
4 the garage?

5 A To, in the future, have my F F L.

6 Q Can you explain what the F F L is?

7 A Well, it's a Federal Firearms License, and a
8 special occupational tax along with it, that was for
9 future -- to use for the future when I got my F F L
10 after all the work was done and go into the business
11 which I currently have now. The garage was customized
12 to facilitate that in the back.

13 There's a 10 x 26 portion of that that has
14 super footings, it's like two feet by two feet heavily
15 reinforced and it was an entire cinderblock, that's
16 where my business was going to be and the entire slab
17 was designed. I actually designed that actual mix
18 design when I was working at Sparks Ready Mix.

19 Q This is just a laying base rock in front of
20 the garage, correct?

21 A Yeah, that's just they're prepping the
22 driveway approach.

23 Q Okay.

24 And this is just -- that's the front of the

1 same garage?

2 A Yeah because I put a five-inch slab with a
3 six -- (inaudible) concrete mix with reinforcement. I
4 had it that way because when I got my F F L, I also
5 had a 06 manufacturing license that I was going to
6 start in the future.

7 Q What is that?

8 A It's manufacturing ammunition on an 06
9 manufacturing F F L license and I had it that thick
10 because I wanted delivery trucks to bring shipments of
11 projectiles and casings.

12 Q Okay.

13 So this next picture is kind of gross; right?

14 A It's a turkey.

15 Q Okay.

16 What is this picture of?

17 A It's one of our turkeys that we're
18 butchering, it might be for Thanksgiving.

19 Q The reason for this picture is what's in the
20 background --

21 A Oh, the finish --

22 Q Let's talk about that.

23 A This is one of the finished retaining walls,
24 it goes all the way up to the approach that goes to

1 the hanger and comes all the way back another probably
2 30 feet past my daughter Savannah here where it has
3 another driveway approach that comes out into the
4 lower level of where the house is.

5 Then we have our Juniper trees that we were
6 slowly one by one planting up on the top here right up
7 in this area, and you can see all the cord wood that I
8 had been piling up and stock piling for the future.
9 There's quite a bit of it. We have more pictures I
10 think than this. Then there's that top wall that you
11 saw earlier that we had excavated.

12 Q And you did again all of that work on the
13 retaining walls?

14 A I'm sorry?

15 Q All of the work on the retaining walls, the
16 landscaping all by hand?

17 A All by hand.

18 Q So you mentioned your daughter Savannah, who
19 else is in that photo?

20 A That's Fallon. This is Fallon right here and
21 this is Savannah.

22 Q Okay. Thank you.

23 This one is a little bit light but what is
24 this?

1 A That's the metal airplane hanger and that is
2 before any of the excavation took place. That's
3 actually a picture of -- I think it's right when we
4 bought it, maybe within a month after we bought it.

5 Q Okay.

6 A Yeah, it's a pretty poor picture.

7 Q Okay.

8 Is this the same building?

9 A Yes.

10 Q Just a different name?

11 A Yeah. And you could see all the sloped
12 terraces, no driveways there, no fence lines, nothing.

13 Q So this is before you did all of your work?

14 A This is before everything right here. You
15 can even see this whole area up here, those were old
16 animal pens from the old ranch. There was also
17 railroad ties. You could see spotted railroad ties
18 here, here, here. There's some more back here. We
19 dug all those out and reutilized those as well as. So
20 it was kind of a deconstruction in order to
21 reconstruct in a way.

22 Q Okay.

23 What's shown in this photo in the background
24 there?

1 A Those are some of my aviaries that we
2 constructed. This one --

3 Q What was the purpose of an aviary?

4 A We were growing our own meat, game birds and
5 chickens. We had started all that but I think by this
6 picture, we had second generation birds already
7 started to grow and raise.

8 Q Approximately how many birds did you have?

9 A At one time, I think we got to about 600.
10 Not a lot of them survived. I had to about 300 I
11 think come to -- and this is pheasants, not chickens.
12 We raised checks and we slaughtered -- we would rotate
13 the chickens out and slaughter them for our own
14 consumption and then the pheasants, I would sell off
15 chicks to pay for the feed. Then we utilized a lot of
16 the pheasant meat as well.

17 Q Who designed the aviary?

18 A I did. I built all of that.

19 Q You built it yourself?

20 A All of that, yes.

21 Q Okay.

22 A Chicken coops and aviaries.

23 Q Did you have help for your daughter?

24 A Yeah, my daughter helped. Then Elizabeth

1 helped but a little bit of the fence on the east side
2 of the coop. She helped me string a little bit of the
3 fence up on that side. Those are full enclosures.
4 Those are full aviaries. Those you could have wild
5 birds in there flying all over the place if you wanted
6 to. There's about 1500 square feet of actual space.

7 Q And what is this?

8 A Those are just small coops. These were
9 preassembled and purchased down at Walker Lake.

10 Q Okay. Thank you.

11 And you put those together?

12 A I modified them but they were already
13 pre-built. I did modify a couple of them. We were
14 going to use a couple of them, but I just modified
15 them.

16 Q Okay.

17 And then this is just another angle of the
18 same coops; correct?

19 A Yes.

20 Q Okay.

21 Let's go back this old red building, here
22 what's that?

23 A That's a dog house, my daughter we built
24 that.

1 Q You built that, you and your daughter?

2 A Uh-huh.

3 Q What's happening in this photo?

4 A We're watching our chickens pick worms or
5 bugs out of the dirt right there out of that tree. We
6 just planted a bunch of trees up there. There's a
7 good picture of the loader that I was using that Jason
8 Homer and I had used or had bargained some loader time
9 which we ended up using quite a bit of loader time on
10 that loader, it was a much bigger loader to get much,
11 much more work done. I utilized our corral poles for
12 probably I would have to estimate about \$8,000 worth
13 of loader time to swap for our corral poles because I
14 was on that loader a lot to get a lot of the bulk
15 stuff done.

16 This area here was a water run off that I had
17 constructed with that loader. We had a real bad
18 problem with the whole property had completely sloped
19 down into the house. So if you can imagine where
20 Elizabeth is taking the picture, behind her is a
21 sloped property where when it really, really rained
22 heavily, all that rain would just come rushing down
23 into that loader area and it would just make a huge
24 pond out there. I built that area up in front of the

1 loader and this was actually kind of a water
2 entrapment area where I circled and it worked out
3 really, really good.

4 Q And those are railroad ties over here to the
5 left?

6 A Yes. Those are the ones I just haven't
7 placed yet and then the wall to my right is the last
8 little bit of the wall that goes around the hanger.

9 Q And what's this wood behind you?

10 A What's that?

11 Q What's this wood behind you?

12 A There's about I would have to approximate
13 about 18 to 20 plus cords of firewood.

14 Q And where did that come from?

15 A We actually took it off of a property a
16 couple of miles away. My daughter and I cut a bunch
17 of Elm and old Cottonwood and brought it over from
18 there at various ranches around the valley here and up
19 in the mountains.

20 Q Okay.

21 And in this photo here to the left --

22 A Are you able to -- there we go.

23 Q So on the left there, that's the aviator?

24 A Yeah, that's sitting on top of a big pile of

1 dirt that we excavated for the basement on an
2 accessory building and that's standing on top of the
3 dirt looking down into this area.

4 This also shows where the continuation of the
5 walls were, it also shows this entire fence line that
6 is constructed all the way here to a terminal, comes
7 over here and keeps coming around. That's -- I think
8 that's like the only picture that is there of the rest
9 of the fence line around the southeast or southwest
10 part of the property.

11 Then all of this dirt that you see here, all
12 of that actually came all the way out to here and then
13 tapered around to about five feet from the backside of
14 that chicken coop and that was all excavated with that
15 large loader. This entire area was all excavated.
16 There was probably I want to say in total probably a
17 couple of thousand ton of dirt and then it was
18 relocated up to the top and displaced.

19 Q So I want to come back to these photos here
20 in a second but the -- following your work on -- don't
21 turn it off?

22 THE COURT: No. I was going to say lets go
23 ahead and turn it off but also for the bailiff if you
24 wanted to be able to see.

1 BY MR. TOWNSEND:

2 Q So while all of this was going on, you
3 constructed a lot of these improvements, did Ms.
4 Howard approach you about having her mother move to
5 the property?

6 A It was a discussion of her mother moving down
7 there but not -- at that time, not moving to the
8 property.

9 Q Okay.
10 What was your understanding of what was going
11 to happen with Ms. Howard's mother?

12 A It was an idea to begin with that Liz wanted
13 to have her mom sell her house up there. She wanted
14 to take care of her. She wanted to bring her down
15 there and have her stay with us for a while which was
16 fine. They were going to go look for a house in town
17 that's my understanding.

18 Q Prior to those discussions, what was your
19 understanding of Ms. Howard's relationship with her
20 mother?

21 A Prior to those discussions?

22 Q Right.

23 A I don't know if it was necessarily close but
24 it was involved at least.

1 Q Okay.

2 Did they can't along?

3 A Yeah, from what I saw at that point.

4 Q Okay.

5 When did Ms. Howard's mother move to the

6 property or move to Fallon?

7 A I think it was May.

8 Q Of what year?

9 A Of 2013.

10 Q Okay.

11 And it was your understanding at first that

12 she was going to be purchasing her own home in Fallon?

13 A Uh-huh. To help her out, she was going to

14 stay with us for a while.

15 Q Okay. Did she look at houses?

16 A Not a one.

17 Q When she moved to Fallon, where did she

18 reside?

19 A In my daughter's room.

20 Q Was that Savannah?

21 A Savannah.

22 Q And where did Savannah have to go?

23 A She moved into my other daughter's room,

24 Fallon's room. So they both bunked up in there.

1 Q How long did that last?

2 A A couple of months.

3 Q Okay.

4 And then what happened?

5 A It got to the point where it was not being

6 respected of what was agreed to or understood of the

7 dynamics of this move down there and I was suggesting

8 that they either motivate to go and find a house or do

9 something. Bert ended up buying a trailer.

10 Q Like an RV?

11 A An RV.

12 Q So she put that on the property and moved

13 into it?

14 A Yes.

15 Q Okay.

16 Then at some point, there was discussion

17 about building an accessory dwelling?

18 A Well, yes but not for probably at least a

19 month or more, it was still -- even though she was in

20 the trailer, it was still understood, at that time,

21 when are you going to find a house type thing.

22 Q Okay. Sorry let me grab this.

23 So when did you and Ms. Howard agree to put

24 an accessory dwelling on the property, if you

1 remember?

2 A Well, there was a house -- we have to back up
3 just a little bit more than that for an understanding
4 of your question here.

5 There was a house that was only a couple
6 hundred yards away that came up for sale and I
7 recommended it because it was well within the purchase
8 price of what she was able to do. I recommended that
9 she had gotten into that house first and it was too
10 much property, it was a big property, I can understand
11 but I even offered I'll take care of her property if
12 she wanted to buy that house, it's not a big deal.
13 That didn't last too long of even a consideration
14 before the house sold and it sold for quite a bit less
15 than what it would have been offered in the first
16 place.

17 So since that was kind of off the table,
18 there was a general discussion about adding on to the
19 house. Adding on to the house was ergonomically did
20 not fit any which way. You go to the east off of the
21 back of our room and you're walking through our room
22 to get to the kitchen. You go off to the back, you're
23 over the septic tank. You go to the left and you're
24 right in front of the driveway. You go off the front,

1 it just looks funny.

2 So it was just kind of recommended that -- I
3 think Elizabeth's sister, Leslie, had even recommended
4 building something on the property since there was a
5 lot of property there. It was kind of a unanimous
6 idea at first that all of us came together and my mom
7 even had an accessory dwelling on her property and I
8 don't know who necessarily came first with that as far
9 as that idea but it just kind of blended into that
10 concept.

11 Q Okay.

12 So in order to erect an accessory dwelling on
13 the property, did you have to obtain a Special Use
14 Permit?

15 A Yes.

16 Q Would you turn to Tab 9 in that binder; is
17 that a copy of the Special Use Permit application?

18 A Yes.

19 Q Where it says Property Owner Name, whose
20 names are listed there?

21 A Elizabeth and me.

22 Q Okay.

23 And who signed the application?

24 A Elizabeth did.

1 Q Okay.
2 I'd offer Plaintiff's Exhibit 9 into
3 evidence, your Honor.
4 MR. KOZAK: No objection.
5 THE COURT: It will be admitted.
6 (Exhibit 9 was admitted.)
7 BY MR. TOWNSEND:
8 Q Okay.
9 Turn to Number 10; what is that document?
10 A Part of the link from the application.
11 Q And who is listed there as the owner of the
12 property?
13 A Elizabeth and me.
14 Q Now, was this the permit to build the
15 accessory dwelling?
16 A I think it's part of it. I think it's the
17 application is what it is, it says Permit Application
18 is what it is.
19 Q Right. And who signed that one?
20 A I signed this one.
21 Q Okay.
22 I would offer Exhibit 10 to be admitted.
23 MR. KOZAK: No objection.
24 THE COURT: It will be admitted.

1 (Exhibit 10 was admitted.)
2 BY MR. TOWNSEND:
3 Q Turn to Number 11; do you recognize that
4 document?
5 A Uh-huh.
6 Q What is that?
7 A This is the actual permit.
8 Q Okay.
9 What is the title of the document there on
10 the top, the bold capitalized --
11 A Administrative Special Use Permit.
12 Q Down below that, Owner?
13 A Owner Acknowledgement.
14 Q Okay.
15 This document again lists the owners of the
16 property who acknowledge the application for a Special
17 Use Permit; who is listed as the owner down there
18 about halfway?
19 A Elizabeth put me and her on there and both of
20 us signed it.
21 Q That's Elizabeth's handwriting with both of
22 your names?
23 A Yes.
24 Q I would offer Plaintiff's Exhibit 11 to be

1 admitted.

2 MR. KOZAK: No objection.

3 THE COURT: It will be admitted.

4 (Exhibit 11 was admitted.)

5 BY MR. TOWNSEND:

6 Q And finally, Number 12; do you recognize that
7 document, Sean?

8 A Yes.

9 Q What is that?

10 A That's the actual building permit.

11 Q Okay.

12 And about three quarters of the way down, it
13 says owner and address; who is listed again as the
14 owner?

15 A Elizabeth and me.

16 Q And who signed it?

17 A Elizabeth.

18 Q Okay.

19 I would offer Exhibit 13 to be admitted.

20 MR. KOZAK: No objection.

21 THE COURT: It will be admitted.

22 (Exhibit 13 was admitted.)

23 BY MR. TOWNSEND:

24 Q Did you and Elizabeth go together to get

1 these various permits, fill out these applications?

2 A Yes. The applications, she filled out, I
3 think.

4 Q Okay.

5 At any time, did you hear Ms. Howard complain
6 that you were listed as an owner on the title?

7 A Absolutely not. As a matter of fact, both of
8 us went together.

9 Q There were no complaints at this point?

10 A Not at all, no.

11 Q Okay.

12 I'll turn back now to the -- just to finish
13 these photos really quick. Sean, can tell us what
14 that photograph is?

15 A That's the excavation of the accessory
16 dwelling basement.

17 Q So you were going to put a basement under
18 that?

19 A We were.

20 Q And were you involved in that process at all?

21 A Moving some dirt here and there but actually
22 use the track hoe that dug it, no.

23 Q Were you involved in designing the basement
24 at all?

1 A No.

2 Q Who did that?

3 A The design?

4 Q Yes.

5 A It was a pre-fabricated home build that

6 Elizabeth had bought.

7 Q What about the basement, who did the

8 basement?

9 A Jason Homer or Dano Construction.

10 Q And that's Jason Homer?

11 A Yes.

12 Q Can you tell us what's going on in this

13 photo?

14 A Yeah, they're pouring footings.

15 Q Are you in this photo?

16 A Yes, I am.

17 Q Where are you?

18 A I'm the guy with the hat and the black

19 sweater watching the concrete. I was kind of specific

20 about the mud I wanted. I didn't it to be too wet.

21 Q Okay.

22 Right here?

23 A Yeah, that's me.

24 Q So you were involved somewhat --

1 A Yeah. I was watching over. I had 11 years
2 of mixer experience so I just wanted to make sure that
3 the concrete got done well.

4 Q Again, it's just a close up of the same?

5 A Yeah, it's the same situation.

6 Q What's going on in this photo?

7 A That's my father and me and then look
8 likes Liz is taking the photo.

9 Q What's in the background?

10 A The stem walls for the basement.

11 Q Okay.

12 How involved were you in that accessory
13 dwelling putting that accessory dwelling up?

14 A I assisted Jason Homer on a lot of little
15 things just as a helper and some dirt work and
16 excavation. I did all of the dirt removal. I got rid
17 of I think it was a couple of hundred yards of
18 material.

19 Q When you say getting rid of, you don't mean
20 the excavation, you mean actually taking the dirt
21 off-site?

22 A Yes, uh-huh. Yeah, I had to displace it
23 somehow, it was going to cost a fortune to have that
24 hauled off so I placed it around our property, built

1 up some areas on our property, back filled the
2 retaining walls on our property, gave it away to some
3 neighbors and the last little bit had to be hauled
4 off. I just had no more room for it.

5 Q Did that save Ms. Howard or her mother or you
6 to haul that off yourself?

7 A Oh yeah, operator time plus truck time.

8 Q All right.

9 What is this a picture of?

10 A Stacks of cord wood.

11 Q Okay.

12 And then the next one, the same thing?

13 A That's inside the hanger. I think there's
14 about five cords of wood that me and my daughter had
15 cut.

16 Q Okay and more of the same?

17 A Uh-huh.

18 Q Okay.

19 A Yes.

20 Q And all this was intended to be used as
21 firewood?

22 A Firewood, building projects, that right there
23 is surplus 2 x 4's, 2 x 6's. You can't see it but on
24 the other side, there's a bunch of 4 x 4's as well and

1 there's a bunch more material that was in the hanger
2 too but it was all used for projects to be used for
3 the other property and firewood.

4 Q Okay.

5 What happened to that firewood, do you know?

6 A That right there?

7 Q All of it?

8 A I haven't been out to the property for a
9 while but --

10 Q Were you able to take it with you?

11 A No, it all got left behind, every bit of it.

12 Q Was there a value to that wood?

13 A Absolutely.

14 Q Can you estimate how much?

15 A I would estimate the firewood and that
16 specific wood right there alone was probably close to
17 \$2,500, \$3,000 for cord wood.

18 Q Your Honor, I would offer to have Exhibit 4
19 admitted.

20 MR. KOZAK: No objection.

21 THE COURT: It will be admitted.

22 (Exhibit 4 was admitted.)

23 MR. TOWNSEND: Thank you.

24 BY MR. TOWNSEND:

1 Q I want to get through Exhibit 5 real quick.
2 If you would just thumb through Number 5 real
3 quick and generally, what are all these documents?
4 A Number 5?
5 Q Yes.
6 A So go back a little bit?
7 Q Yes.
8 A There's some receipts here, do you want me to
9 tell you each one?
10 Q No, just generally thumb through it real
11 quick.
12 A There are some receipts, some personal items
13 between Elizabeth and I here. This is an invoice on
14 some work I did with Jason Homer. This is --
15 Q You don't have to identify each one.
16 A They're just various bills and receipts for
17 work rendered and items purchased, things like that.
18 Q Okay.
19 Is it your position --
20 A Oh and time, I'm sorry, I didn't realize how
21 big that was.
22 Q Okay.
23 A Yeah. A lot of this was load receipts for
24 material being brought in, looks like some bank stuff

1 here and just --

2 Q Okay.

3 So invoices, receipts, load tickets for
4 various work that was performed on the property?

5 A Right.

6 Q Household expenses, that sort of thing?

7 A Correct.

8 Q Is it your position that you paid for all of
9 that?

10 A That I paid for all of this?

11 Q Yes.

12 A No.

13 Q Has that ever been your position?

14 A No.

15 Q Did you pay for some of it?

16 A Yes.

17 Q Okay.

18 If you'll turn to -- these are in numerical
19 order. If you'll turn to Hughes 00289 towards the
20 end; do you have that?

21 A I'm there.

22 Q Did you guys find that, it's towards the end
23 there, 00289?

24 I could put it up there, if that makes it

1 easier.

2 THE COURT: Would that make it easier?

3 MR. KOZAK: Yes, then we can identify them.

4 THE COURT: Counsel, we can just leave that
5 on, it's fine.

6 MR. TOWNSEND: Okay.

7 BY MR. TOWNSEND:

8 Q Do you recognize these documents?

9 A Yes, I do.

10 Q What are they?

11 A They are load receipts.

12 Q From who?

13 A From A & K Earth Movers.

14 Q What was the work that was done here?

15 A That was material brought to the property,
16 yeah.

17 Q Okay.

18 Sorry, material that was brought to the
19 property?

20 A Material that was brought to the property,
21 yeah.

22 Q There's some handwritten notes on there, did
23 you write them?

24 A Yes, I did.

1 Q Is that the dollar amount for those?

2 A Yes, it is \$865.44.

3 Q Okay, 00276, I'm going to flip back here; do
4 you recognize that document?

5 A Yes, I do.

6 Q This is -- is this an invoice basically for
7 that same work?

8 A Yes, it's a tally sheet is what it is.

9 Q And this dollar amount is that where you get
10 this one?

11 A Yes.

12 Q Was it your intention to pay for this amount?

13 A Yes, it was.

14 Q And who ended up paying for it?

15 A Roberta Howard.

16 Q What was arrangement there?

17 A This was a bill that I had for rock that I
18 brought in that I was going to pay. When we moved
19 Berta down to our place to stay for a while --

20 THE COURT: Who is Berta Howard just so I --
21 BY MR. TOWNSEND:

22 Q That's Ms. Howard's mother; correct?

23 A Yes, sorry about that.

24 Berta Howard had offered to pay me \$1,000 for

1 helping her move, stopping in the middle of what I was
2 doing to stop and help her move, and she was going to
3 pay \$100 to my daughter. She paid the \$100 to my
4 daughter, but I recommended to help her out again as
5 well in lieu of just paying me \$1,000, why doesn't she
6 just take care of this rock bill that I had. So she
7 ended up making a cashier's check to pay for this rock
8 bill.

9 Q Okay.

10 So she paid this?

11 A Correct, yes.

12 Q Saved her about \$35 bucks?

13 A No, \$135.

14 Q Then she gave \$100 to your daughter, correct?

15 A No. Actually, she gave an additional \$100 to
16 the \$1,000 to my daughter.

17 Q Okay.

18 Turn to 00296, I'll get it on the screen
19 here; do you recognize that invoice?

20 A Yes.

21 Q What is this for?

22 A This is for rock base that was paid.

23 Q How was that paid?

24 A It was paid by cash.

1 Q And what was the total amount here?
2 A \$1019.65.
3 Q And how much of that did you pay?
4 A Elizabeth and I split that in half.
5 Q Okay.
6 And you went down and paid cash?
7 A Both of us physically went down and paid the
8 cash on that.
9 Q Okay.
10 Just turning a couple of pages to 298; do you
11 recognize that invoice?
12 A Yes, I do.
13 Q What was that from?
14 A That was from Frank at Lahontan Valley
15 Electric.
16 Q Okay.
17 What was this particular invoice for?
18 A This was for wiring the inside of the garage
19 per specifications to my business that I was going to
20 be putting in.
21 Q Okay.
22 Did Ms. Howard and her mother also have a
23 contract with Lahontan Valley to do electrical work?
24 A They did.

1 Q Was that separate and apart from this?
2 A Yes, it was.
3 Q Okay.
4 Maybe it would be constructive to show where
5 the electrical work that was contracted by Ms. Howard
6 and her mother versus the work that you paid for?
7 A Sure.
8 Do you want me to demonstrate it on there?
9 Q Yeah, if you don't mind please.
10 A I'm going to use this here as -- here's the
11 accessory dwelling. The contract work was to take a
12 110 stub here and turn it into a secondary 110 stub
13 here and turn this into a 220 or a 200 amp service.
14 Lahontan Valley Electric completed this. They wired
15 the entire inside of the accessory dwelling and then
16 they stubbed the wire into the garage.
17 Q And who paid for all of that work?
18 A Everything I mentioned was Berta Howard paid
19 for all of that.
20 Q Okay.
21 THE COURT: Is that the bill that I'm looking
22 at here?
23 THE WITNESS: No.
24 BY MR. TOWNSEND:

1 Q So what was this bill for?

2 A This here, this bill was a bill that for the
3 electrical that I had in place inside the garage for
4 ceiling fixtures, an RV port on the outside, external
5 fixtures and AC plugs and circuits inside the garage;
6 that bill is everything inside the garage.

7 Q Okay.

8 It just might be helpful for the court, can I
9 have this binder? Sean look at that.

10 THE COURT: We'll leave that.

11 BY MR. TOWNSEND:

12 Q Bear with me for one second here.

13 If you'll turn to Exhibit L, I'm going to put
14 this up here; are these invoices from Lahontan Valley
15 Electric?

16 A Yes, they are.

17 Q Are these the invoices for the work done,
18 this work over here?

19 A Yes, the accessory building, yes.

20 Q They're separate and apart from the work that
21 you did?

22 A Yes.

23 Q Have you ever claimed to pay for this work?

24 A Absolutely not.

1 Q So that's all I have on that.

2 Then if you'll just turn the page here to 299
3 in the plaintiff's binder; do you recognize these
4 documents?

5 A Yes, I do.

6 Q What are those for?

7 A Those are for the trees that I put into the
8 orchard up in the garden area.

9 Q Who paid for that?

10 A I did. My father paid for one but I
11 reimbursed him for it. So ultimately, I paid for both
12 of those.

13 Q Did you pay him with cash?

14 A I think so. I think one was a card and the
15 other was cash.

16 What tab is this under?

17 Q This is under 5.

18 Let's see here, this is paid by cash, right

19 Sean?

20 A Yes. One of them was a check.

21 Q Do you recognize this document?

22 A Yes.

23 Q Okay.

24 What is it?

1 A I'm sorry.
2 Q What is this document?
3 A That's for the Country Financial Insurance on
4 the house.
5 Q Again, this is one that you paid?
6 A It is.
7 Q Is this another insurance bill that you paid?
8 A Yes, it is.
9 Q Again, another insurance payment?
10 A Yes, it is.
11 Q And you paid that one?
12 A Yes.
13 Q This is another copy of the tax bill;
14 correct?
15 A Yes.
16 Q And you paid those taxes?
17 A Yes.
18 Q The last thing again another tax bill?
19 A Yes, one was 2015. This one was 2014.
20 Q Okay.
21 Do you recognize this document?
22 A Yes, I do.
23 Q What is that for?
24 A That is for the slab, the concrete slab that

1 I designed.

2 Q And who paid for that?

3 A I did.

4 Q Do you recall the amount?

5 A \$4,000 for that slab.

6 THE COURT: Could I just clarify, that is the
7 slab another front of the garage or where is it?

8 THE WITNESS: Yes, that's the reinforced
9 approach slab in front of the garage.

10 BY MR. TOWNSEND:

11 Q Were there various other things that you paid
12 for on the property?

13 A Miscellaneous things here and there, yes.

14 Q Okay.

15 Did Ms. Howard pay for a lot?

16 A Absolutely.

17 Q Have you ever disputed that?

18 A No.

19 Q Is what we looked at representative of
20 everything that you paid for?

21 A No.

22 Q Those are just samples?

23 A Those are just samples.

24 Q In general, how would you pay for things,

1 cash, card?

2 A Cash, some were card.

3 Q Right.

4 Where did you keep your cash?

5 A In my safe.

6 Q Where did you get the cash from?

7 A A lifetime of working.

8 Q Did you prefer to have cash to bank accounts?

9 A I preferred that, yes.

10 Q Why?

11 A Mainly because of the hobbies that I was

12 into, coins, currency, antiques, firearms and

13 furniture.

14 Q Okay.

15 If you'll turn to Tab Number 8 in the black

16 one. If you'll thumb through those documents; do you

17 recognize these documents?

18 A Yes, I do.

19 Q What is this first document, first couple of

20 pages?

21 A The very first one?

22 Q Yes.

23 A It's for a -- (inaudible) B K M.

24 Q Which is what?

1 A It's a general purpose machine gun.
2 Q And you sold that gun?
3 A Yes.
4 Q Okay, for how much?
5 A \$10,000.
6 Q Okay.
7 When was that; do you remember?
8 A It was -- when I sold it, it was early 2013.
9 Q Okay, was that cash then used at all for the
10 property?
11 A Yes, parts of it, yeah, it was kind of mixed
12 in on certain things.
13 Q Okay.
14 Then that next Page, Hughes 00317, it's kind
15 of blurry but do you recognize that document?
16 A Yes, it's just an F F L for transfer.
17 Q Okay.
18 The same gun, would that be the same gun?
19 A Yes.
20 Q It's the paperwork you have to fill out when
21 you sell the gun?
22 A Yeah. Well, at this time it was a private so
23 I could sign it to an F F L dealer. I didn't have my
24 F F L yet.

1 Q Okay.

2 Then the next few pages are records of sales?

3 A Yes.

4 Q With Northern Nevada Coin?

5 A Yes.

6 Q Those are sales you made to Northern Nevada

7 Coin?

8 A Yes, they were. Yes. Some of it was junk

9 silver that I wanted to exchange for monetary.

10 Q So the first one sold for a little over

11 \$2,100 bucks?

12 A Yes.

13 Q The next one another \$2,100 or so?

14 A Yeah, \$2,157.

15 Q Okay.

16 \$70, the next one is a couple of thousand

17 dollars?

18 A Yes.

19 Q And then there's a handwritten receipt here

20 it looks like 00322, what was that for?

21 A That was for coin.

22 Q Who did you sell that to?

23 A Steven Vorazza.

24 Q Who was he?

1 A He was a very close friend of mine that I've
2 known about five years.

3 Q Okay.

4 So you did some coin deals with him?

5 A I've done a tremendous amount of coin and
6 firearm deals with him.

7 Q This is representative of the kind of
8 transaction that you would do?

9 A Yes.

10 Q And all of these are basically cash
11 transactions?

12 A Yes, some of them were when I had my F F L, I
13 did a lot of credit card transactions.

14 Q And you would deposit that cash in your safe?

15 A Yes.

16 Q Okay.

17 And again, just a couple of more coin
18 purchases. The last few documents are related to your
19 tax returns; is that right?

20 A Yes, sir.

21 Q You were entitled to refunds it looks like in
22 2012, 2011?

23 A Yes.

24 Q Did you use the cash from those refunds on

1 the property?

2 A Actually, on these, I used them entirely on
3 the property.

4 Q Okay.

5 I would ask for Exhibit 8 to be admitted,
6 your Honor.

7 THE COURT: Mr. Kozak?

8 MR. KOZAK: No objection.

9 THE COURT: Exhibit 8 will be admitted.

10 (Exhibit 8 was admitted.)

11 BY MR. TOWNSEND:

12 Q So the reason we're talking about all these
13 cash transactions and how you earned money, at some
14 point, you stopped working for Gold Star Coin,
15 correct?

16 A Yes, sir.

17 Q Do you recall when that was?

18 A Late 2012.

19 Q And what were the circumstances surrounding
20 that termination of employment?

21 A They wanted me to come back out on the road.
22 I didn't want to come back out on the road because I
23 had my children with me and I was working on the
24 property. I was comfortable enough to where I didn't

1 need to come back out on the road.

2 Q Okay.

3 A And they wanted to terminate the position
4 from home that I had. But ultimately, they dissolved
5 the company a month later. So it didn't matter if I
6 went out on the road or not.

7 Q So did you look for permanent employment
8 again at that time?

9 A No.

10 Q What instead did you decide to do?

11 A Fulfill what the -- Elizabeth and I had
12 understood that I was just going to go ahead and work
13 entirely on the property and get caught up on where I
14 need to be.

15 Q Did you intend for that to be permanent where
16 you would never go back to work?

17 A No, not at all.

18 Q How long did you expect to devote your time
19 to the property?

20 A Well, when we bought the house, we already
21 talked about the work that needed to be done on it and
22 I had already put myself in a position up to
23 two years, at the time we bought house.

24 Q Okay.

1 A To work on the property.

2 So when my employment with Gold Star had
3 dissolved, I was just going to run the rest of the
4 time out working on the property.

5 Q Okay.

6 How long were you not employed, while you
7 worked on the property?

8 A Not employed?

9 Q Correct.

10 A Including self-employment?

11 Q No, with a full-time job or part-time job
12 where you're reporting to somebody else?

13 A About from January of 2013 to I think it was
14 January of 2015.

15 Q So a couple of years?

16 A Yeah, two years that I wasn't employed by an
17 employer.

18 Q But you did these transactions on the side
19 selling guns, coins?

20 A Yeah. A lot of it was just redemption of my
21 only personal property.

22 Q And you did that in part to pay for projects
23 on the property that you were working on?

24 A Pay for projects, do my own thing, get my F F

1 L up and going. A little bit of it went into
2 preparing for my F F L, my 06 license, materials for
3 that.

4 Q Okay.

5 Do you have all of the records, receipts,
6 that sort of thing that you paid for on the property?

7 A No.

8 Q Where would those have been?

9 A Those were in a wooden filing cabinet that
10 were on the property.

11 Q That were in the house?

12 A No, it was in the garage.

13 Q Okay.

14 After you were -- after you left the
15 property, did you have access to those records any
16 further?

17 A No.

18 Q So you're not able to provide all of the
19 receipts and everything that show everything you paid
20 for?

21 A Correct.

22 Q Okay.

23 If you'll flip to Tab 14 in that binder, do
24 you recognize that document?

1 A Yes.

2 Q What is that document?

3 A Looks like something from the County.

4 Q Okay, did you pull that from the County?

5 A Oh, yes, it comes off their County Web site,

6 yes.

7 Q Okay.

8 At the top, it states it's an improvement

9 list for parcel 007-111-45; is that the property at

10 Fulkerson Road?

11 A Uh-huh.

12 Q If you look through the list of improvements

13 there, were you involved in erecting any of those?

14 A The first one, no.

15 Q What is the first one, M H --

16 A Yeah, the M H E S T, no.

17 Q That's the mobile home that existed; correct?

18 A Yes.

19 Q Okay.

20 A You have the metal building that was already

21 there. The phone and septic was already there. The

22 mobile home hookup was already there. Detached

23 garage, I didn't physically build anything on it. I

24 don't know what the ADU --

1 Q That's the Accessory Dwelling Unit?

2 A Oh, we did projects on that, performed
3 projects on that. I did all the walls. I did all the
4 chicken house, chicken coop, the detached garage, C F
5 W. I think that's the driveway. W D deck, I don't
6 know what that is and I don't know what the C F W is.

7 Q That's, okay.

8 You can see there the year that each of those
9 improvements was built; right?

10 A Yes.

11 Q Okay.

12 So basically from improvement Number 5 down
13 to Number 11, those were all built after you purchased
14 the property, correct?

15 A Yes.

16 Q And you were heavily involved in all of those
17 projects?

18 A Correct.

19 Q What specific projects did you work on the
20 accessory dwelling?

21 A Elizabeth and I had installed a sub floor in
22 the kitchen. We did some shelving in a hallway in the
23 pantry. Then we painted the interior of the accessory
24 building, and then I made an egress window well for

1 the basement.

2 Q Okay.

3 A And then, of course, the small stuff that
4 Jason Homer and the dirt, getting rid of the dirt.

5 Q Your Honor, I would ask that Exhibit 14 be
6 admitted.

7 MR. KOZAK: No objection.

8 THE COURT: It will be admitted.

9 (Exhibit 14 was admitted.)

10 BY MR. TOWNSEND:

11 Q Turn back real quick to Number 13; do you
12 recognize that document?

13 A Yes.

14 Q What is that document?

15 A That is the document from a water commission
16 that we abided by, rules of reporting for water use.
17 Having an accessory dwelling, it required having a
18 meter installed on the well.

19 Q Who installed the meter on the well?

20 A Mike's Plumbing installed it.

21 Q Do you have any involvement in that?

22 A Yes. Me and my daughter dug the trench for
23 the casing.

24 Q Okay.

1 And again, who is listed as the owner of the
2 property on that document?
3 A Elizabeth and I, she put us in there.
4 Q And who signed the document?
5 A Both Elizabeth and I.
6 Q Okay.
7 I would ask that Exhibit 13 be admitted.
8 MR. KOZAK: No objection.
9 THE COURT: It will be admitted.
10 (Exhibit 13 was admitted.)
11 BY MR. TOWNSEND:
12 Q Looking at Exhibit 14 again, and all the
13 photographs that we've gone through, all the work that
14 you did, did you ever expect Ms. Howard to pay you for
15 the work that you performed on the property?
16 A Absolutely not.
17 Q There was never an expectation to be paid for
18 it?
19 A To be paid for it?
20 Q Right.
21 A Absolutely not.
22 Q Why not?
23 A Because it was my home.
24 Q So that was always your belief that it was

1 your home?

2 A Absolutely.

3 Q Okay.

4 I don't have anything further at this time,
5 your Honor.

6 THE COURT: Mr. Kozak, and you can stand or
7 be seated whichever is more comfortable for you.

8 MR. KOZAK: Okay. Thank you, your Honor.

9 CROSS-EXAMINATION

10 BY MR. KOZAK:

11 Q It's my understanding, Mr. Hughes, that you
12 even before the house was actually moved into, you did
13 some clean-up work in the front yard?

14 A Yes.

15 Q And you did that for approximately
16 three months?

17 A Close to.

18 Q And you were working how many hours a day on
19 that?

20 A Probably up to five or so, an estimate.

21 Q So you estimated you spent about 100 hours
22 cleaning up that property; correct?

23 A Probably so.

24 Q And then after that, you did some work on the

1 driveway; correct?

2 A Yes.

3 Q And did you get that surveyed, the actual
4 driveway that you contemplated putting between the
5 road and the garage?

6 A Between the road and the garage, what do you
7 mean by "survey?"

8 Q Well, did you have a surveyor come out and
9 make sure everything was graded properly and it was a
10 professional job?

11 A I called the County to know what the distance
12 of the easement would be on there because I wanted to
13 make sure I was in proximity of that. As far as I
14 didn't want to cut into any utilities when I was
15 cutting the ground with my front loader.

16 So I did call U S A Dig and they came out to
17 survey if that's what you're talking about. They
18 marked all the utilities, the electrical utilities and
19 the phone utilities.

20 Q So after that, then the garage was
21 constructed?

22 A Yes, I think so. Well, not after that, no,
23 it was kind of during that time.

24 Q Okay.

1 And then you did some work on the railroad
2 ties that we heard all that testimony about, correct?

3 A Yes.

4 Q Who paid for the railroad ties?

5 A Elizabeth.

6 Q Who paid for the front loading work that Mr.
7 Savage did?

8 A Elizabeth.

9 Q She paid for that cash, didn't she, when he
10 would come and work for four or five hours?

11 A Well, it was in a total, it was in a total
12 aggregate hours.

13 Q Okay.

14 And who paid for the rock that was used with
15 the railroad ties?

16 A It's a mix between the two of us.

17 Q How much did you pay?

18 A The majority of it was paid by Elizabeth. I
19 do have some receipts in here from my bank account
20 that I don't know what they were for but it says A &
21 K. There's one for \$1,200 that I paid, another one
22 for \$300 that I paid. I have no clue what they went
23 for but they went to A & K so I'm assuming they went
24 to some of the receipts or towards the bill between

1 her and I. Then I paid for the one that we disclosed
2 or paid in lieu of with Berta Howard the one we
3 disclosed here.

4 Q And were all your payments in cash?

5 A Pretty much, yeah, except the ones I just
6 mentioned on my bank account.

7 Q Okay.

8 Do you have any back-up documentation to show
9 where you got that cash besides sales of your
10 inventory that you had already acquired?

11 A Other than like official stuff?

12 Q Yes.

13 A Just my income up until 2013 and my tax
14 returns. Well, the returns that you saw there.

15 Q Now, your income was about \$23,000 a year I
16 believe at the time you purchased this -- Elizabeth
17 purchased this property?

18 A I would probably take a wild guesstimate.

19 Q It was \$23,000 a year, was it not?

20 A It varied on different years.

21 Q Okay.

22 And then from employment, it dropped to zero
23 at some point?

24 A To my unemployment?

1 Q Yes.

2 A Uh-huh.

3 Q And when was that?

4 A 2013.

5 Q What date?

6 A Probably January.

7 Q Okay.

8 Now, after the improvements were put in with
9 regards to the railroad ties, did you do any further
10 work on the property?

11 A The railroad ties went all the way up until
12 early 2014 and then just general maintenance after we
13 got the bulk of that done.

14 I had injured myself. After the winter of
15 2014, I injured myself so I slowed down tremendously
16 and in June, I got my -- I filed for my F F L license.
17 So I was pretty much done with the work other than the
18 installing the -- helping my daughter dig the trench
19 to the casing for the water heater.

20 Q So basically from the winter of 2014 until
21 you moved off the premises, you didn't do very much
22 work; is that correct?

23 A Yeah, just little stuff, yeah, about
24 five months or so.

1 Q Now, the work on that fence, when did that
2 stop?
3 A The work on the fence?
4 Q Yes.
5 A That was completed, I want to estimate
6 probably by September of 2012, I think.
7 Q And that work consisted of digging post
8 holes; correct?
9 A Yes.
10 Q How many post holes were dug?
11 A I'm not sure. I think there were close to 80
12 or so.
13 Q And did Elizabeth assist you with that?
14 A In digging?
15 Q Yes.
16 A No.
17 Q Did you dig all the post holes?
18 A I dug all the post holes.
19 Q How many hours would it take you to dig a
20 post hole?
21 A It depended on what ground I was cutting
22 through. If it was real loose sand, probably a couple
23 of hours because they went down four and a half feet
24 and it was hardpan or if it was stuff that we had down

1 below on the lower part of the property, it would
2 probably take all day to do two.

3 Q What about the actual material between the
4 post holes, did you put that material in or was there
5 a contractor that did that?

6 A Between, the fence line.

7 Q Yeah, the actual fence?

8 A No, I did all of that.

9 Q Did anybody help you?

10 A Yes.

11 Q Who was helping you?

12 A My daughter.

13 Q Any contractors involved in that?

14 A The fence line, no.

15 Q And how long did it take you to put the fence
16 line in?

17 A This is a guess, maybe just a couple of
18 parts, maybe a month or so in total.

19 Q Do you know how much Mrs. Howard spent
20 putting in the garage?

21 A Yes, I think it was \$22,000 or \$21,000.

22 Q Would it surprise you to know it was \$26,000?
23 Would you be surprised if the amount was
24 \$26,000?

1 A Uh-huh.

2 Q Do you have a total of all the expenses you
3 put into this property from the time it was purchased
4 by Ms. Howard?

5 A No, I had no reason to.

6 Q So you can't even give me an approximate
7 amount? Is that a yes?

8 A I couldn't give you an approximate amount,
9 probably \$20,000 or more.

10 THE COURT: Mr. Hughes, what I need you to do
11 is answer out loud just so that the record is clear.

12 THE WITNESS: Sure.

13 BY MR. KOZAK:

14 Q And can you give me a breakdown on what that
15 \$20,000 went for?

16 A Probably not.

17 Q So as you testify here today, you're really
18 not sure what the \$20,000 went as far as each expense
19 is concerned?

20 A Other than the ones that I have documentation
21 of.

22 Q Do you know how much you have documentation
23 what the amount is?

24 A I think if you add them up, I think it's

1 probably about \$14,000 or so, \$13,000. Plus I paid
2 back my father some money.

3 Q How many railroad ties actually went into
4 that project; you said it was like the 900; right?

5 A Close to 900 I think.

6 Q Wasn't it more like 400 or 500?

7 A I don't think so.

8 Q Did you ever see the tax assessor's statement
9 said it was only four or 500?

10 A Oh, yeah, because they generalized it.

11 Q So they're wrong, it was twice that amount,
12 huh?

13 A Probably yeah.

14 Q Now, the Special Use Permit that was gotten
15 from the County, they specified only licensed
16 contractors could work on the addition; isn't that
17 correct?

18 A I think so.

19 Q And you're not a licensed contractor?

20 A No.

21 Q And you're not claiming any expenses as far
22 as -- (inaudible) house is concerned; you didn't put
23 any money into that?

24 A No.

1 Q Do you know how much that house cost?
2 A Just from what Elizabeth indicated to me.
3 Q And what did she indicate to you?
4 A She said it was about \$119,000.
5 Q Do you have any reason to doubt that?
6 A No.
7 Q Now, you stated you spent \$4,000 for the slab
8 in the front of the garage; is that correct?
9 A Sure did.
10 Q How did you pay for that?
11 A Walked into my safe, grabbed my cash and gave
12 it to Elizabeth.
13 Q And where was that cash derived from?
14 A A lifetime of working, a little bit from a
15 coin deal I had just made previous to the slab going
16 in and just wheeling and dealing.
17 Q How much cash did you have in your safe when
18 you moved into the Fulkerson property?
19 MR. TOWNSEND: Objection, relevance.
20 THE COURT: Overruled.
21 THE WITNESS: Close to \$47,000.
22 BY MR. KOZAK:
23 Q And I was a little unclear, did you pay for
24 the wiring in the garage that you testified about?

1 A Yes, I did.

2 Q Was that paid for in cash also?

3 A Yes.

4 Q How was that paid for?

5 A That was transferred into my bank account.

6 Well, actually I think it was paid to Frank in cash.

7 I think it was paid to Frank in cash.

8 Q Now, you said a lot of your records were in a

9 box in the garage; is that right, a wooden box in the

10 garage?

11 A Filing cabinet.

12 Q What efforts did you make to get those

13 records?

14 A Before I was ousted?

15 Q Before you left the premises?

16 A So ask your question again.

17 Q Yes.

18 What efforts did you make to get those

19 records, prior to leaving the premises?

20 A I wasn't really given the chance to get my

21 records before leaving the premises.

22 Q And after leaving the premises, what efforts

23 did you make to get those records?

24 A I don't even understand the question really.

1 Q Well, you knew the records were in the box in
2 the garage; correct?

3 A Uh-huh.

4 Q You knew that you probably were going to need
5 those records in the future; correct?

6 A Yes.

7 Q So what efforts did you make to acquire those
8 records?

9 A Just going to the Justice Court to get back
10 into my property and gain the rest of my personal
11 property that I had, that's the only effort that I
12 could make at the time.

13 Q Well, later you began to be represented by
14 counsel; correct?

15 A At what time?

16 Q Well, when did you hire counsel?

17 A Are you talking about Mr. Townsend?

18 Q Yes.

19 A In July.

20 Q And did you ask Mr. Townsend to get those
21 records for you?

22 A No.

23 Q Why not?

24 A Well, I don't know. I would assume that they

1 were long gone by the time Jack came around.

2 Q But you don't know that for sure, right?

3 A No.

4 Q Do you know how much money Ms. Howard spent
5 in expenses on that property, after she purchased it?

6 A Other than the garage and what she put in
7 with Sean from S R T and hot wire upgrade that she
8 did, do you want me to give you a guess?

9 Q Well, to the best of your knowledge, what did
10 she spend on that property after it was purchased?

11 A Probably 110, I guess.

12 Q Now, did there come a time when Roberta
13 Howard was requested by you to put her cash in your
14 safe?

15 MR. TOWNSEND: Objection, relevance.

16 THE COURT: Sustained.

17 MR. KOZAK: I have nothing further.

18 THE COURT: Mr. Townsend, anything further?

19 REDIRECT EXAMINATION

20 BY MR. TOWNSEND:

21 Q Did you do any research on whether or not you
22 needed to become licensed to do any work on your
23 property?

24 A Did I do any research for that?

1 Q Yes.
2 A No.
3 Q Did you call anyone, talk to anyone?
4 A No.
5 Q Okay.
6 Did you, at the time that you did all of the
7 work, believe that you owned the property?
8 A Yes.
9 Q Okay.
10 At any time, did you think -- while you were
11 living on the property, did you think that you had
12 reason to collect receipts, property records,
13 photographs?
14 A No.
15 Q Were you planning to be ousted from the
16 property?
17 A No.
18 Q Were you planning to continue owning the
19 property?
20 A Yes.
21 Q Okay.
22 When this all started, did you have any
23 debts?
24 A No.

1 Q Did you have any debts when you were ousted
2 from the property?

3 A No.

4 Q And that's based on your lifestyle choices,
5 keeping money in your safe, not spending a lot; is
6 that correct?

7 A Yes, sir.

8 Q Okay. I think that's all.

9 THE COURT: Mr. Kozak?

10 MR. KOZAK: Nothing further.

11 THE COURT: Thank you.

12 MR. TOWNSEND: You can come sit down now. Do
13 you want to proceed now?

14 THE COURT: Well, it's 11:42. I mean, we can
15 break for an hour and a half for lunch now or you can
16 call your next witness. I don't know how you want to
17 a do it.

18 MR. TOWNSEND: I can call my next witness. I
19 don't anticipate -- I hope that it won't take that
20 long.

21 THE COURT: Okay, let's start. I would like
22 to break right at noon. We'll break for an hour and a
23 half and then come bak. But let's go ahead.

24 MR. TOWNSEND: Okay. We'll call John Hughes.

1 THE COURT: Mr. Hughes, if you'll come
2 forward here to the witness stand. If you would face
3 the clerk and raise your right arm to take the oath of
4 a witness.

5 (The witness was sworn.)

6 THE COURT: Please be seated.

7 Mr. Townsend?

8 JOHN HUGHES

9 EXAMINATION

10 BY MR. TOWNSEND:

11 Q Okay.

12 Mr. Hughes, would you state your name for the
13 record?

14 A John W Hughes.

15 Q Okay.

16 Mr. Hughes, what was your occupation?

17 A When?

18 Q Most recently, I guess?

19 A I spent eight years in the Air Force,
20 10 years in the Highway Patrol, 11 years in my
21 personal business and another 12 years in a Community
22 College law enforcement.

23 Q Okay. Where was that most of employment?

24 A All of it in California.

1 Q Okay.
2 Where do you live now?
3 A I live here in Fallon.
4 Q Okay.
5 How long have you lived here in Fallon?
6 A It's going on three years.
7 Q And what is your relationship to the
8 plaintiff?
9 A He's my son.
10 Q Okay.
11 Do you have any other children?
12 A Yes.
13 Q How many?
14 A Just one, he has a sister that's a year
15 older.
16 Q Do you know the defendant, Ms. Howard?
17 A I do.
18 Q Can you describe for the court the first time
19 you heard Ms. Howard's name, the circumstances
20 surrounding that?
21 A Well, it was my son worked for a company. He
22 used to buy antique coins. They were at a show in
23 Concord, and I got a call from him, a very excited
24 call indicating that a miracle had just happened in

1 his life and that he had met someone.

2 MR. KOZAK: Your Honor, I'm going to object
3 to this as hearsay.

4 MR. TOWNSEND: It's a statement of a party
5 who's here?

6 THE COURT: Well, I'm going to overrule the
7 objection and I'm going to allow the testimony not for
8 the truth of the matter asserted but just for my
9 context.

10 Go ahead.

11 BY MR. TOWNSEND:

12 Q Thank you.

13 So the person Sean was describing, is that
14 Ms. Howard?

15 A Yes.

16 Q Did you have occasion to meet her shortly
17 after that?

18 A I can't tell you exactly how long it was
19 after that but yeah, it was a couple of weeks, maybe a
20 month after that.

21 Q And in what context did you meet her?

22 A It was just a social gathering for a cup of
23 coffee. I believe my son and she stopped by the
24 house. I lived in Concord and that's where they were

1 at.

2 Q So you lived relatively close to where Ms.
3 Howard did at the time?

4 A Well, I don't know where Concord to Vallejo
5 or Fairfield would be but that's the distance.

6 Q Okay.

7 Generally, the Bay Area of California?

8 A Yes.

9 Q Okay.

10 How would you describe your relationship with
11 Ms. Howard, from that point forward?

12 A Skeptical, apprehensive at first. Liz has a
13 way of winning your heart in a very quick period of
14 time, that's my opinion.

15 Q Did she win your heart?

16 A She did, she sure did, she really did.

17 Q Okay.

18 What did she call you?

19 A We got to a point where I was being referred
20 to as her dad. Her comments many times were the fact
21 that I was the only dad she ever had and that was the
22 beginning of our relationship.

23 Q Okay.

24 A I would like to say also that there was

1 always the compliment from her to me of "I Love you,"
2 any time there was an end of a meeting or a
3 conversation.

4 Q So your relationship with her was one of
5 affection?

6 A Very much so.

7 Q Okay.

8 Were you -- did you have discussions with her
9 about the property on Fulkerson Road before it was
10 purchased or with your son?

11 A No. I didn't have any discussion about the
12 property before.

13 Q Okay.

14 What about immediately after it was
15 purchased?

16 A Yeah, and it was -- after they purchased the
17 property, she and I had a conversation on the phone in
18 which she had related to me that she had placed Sean
19 on the title.

20 Q How would you describe her tone in that
21 telephone call?

22 A The only way I could describe it was typical
23 Liz when she's happy about something. She was very,
24 very alert, very acute to what she was describing. My

1 first question to her was "Why?" And she came back
2 with an answer that was immediate, to the point.

3 Q And what was that answer?

4 A She told me that she was concerned about Sean
5 and his situation on the property in that if something
6 should happen to her in one of her trips from
7 Fulkerson here in Nevada to her mom's house and down
8 to the doctors that she was seeing, that she was
9 afraid that her family knowing them as she did, would
10 step in and attempt to throw Sean and the girls out on
11 their butt and she wanted to see to it -- with all the
12 work that he was putting into the property, she wanted
13 to see to it that he was protected and that they were
14 protected as far as the home.

15 Q Okay.

16 And those were the words generally that she
17 used in the telephone conversations that she had with
18 you shortly after executing the quitclaim deed?

19 A Give me the first part of that again.

20 Q Sorry. Those were the words that she used
21 generally in speaking with you about the quitclaim
22 deed?

23 A Yes.

24 Q Did you have conversations with Liz about her

1 relationship with her family, prior to this?

2 A In personal face-to-face conversations, yes,
3 that subject did come up. She didn't seem too
4 enthused about her family and from all indications,
5 the conversations that we were having, she was
6 relating a negative attitude towards her family.

7 Q Okay.

8 At some point, did you learn that Ms. Howard
9 intend to move her mother to Fallon?

10 A Yes.

11 Q Okay. Did you have a conversation with her
12 about that?

13 A I did.

14 Q Where did that conversation take place?

15 A It was on the phone.

16 Q On the phone, okay.

17 Did you ever have a conversation with her at
18 a restaurant in the Bay Area about this as well?

19 A Yes.

20 Q What was the nature of that conversation?

21 A This was down at her mom's. I think it was a
22 time that she was going to see one of the doctors that
23 she was seeing. We had a weekend there that I thought
24 it would be rather appropriate for us to get together,

1 and I met her halfway between her residence and mine
2 at a restaurant just off of Highway 5, and we had
3 lunch and a conversation.'

4 Q And what did you discuss?

5 A Well, I was quite concerned about the
6 comments that had been made in the past by Liz about
7 her cooperation and her affection for her mom, it
8 seemed like the majority of that conversation was
9 always negative, that now all of a sudden, they're
10 talking about building a house on the property and
11 bringing mom to live there. I was really concerned
12 about that.

13 The conversation about can she, should she, I
14 don't believe it got into any type of argument, a gun
15 battle or anything of that nature, it was just a,
16 "This is my opinion. I think you're making a big
17 mistake. If she is the type of person that creates
18 for you what I've heard you talk about in the past,
19 you're not going to be protected from that by having
20 her live 60 feet away from your back door."

21 Q So the conversation you had with her was out
22 of concern for Ms. Howard?

23 A Very much so.

24 When I first met Liz, she was -- I

1 characterize my son as being the type of person who
2 cannot be a stranger. You're friends with everybody.
3 Liz seemed to be just right in his footsteps or he in
4 her footsteps, I don't know, one of the two but she
5 was the type of person she drug you -- I didn't mean
6 drug you. She drew you to her. She was just that
7 type of an open communicative type of individual who
8 shared burdens with you.

9 I tried to be as much of an advisor as I
10 could be to both of them without trying to emphasize
11 you have to do it my way. She was pretty intent this
12 is what she wanted to do was to bring mom out there to
13 live.

14 Q Okay.

15 A It was their business.

16 Q Okay.

17 Did you have any involvement in the property
18 on Fulkerson as far as paying for any expenses,
19 anything like that?

20 A I volunteered to do a lot.

21 Q Okay.

22 A Sean explained to me that in his job at the
23 coin company folded up, they had been in the residence
24 for sometime and he and Liz had discussed at length a

1 lot of conversations about directions for the
2 property, decorations or how to change this over or
3 change that over. He had told me they had discussed
4 him not going back to work and looking for a job for a
5 couple of years to give him the opportunity to get
6 done some of the major stuff that was on that
7 property. At this point, I hadn't seen the property.

8 Q Right.

9 A So I was just going by the conversations, the
10 numerous conversations on the phone that I had with
11 both of them. I knew he didn't have any tools or
12 equipment to do it with, and I was more than willing
13 to help either one of them. Liz can tell you the
14 numerous time that she's told me about things that
15 she's needed for the house that she got basically
16 through conversations.

17 Q Can you give an example or two of things that
18 you purchased for Liz?

19 A For Liz?

20 Q Yeah.

21 A Pressure cookers, bottles for canning, sewing
22 machine, iron, double electric range for the house
23 that she can put her pressure cooker on.

24 Q And then did you also purchase a tractor for

1 use on the property as well?

2 A I did.

3 Q Can you describe how that came about?

4 A My heart was with both of them all this time,
5 and I knew that the one time that I had been over
6 there and they were doing some work on the property,
7 Sean and a friend of his were putting in fence posts
8 and all this was being done by hand. My oldest
9 granddaughter was involved in this too. I don't know
10 where they got this kid from but she's all in railroad
11 ties like she belonged to a railroad company and
12 helped put in the fence.

13 The work that he was doing was all by labor,
14 hand labor, wheel barrel and shovel and I happened to
15 stumble across a tractor, a Ford tractor with a front
16 loader on it on eBay. I called the guy. He was up in
17 Chico, California and I said, "If I buy it, will you
18 deliver it to him," and he said, "I'll be glad to."

19 So unbeknownst to them, the guy showed up
20 with a tractor on his trailer to drop off and that's
21 how he got it.

22 Q So it was a gift?

23 A It was a gift, yes.

24 Q Okay.

1 Do you recall approximately how much you paid
2 for that tractor?

3 A I think it was around \$5,000, actually
4 \$5,200. He charged me \$200 bucks to deliver it.

5 Q Okay.

6 Did you send money to help care for your
7 granddaughters?

8 A I did.

9 Q Why did you do all of this?

10 A I knew that these two were struggling and
11 that they had as many burdens on their shoulders that
12 they possibly could. Sean not bringing any income in
13 except for what he was doing with his F F L that he
14 has, they weren't in that great of a financial
15 condition.

16 I was in a position where I established an
17 allowance program for both of the girls. I sent money
18 to both Liz and to Sean for taking care of the girls
19 for clothes and things of that nature, and I would
20 drop the kids a few extra bucks now and then for any
21 other sundries things that they needed.

22 Q Okay.

23 A Liz had passed on to me that she was having
24 trouble with certain female items that they needed at

1 the house and it was getting to be a little bit of a
2 problem. So I tried to figure out if there was a way
3 that I could correct that. I had the money and I was
4 willing to share it.

5 Q Okay.

6 Did you communicate with Ms. Howard by e-mail
7 at all?

8 A Yes. There were several, quite a bit of
9 e-mails, a lot of telephone conversations.

10 Q Okay.

11 Did you communicate with Ms. Howard about the
12 garage that was going to be put on the property?

13 A Yes. Sean had talked about the size of the
14 garage that he wanted on the property. Liz had talked
15 to me about the size and the price of the property
16 that the garage was going to be, and I volunteered to
17 put in \$5,000 to pay for the garage.

18 Q If you could, there should be a binder up
19 there, a black binder; can you turn to Tab Number 15;
20 do you recognize --

21 A Is that 15, blank?

22 Q Oh, it should be -- may I approach, your
23 Honor?

24 THE COURT: Of course.

1 BY MR. TOWNSEND:

2 Q Yeah, there it is, that's the one; do you
3 recognize that at all. I know it's kind of hard to
4 see?

5 A Yes. I do recognize this.

6 Q Can you explain to the court what that is?

7 A Well, being 350 miles away and trying to look
8 for a house over here, Liz took it on her shoulders to
9 get me as many pictures as she could of houses that
10 they were looking at for me and that's what this
11 appears to be.

12 Q So you anticipated, at some point, moving to
13 Fallon and enlisted Ms. Howard's help in finding a
14 property for you?

15 A Yes.

16 Q You trusted her to do that?

17 A I trusted her in more than just that, yes. I
18 trusted Elizabeth.

19 Q And she did in fact help you find a property
20 here in Fallon?

21 A And every time that they would find a piece
22 of property that I didn't have an opportunity to get
23 over and take a look at because of my medical
24 conditions at times, I had to rely on what her

1 pictures showed me and she did a bang-up job.

2 Q Okay.

3 And then going back to the garage, if you'll
4 turn the page there just one page over, did Ms. Howard
5 communicate with you about the garage and send you
6 proposals, bids, that sort of thing with relation to
7 the garage?

8 A Yes.

9 Q Okay.

10 Then just real quickly, I want to point out
11 can you see the e-mail address that these e-mails were
12 sent from?

13 A You mean hers?

14 Q Yes.

15 A I don't recognize the e-mail address.

16 Q Do you see -- it is really hard to see. Do
17 you see where it says Seanonhughes@yahoo.com?

18 A No.

19 Q May I approach, your Honor?

20 THE COURT: Of course.

21 BY MR. TOWNSEND:

22 Q Right here?

23 A SeanHughes@yahoo.com.

24 Q Did Ms. Howard frequently send you e-mails

1 from Sean's e-mail?

2 A I'm sorry?

3 Q Did Ms. Howard send you e-mails from Sean's
4 e-mail account?

5 A Yes, there were.

6 Q Okay.

7 And you can see at the bottom of that e-mail
8 she signs off, "Love you, Liz."

9 A That was the way that we always started and
10 ended conversations.

11 Q Okay.

12 A That's the reason why it was not hard to fall
13 in love with Liz.

14 Q Perfect, okay.

15 I have nothing further, your Honor.

16 THE COURT: Mr. Kozak?

17 CROSS-EXAMINATION

18 BY MR. KOZAK:

19 Q Mr. Hughes, you say you knew that Sean was
20 struggling; correct?

21 A Well, there was never any indication from him
22 or Liz that they needed \$5,000 to live off of. I knew
23 that by him leaving the company that he was working
24 for and getting a salary from, that he was going to

1 have nothing and I didn't know where it was going to
2 come from. He did have an L.L.C. business as far as
3 his gun works were concerned and he was doing some
4 work selling guns and selling ammunition but I didn't
5 see how that could possibly be enough to help them out
6 with the four of them.

7 Q Okay.

8 And he was also struggling to support his
9 children?

10 A Well, I don't like the word "struggling." I
11 mean, it wasn't a matter that he was all the time
12 begging for money. I tried to anticipate his needs as
13 much as I could just like I tried to anticipate Liz's
14 needs as much as I could and I volunteered to let them
15 both have it.

16 Q Okay.

17 Can you tell me how much of an allowance you
18 were sending to Sean?

19 MR. TOWNSEND: Objection relevance.

20 THE WITNESS: I don't think I was sending him
21 an allowance.

22 THE COURT: Sir, there's an objection. I'm
23 going to rule and then we'll decide whether you're
24 going to answer the question.

1 THE WITNESS: I have a deaf ear, your Honor,
2 I'm sorry.

3 THE COURT: That's okay but any time there's
4 an objection, we'll stop.

5 Overruled. You may answer the question.

6 THE WITNESS: Would you repeat the question?

7 BY MR. KOZAK:

8 Q Yes.

9 Can you tell me the amount that you were
10 sending to Sean to help him support his children?

11 A No, I can't because it was a variety of
12 different amounts that I had. The girls started out
13 with \$60 a month each for an allowance and then the
14 clothing allowance that I was sending partially to Liz
15 and partially to Sean equated to somewhere around \$200
16 or \$300 a month.

17 Q And as far as subsidies to Sean, were you
18 giving him money directly?

19 A I think you have a ledger somewhere around
20 here that I provided that shows that there was monthly
21 contributions to both of them for living expenses.

22 Q And can you tell me approximately how much
23 that was?

24 A Over a three-year period of time, yes, about

1 \$19,000.

2 Q Now, we've heard talk about a slab in front
3 of the garage costing about \$4,000; were you aware of
4 that?

5 A Now that you mention it, yes, I do think I
6 heard something about that slab.

7 Q Who paid for that slab?

8 A I have no idea.

9 Q You didn't?

10 A I subsequently did. I sent \$5,000 to help
11 pay for that garage.

12 Q So as far as you know, that might have gone
13 to pay for the slab?

14 A It could have.

15 Q No further questions.

16 THE COURT: Mr. Townsend, anything?

17 REDIRECT EXAMINATION

18 BY MR. TOWNSEND:

19 Q What was your purpose in sending the \$5,000;
20 what did you intend that money to be for?

21 A Liz and I had talked about that with, and she
22 had indicated to me that the garage was going to cost
23 them around \$20,000. She had indicated also that that
24 was more than what they had anticipated for a garage

1 and I volunteered to send them \$5,000. There was no
2 agreement, yes, I need \$5,000. I just said, "I'll
3 send you \$5,000."

4 Q And who did you send it to?

5 A The majority of the time, it was sent to Liz.

6 Q Okay.

7 A I was doing transfers, bank transfers from a
8 checking account to her checking account. When I
9 first got started, the bank had a restriction in there
10 that I couldn't transfer more than \$750 at any one
11 time until I had been there for 30 or 90 days, I can't
12 remember exactly what it was but after that time, I
13 could have sent more. Most of the payments, they went
14 over to her \$500 to \$750 at a time.

15 Q Okay.

16 Were you aware that your son had assets that
17 he was selling to support himself?

18 A Absolutely and I knew what he had put into a
19 lot of those assets and I knew how he was liquidating
20 them and he was doing so at a loss to take care of the
21 family.

22 Q Okay.

23 Thank you.

24 THE COURT: Mr. Kozak, anything?

1 MR. KOZAK: No, your Honor.

2 THE COURT: Okay. Thank you.

3 We'll go ahead and take our lunch recess,
4 it's close enough to noon. We'll just come back at
5 1:30 and we'll start promptly at 1:30. We'll be in
6 recess.

7 (A lunch recess was taken.)

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FALLON, NEVADA, FEBRUARY 6, 2017, 1:30 P.M.

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THE COURT: Please be seated.

We are back on the record in Case Number
15-0876, Hughes V Howard. The parties are present
represented by their respective counsel. We've
returned from our lunch break.

Mr. Townsend, are you ready to proceed?

MR. TOWNSEND: Yes, your Honor.

THE COURT: Call your next witness.

MR. TOWNSEND: Your Honor, we have two
potential witnesses. I'd like to reserve them for
rebuttal purposes, if necessary, if the court would
allow that?

THE COURT: Of course.

MR. TOWNSEND: So we don't have any other
witnesses.

THE COURT: Mr. Kozak?

MR. KOZAK: I would call Ms. Howard, your
Honor.

THE COURT: Ms. Howard, if you would please
come to the witness stand. If you would stand and
face the clerk and raise your right arm to take the

1 oath of a witness.

2 (The witness was sworn.)

3 THE COURT: Okay. Please be seated.

4 ELIZABETH HOWARD

5 EXAMINATION

6 BY MR. KOZAK:

7 Q Ms. Howard, where were you born and raised?

8 A In San Diego, California.

9 Q And at some point, did you move on from San
10 Diego, California?

11 A Yes. When I was in the 11th grade, we moved
12 to northern California.

13 Q Who did you live with in northern California?

14 A My mother and then later my grandmother.

15 Q Okay.

16 Was that in Susin, California?

17 A Yes, Susin.

18 Q And where did you go from there?

19 A All over the place. I've lived in Texas.
20 I've lived in northern California, way northern.

21 Q So do you have any schooling past high
22 school?

23 A Yes. I went to vocational school.

24 Q And what did you do after you got out of

1 vocational school?

2 A I went to work for U C Davis as a medical
3 assistant.

4 Q After that, what did you do?

5 A I quit and became a truck driver.

6 Q Did you work for a delivery service at some
7 point in the San Francisco area?

8 A Yes, it's out of Fairfield, it was a
9 professional hospital supply.

10 Q What did you do for them?

11 A I delivered hospital supplies and picked up
12 things. Basically did all the delivering to the
13 places myself.

14 Q Do you have any special training for that
15 vocation?

16 A Yeah. I went to truck driver school in
17 Texas.

18 Q Did there come a point in time where you had
19 a serious injury working for that company?

20 A Yeah. I was in San Francisco and I was on a
21 dock. I was adjusting the truck's lift gate for my
22 co-driver and when I stood up to follow him into the
23 truck, something hit me from behind and knocked me out
24 and messed up my neck and lower back.

1 Q Did that result in litigation?
2 A Yes.
3 Q Who got sued?
4 A We sued the carpet company that had the
5 linoleum standing up on the dock that fell and hit me
6 and I'm still working with worker's comp.
7 Q When did that happen?
8 A July 23, 2008.
9 Q Did you have to spend time in the hospital?
10 A No. They didn't make me go to the hospital.
11 They made me sit at the worker's comp doctor.
12 Q Were you receiving medication as a result of
13 that accident?
14 A Yes.
15 MR. TOWNSEND: I just want to object to this
16 line of questioning to the extent that it's preparing
17 foundation for the affirmative defense that she didn't
18 know what she was doing when she signed the deed.
19 THE COURT: I'm going to overrule the
20 objection. You know what my ruling is?
21 MR. TOWNSEND: Yes. I just wanted to make a
22 record.
23 THE COURT: Go ahead.
24 BY MR. KOZAK:

1 Q What kind of medication were you taking?

2 A I was on Oxycodone, hydrocodone, percocet,
3 Dilaudid. I was taking anxiety meds, antidepressants.

4 Q Were you able to work after you suffered that
5 accident?

6 A No.

7 Q Did you go back and live with your mother?

8 A Yes.

9 Q So how did it come about that you met Mr.
10 Hughes?

11 A I decided to get another attorney, and the
12 new attorney didn't inform worker's comp that I had
13 switched attorney, and they dumped me. We had no
14 income and we remembered we had some coins my
15 grandmother had left me and mom saw in the newspaper
16 that there was a traveling coin company that was
17 buying coins and stuff.

18 So we hauled all our stuff together with our
19 friend Sally, and we all went down there. They put us
20 in a room, and Sean was the guy to buy the coins. We
21 had seen someone before him with jewelry but we went
22 to the next room with Sean. We really liked him. We
23 thought he was a real nice guy. He bought all our
24 coins or all my coins. I asked him I said, "I have a

1 whole bunch of Indian Head pennies, do you buy those?"
2 And he said, "Yeah." I said, "Okay. I'll bring those
3 back tomorrow," but I didn't know he would be the one
4 to buy them because there's a whole bunch of guys. So
5 I came back the next day, and he bought all my Indian
6 Head pennies.

7 Q What year was that?

8 A 2009.

9 Q And after that, did you develop a
10 relationship with Mr. Hughes?

11 A Yeah. After we found out we had both been
12 truck drivers, he said, "we've got to get together
13 sometime and talk about our truck driving."

14 So he gave me his card with his number. I
15 tried to call him because I thought he was a real nice
16 guy. He first asked me he said, "You look awful
17 young to be on a cane." And I said, "Well, I was
18 injured." And he said "Well, I hope you took them to
19 the cleaners," and I said, "No, I'm still fighting
20 them."

21 So we went home, and I called him. He didn't
22 answer the phone so I texted him and said, "Hey, why
23 don't we get together," and texted him my address. I
24 had never done that before but we trusted him. I

1 don't know why but he came.

2 Q Okay.

3 At some point, did you move up to Fallon?

4 A Yes. My mom got sick in May of 2010 and my
5 sister was being real bossy and mean. She didn't want
6 me there. I go, "Why," because I was helping my mom.
7 I was telling Sean just about all the things she was
8 doing and stuff and just how hard everybody was making
9 it for me there, and he said, "Well, let's move to
10 Fallon."

11 I had never been to Fallon. I think I had
12 only been to Reno twice in my life and I thought well,
13 let's check it out first. So we drove to Fallon to
14 check around and see what we could find. We went to
15 Wallace Realty and found a place that was going up for
16 rent. So I saved all my money and I gave him all my
17 gold and stuff so he could take it to his work and
18 trade it in and get money for it and everything and
19 all my silver and everything.

20 Q Now, after you -- were you living together
21 when you moved up to Fallon?

22 A No. He would only come and stay with us when
23 he was on the road. He didn't really have a place to
24 live. He just lived in hotels, and he would stay with

1 my mother and I when he was close, when he was within
2 the area.

3 Q Was that down in California?

4 A Yeah, that was when I was in Susin.

5 Q So when you moved up to Fallon, were you then
6 living together?

7 A Yes.

8 Q And when did you move up to Fallon?

9 A It was in August, early August of 2010.

10 Q And where did you first live together in
11 Fallon?

12 A We lived off of Melanie in Fallon.

13 Q So eventually, you did find a house that you
14 bought; is that correct?

15 A Yes.

16 Q What were the circumstances surrounding
17 deciding to buy that house?

18 A I don't recall. I really don't recall. I
19 don't recall buying the house. I have a lot of blank
20 spots. Now that I look at it, I wouldn't want that
21 house, it had too much work to do but somehow I bought
22 it.

23 Q Well, do you remember the circumstances
24 surrounding your giving him a quitclaim deed to the

1 property?

2 A I have no recollection of that circumstance,
3 none. I've gone over that deed 1000 times, and I have
4 no recollection. I even went down to the County and
5 asked the girl if she remembers me doing that, and she
6 said there's too many people that come in so she
7 didn't remember.

8 Q Okay.

9 Did you discuss with him, after the deed was
10 made out to him, why he wanted you to give him that
11 deed?

12 A No, I don't remember. I know that before I
13 ever even got any money, he wanted me to go down and
14 we went to a lawyer. He wanted me to make out a Will
15 to him and his children with everything I owned, and I
16 didn't have the money. I didn't have the money to do
17 it then. So I couldn't do it, but he kept telling me
18 that I was going to die and he would be left with
19 nothing and his kids and him would be out in the
20 street. He just kept telling me that over and over
21 that I was going to die on one of my trips.

22 Q Now, you heard Mr. John Hughes testify that
23 he was present when you had conversations about giving
24 that deed to Sean because you had a lot of problems

1 within your family?

2 A I don't ever recall having any conversations
3 with Mr. Hughes about deeds or about my mother or
4 anything like he said. I have no recollection of any
5 conversations with that man.

6 Q Have you ever had problems with your mother?

7 A No. My mother and I get along really good,
8 we always have.

9 Q So what happened after you moved into the
10 property?

11 A It needed a lot of work, a lot. We had to
12 get a new water heater and get a new faucet for the
13 sink, new toilet, it had a lot of what do you call it,
14 plumbing done. We had to have a lot of the electrical
15 done by hot wire. We had to have a new or a lamp put
16 in or a wiring so that I could have a lamp in the
17 living room because there wasn't any. Let's see, I
18 had to buy a washer and dryer.

19 I had Sean Thurston of S R T come in and put
20 a new front door and back door because they wouldn't
21 lock. People could just walk in. They also took the
22 wall out and put the water heater inside instead of
23 outside to get to it. So it was just a lot of stuff.

24 Then the garage that Carr Construction built,

1 that got built before we moved in so we would have
2 somewhere to put stuff, otherwise it was just a house.
3 The house was just sitting there for the longest time,
4 it was kind of falling apart so.

5 Q Well, what did you pay for the house?

6 A \$67,000.

7 Q How did you pay for it?

8 A With the money from my lawsuit from the
9 Anderson Carpet and Linoleum.

10 Q How much was your settlement that you finally
11 received?

12 A It was like \$153,000 something.

13 Q Did you put that in the bank?

14 A I -- God what did I do. I cashed it and I
15 had money orders, and Sean put them in his safe in an
16 envelope. Then I cashed a lot of the cash and put it
17 in the envelope in his safe because I didn't know what
18 else to do. He said if something happened to me and I
19 died, he would have no way to get ahold of that money.

20 MR. TOWNSEND: Your Honor, I object to that
21 answer as it goes to her claim of conversion which was
22 dismissed. There's no basis for any of the assertions
23 she's just made.

24 MR. KOZAK: Well, I think the claim of

1 conversion, your Honor, can be evaluated by yourself.

2 MR. TOWNSEND: It has been, it's been
3 dismissed.

4 THE COURT: I understand. I'm going to allow
5 the testimony for the limited purpose I've said
6 before. So it's overruled on that basis.

7 BY MR. KOZAK:

8 Q Now, were the discussions between you and
9 Sean about what he was going to do on the property?

10 A No, he just basically started doing things,
11 and he started ordering all sorts of rocks and stuff.
12 I didn't know anything about ordering rocks from these
13 places. So he started right away ordering rocks and
14 railroad ties and everything, and I was to pay for
15 them because he said, "I don't have any money. You're
16 the one who's rich."

17 So I had to pay for them for all the stuff
18 that he was ordering.

19 Q Okay.

20 And besides rocks and railroad ties, was
21 there anything else he was ordering?

22 A I know that on my bank statement, I saw
23 things being ordered from gun companies and I've never
24 ordered from gun companies before. Every time he

1 ordered something, I had to pay for it. The only
2 thing I paid for Hank. When Hank would come, I would
3 pay Hank. Every time he worked for the day, I would
4 have to go out and pay him.

5 Q Now, Hank was brought on to do what?

6 A To do all the leveling up there so he could
7 put the railroad ties down because it was just too
8 much and his tractor couldn't get a grip in that sandy
9 soil, so it was just worthless. He used it to take
10 the railroad ties back and forth, that's about all it
11 was good for.

12 Q When did Sean stop going out on the road?

13 A When he got in a car wreck, that was I think
14 2012, April or something. He called me from
15 somebody's Onstar and he hired -- or he got a what do
16 you call it, a rental car and came home from Ohio but
17 he never went to the doctor.

18 Q So you were not living on the property when
19 that happened?

20 A No. We were still on Melanie.

21 Q So did there come a time when he wasn't
22 working anymore?

23 A Yeah. After he called his business or he
24 talked to the H R lady, and she told him they hired

1 somebody else for his job because he wasn't on the
2 road. They wanted him on the road, and he didn't want
3 to go on the road. So that was in January of 2013.

4 Q Did he have any income after January of 2013
5 that you know of?

6 A No, not that I know of.

7 Q Okay.

8 The garage, who determined you needed a
9 garage?

10 A He did.

11 Q Did he tell you why?

12 A At the time, he just wanted this big garage
13 to work in. He didn't say anything about an F F L
14 business way back then. He had them make it so that
15 he could have a safe room. He made them have this
16 really heavy duty footing put in so he could have what
17 he called a safe room and that was it.

18 Q Okay. Was there a slab put in in front of
19 the garage?

20 A Yeah.

21 Q And do you know who paid for that?

22 A That money was my money that Mr. Hughes had
23 given me and it was to help pay me back for a truck
24 that I had paid for Sean. I bought him a \$3,000 truck

1 with cash from this Walker Lake Disposal. He said,
2 "My dad will pay you back."

3 So his dad gave me some money. I remember
4 having \$3,500 cash. Sean took it from me and put it
5 in his nightstand. So when I paid Dano Construction
6 or Jason Homer, I only had \$3,500 so I had to make him
7 out another check for \$500 to make up for the whole
8 \$4,000.

9 Q So is that how the slab was paid for?

10 A Yes.

11 Q Now, you, at some point, decided that your
12 mother was going to come and live with you?

13 A Yes.

14 Q When was that?

15 A Oh geez, we talked about it but she came in
16 the end of April of 2013. She was getting so bad that
17 she couldn't take care of herself, and Sean was always
18 saying, "Come to Fallon, we'll have a good time."

19 So he talked her into moving and when she
20 finally came and moved into Savannah's room so that
21 she could get a trailer, we were looking for a trailer
22 for her to move into, we just came to the conclusion
23 it was going to be way too much for her to go and live
24 at a house in town and we have to go to town everyday

1 to check on her because she needs a lot of help. So
2 even Sean said he even agreed with putting a house on
3 the property with her in it.

4 Q Now, you got a Special Use Permit for that
5 property; correct?

6 A Yes.

7 Q Did you -- are you one that made the
8 application for the Special Use Permit?

9 A Yes.

10 Q Who was the general contractor on that job?

11 A I was.

12 Q Who did you contract with to do the work?

13 A Mike Smith built it. Dano Construction dug
14 the whole for the basement. Dream Drywall did the
15 drywall. Hale Insulation did the insulation. I had
16 Just In Time Heating and Air do the heater. Gosh
17 there were so many. I had Mike Smith do the roof and
18 Lahontan Electric did the electric. They upgraded to
19 200 amps instead of the 100.

20 Q So did the Special Use Permit specify that
21 only licensed contractors were to work on that
22 project?

23 A Yes.

24 Q How did you make the payments to the

1 subcontractors?

2 A Cash, I had all the cash. Sean had taken
3 this box that my mother had all her money in, and she
4 cashed all her checks and put the cash in there
5 because I paid them all cash. They all wanted cash
6 and one day, my box was gone. Sean claimed he took it
7 and put it in his safe because I left it just laying
8 on the floor for anybody to take and I thought you
9 know -- and I had to ask him for the money to pay
10 these guys every time.

11 Q Okay.

12 Did you have a bank account?

13 A Yes.

14 Q Did you have a line of credit with any of the
15 contractors?

16 A Only with Ken's Supply, I had a \$5,000 credit
17 limit. Mike Smith would go out and he was on it to go
18 and get the things he needed to build the house.

19 Q What was the total cost of the addition?

20 A Oh gosh, I would say over \$127,000 after
21 adding it all up. We had a lot that went in compared
22 to what I thought.

23 Q Did it ever come to your attention that Sean
24 was using your credit card for his personal expenses?

1 MR. TOWNSEND: Objection foundation,
2 relevance.

3 THE COURT: What is the relevance to this
4 case?

5 MR. KOZAK: Well, I think we're talking here
6 about Sean's ability to pay for some of these costs
7 and improvements. He said he spent \$20,000 here. So
8 I think it's relevant as to why he was charging up on
9 her credit card.

10 MR. TOWNSEND: There's still no foundation.

11 MR. KOZAK: He also said he had \$46,000 in
12 his safe.

13 THE COURT: I'm going to sustain the
14 objection and allow you to lay more foundation.

15 BY MR. KOZAK:

16 Q Did you have a credit card?

17 A Just my bank card, just my A T M card.

18 Q Did you allow Sean to have the use of your
19 credit card?

20 A Once in a while, he would ask me if he could
21 borrow my card for gas because he had no gas and no
22 money but I lent it to him with the hopes that that's
23 all that he would use it for was gas.

24 Q And did he just use it for gas?

1 A Well, later I looked on my bank statements
2 and there was a whole bunch of charges from gun
3 companies and I had to pay those. There was
4 like five.

5 Q Now, we've had some testimony about what
6 expenses Sean paid for as far as the house is
7 concerned. You heard that testimony earlier today?

8 A Yes.

9 Q And have you had a chance to look through
10 some of the receipts that he said he paid?

11 A Yes.

12 Q You've got our evidence folder over there?

13 A No.

14 Q I want to refer you to what we have marked as
15 Exhibit L. I believe it's the last one, and I want
16 you to look at Exhibit 6 A.

17 A Okay.

18 Q Now, 6 A, is that an expense that or a
19 receipt that Sean is claiming he paid?

20 A Yes.

21 MR. TOWNSEND: Objection, assumes facts not
22 in evidence. We specifically stated that we did not
23 pay this one.

24 THE COURT: Sustained.

1 BY MR. KOZAK:

2 Q Can you tell me what this 6 A is?

3 A It's a charge to Kent Supply with my name and
4 credit card number on it.

5 Q And is it part of your business records?

6 A Yes.

7 Q Your Honor, we offer it into evidence.

8 THE COURT: Any objection?

9 MR. TOWNSEND: Just this paper? Just this
10 page or the whole Exhibit L?

11 MR. KOZAK: We're talking about just this
12 page for now, 6 A.

13 MR. TOWNSEND: I have no problem with this
14 going into evidence. I think we stipulated that Ms.
15 Howard has paid for much of this stuff. We pointed
16 out the receipts that he paid for. So I don't know
17 what we're doing dealing with these receipts that we
18 already have acknowledged that she paid for.

19 THE COURT: So Exhibit L, Section 6 A of
20 Exhibit L, will be admitted which is the single page
21 of Kent's Supply. I don't know -- there's some
22 handwriting on there. I'm not sure who made the
23 handwriting.

24 MR. KOZAK: I believe that's Elizabeth's.

1 THE COURT: Do you have that on yours?

2 MR. TOWNSEND: I do.

3 (Exhibit L, Section 6 A was admitted.)

4 BY MR. KOZAK:

5 Q Now, if we look at Exhibit 6 B, what is that?

6 A That's another Kent's Supply receipt with my
7 credit card number on it and my signature.

8 Q Is that your signature on it?

9 A Yes.

10 Q And is that the same as Exhibit 6 A?

11 A Yeah, it sure is, yes.

12 THE COURT: When you say the same, I don't
13 understand the question.

14 MR. KOZAK: Well, the problem is Mr. Hughes
15 has altered this receipt. He took off the signature
16 of Ms. Howard.

17 MR. TOWNSEND: I have the original that we
18 submitted.

19 THE WITNESS: That's a copy of my copy.

20 MR. TOWNSEND: Exactly and we've acknowledged
21 that all along. These are copies. There's a pink
22 copy and a yellow copy. For some reason, he's got the
23 yellow copy of this one. This was dealt with in the
24 motion for summary judgment. I don't know why we're

1 spending time on it because we've acknowledge that she
2 paid for t.

3 MR. KOZAK: Are you acknowledging she paid
4 for all of the exhibits in Exhibit L?

5 MR. TOWNSEND: Not the Lahontan Electric.

6 MR. KOZAK: Anything else?

7 MR. TOWNSEND: I just don't understand why
8 we're dealing with this issue.

9 MR. KOZAK: Well, if she paid all of them, we
10 don't have to go through this.

11 MR. TOWNSEND: We went through the receipts
12 that he paid when he was on the stand. None of these
13 except for the Lahontan Valley Electric are part of
14 that.

15 MR. KOZAK: Okay.

16 So you do agree then except for the Lahontan,
17 these are all legitimate receipts that she paid?

18 MR. TOWNSEND: Yes, and we've never claimed
19 otherwise.

20 THE COURT: What are you asking the court to
21 do --

22 MR. TOWNSEND: I just don't know why we're
23 wasting time on this.

24 MR. KOZAK: I would like to have Exhibit L

1 admitted into evidence, your Honor.

2 THE COURT: Any objection to that and
3 I understand what the testimony is with respect to
4 Lahontan Valley Electric?

5 MR. TOWNSEND: The only objection I have is
6 some of these annotations where she marks stolen or
7 this is altered when we have all the receipts to show
8 what we submitted.

9 THE COURT: Sure. They'll be admitted but
10 the annotations I'll just give them the weight that
11 they deserve based on the testimony.

12 MR. TOWNSEND: Thank you.

13 THE CLERK: So Exhibit L is admitted?

14 THE COURT: Exhibit L is admitted.

15 (Exhibit L was admitted.)

16 BY MR. KOZAK:

17 Q Thank you.

18 Now, how did it come about that Mr. Hughes
19 left the property?

20 A One day I was working on a little peel and
21 stick front for my mother's walkway and I came back in
22 the house and I noticed that all my clothes that were
23 in the washing machine had been taken out and they
24 were on my bed. I went back in and I said, "Why did

1 you take my clothes out of the washer, they hadn't
2 been washed yet?" And Savannah looked at me and said,
3 "They were clean or they were wet so I put them in the
4 dryer--

5 MR. TOWNSEND: Objection hearsay.

6 THE COURT: Sustained.

7 THE WITNESS: I said they were -- I'm sorry.

8 MR. KOZAK: Not what they said, just what
9 happened.

10 THE COURT: I sustain the objection. You
11 stop answering and your attorney asks you a new
12 question.

13 THE WITNESS: All right.

14 BY MR. KOZAK:

15 Q So without regard to what they said, what
16 happened then?

17 A Well, we got it taken care of, and Sean came
18 in mad and wanted to know what was going on and
19 started a big fight. I finally just said, "Forget it,
20 it was all about clothing." We had already gotten it
21 taken care of.

22 So I went back to my mother's and the next
23 thing I know, John Hughes shows up and everybody
24 starts taking things out of the house and out of the

1 garage and packing them in his car. Sean and all of
2 them are putting things from the garage into the car
3 and I thought what's going on because we were going to
4 have a St. Patrick's Day dinner and they all took off.
5 I said, "Where are you guys going," and he wouldn't
6 make it clear. They all just left.

7 Later he said, "I took the kids -- I have all
8 the text messages. He said, "I took the kids to give
9 you a break so you could have some time alone."

10 I'm thinking why, what's going on. I asked
11 him, "Why, what's going on," and he just kept avoiding
12 my questions and putting me down through the whole
13 bunch of text messages. He said that he was going to
14 keep the kids over there for a while and give me a
15 break but he would be coming back to the house alone
16 and that's when something didn't feel right because --
17 (inaudible) what they were going to do to me.

18 Q Now, did you get a Temporary Restraining
19 Order?

20 A Yeah, I feared for my life.

21 MR. TOWNSEND: Objection. There was no
22 Temporary Restraining Order issued.

23 THE WITNESS: No, I applied for one and they
24 didn't give it to me.

1 THE COURT: Stop! This will be the last time
2 I'm going to say this. When there's an objection, the
3 court rules before you answer. You don't get into a
4 dialogue with opposing counsel; is that clear?

5 THE WITNESS: Yes.

6 THE COURT: I want to make sure that's
7 crystal clear that will not happen again?

8 THE WITNESS: Yes.

9 THE COURT: What's the objection?

10 MR. TOWNSEND: That she's misstating facts.

11 THE COURT: And I don't know, it wasn't out
12 of this court; what are the facts?

13 THE WITNESS: She applied for a T P O and it
14 was not issued, it was denied.

15 THE COURT: Sustained then.

16 BY MR. KOZAK:

17 Q You did apply for a T P O?

18 A Yes.

19 Q Did Mr. Hughes come back on the property?

20 A He tried, he didn't make it back on because I
21 had a lock on the door.

22 Q Now, you heard some testimony about the tax
23 payments; can you tell us what occurred with regards
24 to the tax payments that Mr. Hughes made on the

1 property?

2 A After he left or before?

3 Q Let's take before?

4 A We had agreed that if I paid the homeowner's
5 insurance, that he would pay the taxes.

6 Q And did he do that?

7 A Yes.

8 Q And did you pay the homeowner's insurance?

9 A Yes.

10 Q Was there a time when there was some kind of
11 mixup with the insurance?

12 A Yes, it got all screwed up.

13 Q What happened?

14 A I forgot a bill. They didn't have my phone
15 number so they called him. He ran down and paid it.

16 I don't know what happened the second time.
17 They misplaced my check that I had gone in and paid
18 and messed me up again. So I started just calling the
19 payments in directly, that was something that was very
20 out of the ordinary, that's never happened.

21 Q So you made the insurance payments from then
22 on?

23 A Yes.

24 Q Was it your intention to have Mr. Hughes be a

1 joint owner of the property in all respects?

2 A I didn't plan that until after we got
3 married.

4 Q But you never got married?

5 A No.

6 Q Was there discussions of marriage?

7 A Yes.

8 Q Why did those discussions discontinue; do you
9 know?

10 A I asked him that and he said, "You wouldn't
11 want to marry somebody who doesn't have a job," and
12 that was the end. He never mentioned it again.

13 Q Was there any mention of marriage after you
14 gave him the quitclaim deed?

15 A No.

16 Q I have no further questions.

17 THE COURT: Cross?

18 CROSS-EXAMINATION

19 BY MR. TOWNSEND:

20 Q Ms. Howard, you mentioned that you remember
21 having --

22 THE COURT: Can I interrupt, I see someone
23 coming in. The rule of exclusion is in effect. I
24 just don't know if this is a potential witness.

1 Sir, have a seat. You're welcome to be in
2 here.

3 (A discussion was held.)

4 THE COURT: Go ahead, Mr. Townsend.

5 BY MR. TOWNSEND:

6 Q You mentioned that you recall having a
7 discussion with Sean about moving to Fallon from
8 California; is that correct?

9 A Yeah during when there was a lot of crisis
10 going on.

11 Q You mentioned that you remember buying
12 appliances for the property, a washer and dryer?

13 A I remember going to Best Buy. I don't
14 remember them delivering them, but I have the receipts
15 for buying them.

16 Q And you remember buying those appliances?

17 A I don't recall how clear it is when I bought
18 them.

19 Q Okay.

20 You mentioned having a discussion with Sean
21 about building the garage; correct?

22 A No.

23 Q You just said on the record when your own
24 attorney asked you about having a discussion with Sean

1 to build the garage, you recalled specific details
2 about a safe room that he wanted to put in, talking
3 about how he wanted to build a garage for his future
4 business purposes?

5 A He basically told me what him and Jared Card
6 had discussed together, that was their little thing.
7 I wasn't really involved until the guy came to the
8 house with all the stuff drawn up.

9 Q You recalled specific details of your breakup
10 with Mr. Hughes just now, did you not?

11 A Yes.

12 Q You stated that there was an agreement
13 between you and Sean that he would pay the property
14 taxes if you would pay the insurance?

15 A Yeah.

16 Q You stated that -- well, let me get to the
17 point here.

18 You seem to remember details about a lot of
19 things. In fact, you seem to recall the details about
20 everything except for executing the quitclaim deed;
21 can you explain that?

22 A Yes. I went off of all these drugs in
23 November of 2011 and a lot of my memory is coming back
24 from doing stuff. But then my mother has filled me in

1 on a lot of things that I just cannot remember.

2 Q So you say you went off meds in 2011?

3 A No, wait a minute 2013, sorry.

4 Q You mentioned the appliances and things that

5 you purchased. If you would, in that black binder,

6 turn to Tab Number 20.

7 A Yes.

8 Q And again, you recall purchasing the washer

9 and dryer?

10 A No, it gets very blurry back then but it has

11 my name on it.

12 Q Okay.

13 Where did -- is this the receipt for the

14 washer and dryer?

15 A Yes.

16 Q Where did you purchase the washer and dryer?

17 A Well, it says Best Buy.

18 Q And where was the Best Buy located?

19 A It says Sparks, Nevada.

20 Q At the time, you were living here in Fallon

21 when you purchased the washer and dryer?

22 A Yes, I believe so.

23 Q Can you look at the date on the receipt?

24 A 7/11/12.

1 Q So that would be July 11, 2012; correct?
2 A Uh-huh.
3 Q Would you flip over to Tab Number 1?
4 A Back to --
5 Q Yes.
6 Would you look first -- this is the quitclaim
7 deed; do you recognize this document?
8 A I've seen it a million times.
9 Q Would you look at the date of recording on
10 that document, it's up at the top right-hand corner?
11 A 7/11.
12 Q 2012, right?
13 A Yes.
14 Q July 11, 2012.
15 And if you'll flip over to the second page
16 there, what is the date that you signed this deed?
17 A July 11, 2012.
18 Q July 11, 2012?
19 A Yes.
20 Q So and this was recorded here in Churchill
21 County; correct?
22 A Correct.
23 Q So you signed the deed sometime on July 11,
24 2012, here in Churchill County and you don't recall

1 this?

2 A No.

3 Q And then under the influence of heavy
4 medication drove to Sparks to purchase a washer and
5 dryer on the same day?

6 A I didn't do a lot of that driving, Mr. Hughes
7 drove me.

8 Q Did he drive you on that day?

9 A I don't remember.

10 Q Did you frequently travel to San Francisco or
11 not San Francisco necessarily or the Bay Area to talk
12 to doctors, that sort of thing?

13 A Yes, I did.

14 Q Who drove?

15 A I drove.

16 Q Did you drive during the time period in
17 question here around July of 2012?

18 A I don't recall. I would have to have all my
19 doctor's appointments in front of me, but I know that
20 I had one just a little bit before this that I saw in
21 July to get my meds refilled.

22 Q In 2012?

23 A Yes.

24 Q So in July of 2012, you recall driving to the

1 Bay Area?

2 A I don't recall but I saw when I had gone.

3 Q If these medications were so potent that they
4 cause you to have memory loss, was it safe for you to
5 be driving?

6 A Well, I cut down on them before I had to go
7 for a long drive but I wouldn't do it again.

8 Q Okay.

9 Flip back to Tab Number 20 there. After the
10 Best Buy receipt, if you'll flip the page one more
11 time. You have a page here that says Lowe's on it.

12 A Yes.

13 Q And then there's some Lowe's receipts.

14 A Okay.

15 Q Three receipts there, do you see the dates on
16 those receipts?

17 A 7/21, 7/17, 7/19.

18 Q All of 2012; right?

19 A Correct.

20 Q Okay.

21 And what was purchased at Lowe's?

22 A I can't make out what some of this stuff is,
23 wood teardrop pole, Sheetrock. This looks like stuff
24 that Sean had me buy him to work on the place or

1 something.

2 Q But you purchased these materials from
3 Lowe's?

4 A Obviously, it's got my card number. I have
5 the receipts for all of these.

6 Q And this was in Fernley and then one purchase
7 in Vacaville, California it looks like?

8 A One in Vacaville?

9 Q That's what that third receipt shows?

10 A That must be our fan.

11 Q Okay.

12 Do you recall purchasing these items?

13 A No.

14 Q There's more receipts on the back from July
15 of 2012, the next page. And you purchased all of
16 these items.

17 A I have the receipts so I obviously did.

18 Q And all of this was in July of 2012; correct?

19 A Right.

20 Q Okay.

21 No further questions.

22 THE COURT: Mr. Kozak?

23 REDIRECT EXAMINATION

24 BY MR. KOZAK:

1 Q You heard some testimony about this quitclaim
2 deed and you supposedly called, Mr. Hughes, Mr. John
3 Hughes, and were excited and happy about having put
4 Mr. Sean Hughes on the quitclaim deed?

5 A I have absolutely no recollection of doing
6 anything like that. I don't even know why I would do
7 that.

8 THE COURT: Mr. Townsend, anything based on
9 that?

10 MR. TOWNSEND: No, nothing further, your
11 Honor.

12 THE COURT: Thank you, ma'am, that's okay
13 we'll get those.

14 Mr. Kozak, your next witness?

15 MR. KOZAK: I have a witness your Honor, but
16 I wonder if I could have five minutes to determine
17 whether or not we really need to call her.

18 THE COURT: Of course, we'll take a
19 five-minute recess.

20 (A recess was taken.)

21 THE COURT: Please be seated.

22 We're back on the record in Case Number
23 15-0876, Hughes V Howard. The parties are present as
24 represented by their counsel.

1 Mr. Kozak?
2 MR. KOZAK: Yeah, we rest, your Honor.
3 THE COURT: Mr. Townsend?
4 MR. TOWNSEND: Just something I meant to do
5 when we came back from lunch. We've agreed to
6 stipulate to the value of the property at \$225,000 and
7 to have the appraisal of the real property admitted
8 into evidence and that appraisal was previously marked
9 as Exhibit J.
10 THE COURT: Exhibit J?
11 MR. TOWNSEND: Yes.
12 THE COURT: So Exhibit J, any objection to
13 that?
14 MR. KOZAK: Yes.
15 THE COURT: No objection?
16 MR. KOZAK: No objection.
17 THE COURT: Exhibit J will be admitted.
18 (Exhibit J was admitted.)
19 MR. TOWNSEND: And we just want to call
20 Fallon Hughes.
21 THE COURT: Fallon Hughes.
22 Ms. Hughes, if you'll just come right up here
23 to the witness stand. Ma'am, if you would please
24 stand and face the clerk and raise your right arm to

1 take the oath of a witness.

2 (The witness was sworn.)

3 THE COURT: Please be seated.

4 So what will happen is each attorney will
5 have a chance to ask you some questions. One of them
6 may ask a question when the other objects. If they
7 do, just stop, let me rule on that and then we'll move
8 forward one way or another, okay?

9 So if you hear the word "objection," don't
10 answer we'll just go on, okay?

11 THE WITNESS: Okay.

12 THE COURT: Okay. Go ahead.

13 FALLON LEA HUGHES

14 EXAMINATION

15 BY MR. TOWNSEND:

16 Q Okay. Thank you.

17 Fallon will you state your name for the
18 record and spell it?

19 A My name is Fallon Lea Hughes F A L L O N, L E
20 A, H U G H E S.

21 Q What is your relationship to John?

22 A He's my father.

23 Q Okay.

24 How old are you?

1 A I'm 16 years old.

2 Q Do you live here in Fallon?

3 A I do.

4 Q Do you live with Sean?

5 A Yes.

6 Q And you have a sister as well?

7 A Yes, sir.

8 Q And what's her name?

9 A Savannah Hughes.

10 Q Okay.

11 How long have you lived here in Fallon?

12 A I've lived here in Fallon approximately six

13 years. My dad got custody of me September 2nd either

14 2010 or 2011, I'm not sure.

15 Q Okay, that's fine.

16 Do you know the defendant Elizabeth Howard?

17 A Yes.

18 Q Do you recall approximately when you met her?

19 A It was a little bit after I came -- my dad

20 got custody of me. They were boyfriend and girlfriend

21 for a while and before he got custody, she would come

22 over and I got to know her eventually.

23 Q Did you see her at family gatherings in

24 California?

1 A No. The first time I ever did meet her was
2 when I was at my grandfather's house. We were just
3 visiting my grandfather, and he would bring over his
4 girlfriend and that's where I met her.

5 Q When you first met her, what did you think of
6 her?

7 A I thought she was pretty cool.

8 Q You got along with her.

9 A I got along with her.

10 Q Okay.

11 A She got along with pretty much everybody.

12 Q Okay.

13 When you guys -- you were living with your
14 father and Ms. Howard at the time that you guys all
15 moved to Fulkerson Road together, right?

16 A Yes, sir.

17 Q Were you there when Ms. Howard signed the
18 quitclaim deed?

19 A Yes, sir.

20 Q Okay.

21 Do you recall hearing anything that Ms.
22 Howard said at that time?

23 A I was wasn't really paying attention,
24 however, there was something that kind of stuck out

1 and she was talking to I think it's the County
2 Commissioner I think that's what they're called.

3 Q County Clerk.

4 A Yeah, County Clerk, my bad, and she pushed
5 over the paper and pointed at casually and said, "Do
6 you want on this?" And he was like "yeah." Then they
7 kind of were talking beforehand so but she offered --

8 Q Okay.

9 After moving into the property, did you do
10 any work on the property?

11 A Not really, it was mainly my dad and my
12 sister but I would be inside the house helping
13 Elizabeth.

14 Q Like what kind of things?

15 A Mainly chores, cleaning up the house before
16 we moved in and then while we were moving in I helped
17 with that too.

18 Q Okay, like moving boxes and that kind of
19 stuff?

20 A Yes.

21 Q Did you see your dad working on the property?

22 A Yeah.

23 Q All the time?

24 A Like before we went -- moved into the house

1 and during the move into the house for like at least a
2 solid two or three years.

3 Q Okay.

4 A He worked on it break of day to almost 6:00
5 at night every single day.

6 Q And your sister was out there often with him?

7 A Yes.

8 Q Okay.

9 Did you ever see Ms. Howard taking
10 medication?

11 A No.

12 Q Okay.

13 Did you ever have any reason to believe that
14 Ms. Howard didn't understand things she was doing?

15 A No.

16 Q That she wasn't lucid?

17 A I mean, at least she gave off the impression
18 that she was completely conscious and everything.

19 Q Okay.

20 Nothing further at this time. Thank you.

21 THE COURT: Mr. Kozak?

22 CROSS-EXAMINATION

23 BY MR. KOZAK:

24 Q Yes.

1 Ms. Hughes, are you saying that you were
2 actually present at the Recorder's Office when this
3 deed was signed?

4 A Yes. My sister, myself and my dad and Liz
5 too.

6 Q So all three of you went to the Recorder's
7 Office with Elizabeth?

8 A Yes.

9 Q And did your father tell you why you were
10 going down there?

11 A He just kind of had us tag along like
12 wherever he went if we just wanted to come.

13 Q I have no further questions.

14 THE COURT: Anything based on that, Mr.
15 Townsend?

16 MR. TOWNSEND: No.

17 THE COURT: May this witness be excused?

18 MR. TOWNSEND: Yes. Thank you, Fallon.

19 THE COURT: You're welcome to stay outside.

20 THE WITNESS: I can stay in here?

21 THE COURT: No. You can stay outside.

22 MR. TOWNSEND: That's it, your Honor.

23 THE COURT: Very well.

24 Does either side wish to make some closing

1 arguments?

2 MR. TOWNSEND: Yes.

3 THE COURT: Go ahead.

4 MR. TOWNSEND: Your Honor, as we stated at
5 the beginning here, this is a question whether or not
6 Ms. Howard can rebut the presumption that she intended
7 to give one-half of the value of the property to Mr.
8 Hughes. The only thing that's been offered to that
9 effect is that she can't remember what happened. She
10 does seem to remember the details about everything
11 else that was asked of her by her own attorney. The
12 only thing she doesn't recall is signing the deed.

13 So I don't believe that she's overcome that
14 presumption, however, even if she has, the actions of
15 the parties indicates that the parties believed that
16 this party -- that this property was to be held in
17 joint tenancy. There's no reason to believe that Mr.
18 Hughes would have performed all of the work that he
19 did that he would have stopped working to -- in order
20 to dedicate his time to working on the property,
21 improving the property.

22 The property was purchased at a value of
23 \$67,000. Today it's worth \$225,000 in large part
24 because of the work that Mr. Hughes did on the

1 property and while we have no problem conceding that
2 Ms. Howard paid for much of the material and most of
3 the labor on the accessory dwelling, Mr. Hughes
4 certainly performed the bulk of the labor on
5 landscaping, erecting a fence, cleaning up the
6 property, setting up elaborate and beautiful retaining
7 walls to improve the property.

8 Further, Ms. Howard indicated on the stand
9 that she and Mr. Hughes had an agreement that he would
10 be paying the property taxes, she would be paying the
11 insurance. If they were not join owners, why would
12 she agree to that arrangement, that's further evidence
13 that both parties intended for this to be a joint
14 ownership. We would respectfully request that the
15 court order a partition or a sale of the property and
16 a partition of the proceeds in accordance with the
17 parties respective interests which we believe should
18 been fifty-fifty.

19 THE COURT: Mr. Kozak?

20 MR. KOZAK: Yes, your Honor.

21 I think that the evidence here that we have
22 shows that Mr. Hughes' contribution for this property
23 was minimal in comparison with what my client spent
24 and what her mother spent to contribute to the value

1 of this property. There's over \$225,000, \$230,000
2 that went into this property on behalf of my client
3 and her mother.

4 Mr. Hughes' contribution is the labor that he
5 spent on the retaining walls and on the fence and
6 basically that's about it. She also put \$46,000 in a
7 driveway, and Mr. Hughes supposedly spent \$4,000 on a
8 slab but we see that's highly questionable. John
9 Hughes testified that he sent \$5,000 to pay for a
10 portion of the garage.

11 So in considering what Mrs. Howard put into
12 this property and what he put into the property, I
13 think the rebuttable presumption has been rebutted.
14 There's just no way a person would jointly convey that
15 property given the amount of money she put into it and
16 the amount of money that he didn't put into it. I
17 doubt that he's got -- if you look at all the
18 invoices, if he's got five or six or seven percent of
19 the value of that property of his own money into the
20 property.

21 So I feel that it should be a percentage
22 division between what Ms. Howard and Berta put into
23 the property and he would get a reasonable value for
24 the labor that he put in, taxes that he paid.

1 THE COURT: Thank you both.

2 I want to thank counsel. This was a
3 complicated case. I wasn't sure we would be able to
4 get it done today but I appreciate the effort that
5 everyone went into in streamlining it and present the
6 testimony.

7 I'm going to take this under submission. I'm
8 going to write an order. I'll have it out within
9 21 days of today's date. I expect it to be sooner but
10 that's just so if I have to give myself just a little
11 bit of room. I want everyone to expect that I'll be
12 diligent just like each of you have been diligent in
13 this case. I'll get the order out as soon as I can
14 and then we'll go from there.

15 Anything else from you?

16 MR. KOZAK: No, your Honor.

17 THE COURT: Anything else?

18 MR. TOWNSEND: The only other thing, your
19 Honor, is just the deed. We have a pending motion for
20 sanctions that I assume will be included in your
21 order.

22 THE COURT: It will probably be a separate
23 order, but I will address that within that same time
24 period.

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MR. TOWNSEND: Okay. Thank you.

We'll be in recess.

(The proceedings were concluded.)

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STATE OF NEVADA)
)SS.
COUNTY OF WASHOE)

I, GAIL R. WILLSEY, do hereby certify:
That I was provided a JAVS CD and that said CD
was transcribed by me, a Certified Shorthand Reporter,
in the matter entitled herein;

That said transcript which appears hereinbefore
was taken in stenotype notes by me from the CD and
thereafter transcribed into typewriting as herein
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and is a true record thereof.

GAIL R. WILLSEY, CSR #359