

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG MUELLER,)	No. 83412	Electronically Filed
Appellant,)		Mar 15 2022 11:12 a.m.
Vs.)	Related Dist. Court Case,	Elizabeth A. Brown
)	8th Jud. Dist. Ct.	Clerk of Supreme Court
CHRISTINA HINDS.)	Case No. D-18-571065-D	
)	Dept. C	
Respondent,)		
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SUPPLEMENTAL APPENDIX

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Converted Transcripts of Videos of Hearings.....001-33

Judge: We're back on the record.

Judge Dawn Thro...: Okay. This is case D-18-5-7-1-0-6-5-D. Hines versus Mueller. And everyone's back. We're ready. I see Ms. Cole, please put your appearance on the record.

Mrs. Lorien Col...: Thank you, your honor. Good afternoon. This is Lorien Cole, bar number 1-1-9-1-2. With the Willick Law Group on behalf of Christina Hines, who is present. And I'm also filling in for Marshall, for a little bit. He's in another hearing, but it's already started, so he should be back shortly.

Judge Dawn Thro...: Okay. Thank you. Mr. McAvoy Amaya, are you ready to proceed?

Mr. McAvoy Amay...: Yes, your honor. I'm ready to proceed. Thank you.

Judge Dawn Thro...: All right, go ahead.

Mr. McAvoy Amay...: All right, Judge Throne... How do you want to be referred to on here?

Judge Dawn Thro...: Dawn is fine.

Mr. McAvoy Amay...: Okay, Dawn. All right. As I'm sure you know, you're still under oath, Dawn. I do want to go over some stuff. I think Marshall Willick got a number of things that I was going to go over already, but I do want to go over some things, about what happened during these settlement discussions between January of 2019 and ultimately the entry of the merit settlement agreement for this case. Number one, are attorneys in divorce proceedings required to disclose the amount of money that they receive from the clients from the community property funds, during the proceeding?

Judge Dawn Thro...: Yes. On the financial disclosure form, for sure. It's there. And then typically if requested and a lot of practitioners will request the other party's, billing statements, fee agreement, the like.

Mr. McAvoy Amay...: Okay. Do you know how much money your firm received from the community property funds during the course of these proceedings?

Judge Dawn Thro...: No, I don't remember exactly and I didn't look that up. Sorry.

Mrs. Lorien Col...: Okay. So, I'm going to go, if you said you have my exhibit... So, I'm going to go start with Exhibit 1 or Exhibit A, sorry about that. Exhibit A. It is that same Hines Mueller transcript from the June 20th, 2019 settlement meeting on the record.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: All right?

Judge Dawn Thro...: Yeah. Okay.

Mr. McAvoy Aamay...: If you go to, it's going to be Bates labeled as Mueller 0-0-2.

Judge Dawn Thro...: Yes. In there.

Mr. McAvoy Aamay...: Okay. Do you see that page four? It's the four blocks. Do you see the page four there where you guys are discussing the settlement here, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: And you see where Craig says that he wants to get it settled, but there's supposedly a missing money from the Meadows account. 140,000, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: So, at this meeting of the settlement, Craig was complaining about missing money for the Meadows Bank account.

Judge Dawn Thro...: He was complaining about that specific 140,000 that he saw the statement where she took it out, but he walked out before he saw the statement where she put it back.

Mr. McAvoy Aamay...: Okay. But, but he was complaining about missing money from that specific account? Meadows Bank account?

Judge Dawn Thro...: That specific 140,000. Yes.

Mr. McAvoy Aamay...: Okay.

That's we've gone over, Marshall Willick went over and you presented statements from 2015 showing that she had taken the 140,000, but then put it back in 2015?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Okay. If you take a look at, it's going to be Mueller 0-0-3. Where it's discussing the equalization payment. I think we've gone over this. It was always part of the settlement agreement that Craig was going to get the loan. To pay the..

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Correct?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: It's always part of it, he had to get the loan to pay it?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And I think you said in your testimony before that you wouldn't have entered into it, if you didn't think he was going to get that loan, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: All right. And you see on page eight, where you guys were discussing the American Express credit card debt. Do you see that?

Judge Dawn Thro...: Yes. Mm-hmm (affirmative).

Mr. McAvoy Amay...: Okay. So, part of the settlement was that the parties were going to pay their own American Express credit card debt. Right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay. And then also they were going to pay their own attorney's fees as well, except for the \$6,550 that you're talking about right there. Correct?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay. And then if you look at the very next page, or not the very next page... It's going to be Mueller 0-0-9.

It's going to be page 29, where you cite the EDCR 7.50, letting the parties know that the discussion on the record, this is the agreement, right? This is the date of the resolution.

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay. So, were you aware at the date that these conversations were occurring, that Ms. Hines spent \$83,842.96 of community property money that was deposited in the Citibank accounts, at the time this settlement was going on?

Judge Dawn Thro...: We didn't calculate that amount, but yes, we knew that she had... We all knew that she had spent money on it because she wasn't allowed any access to the community funds going through the business to pay expenses.

Mr. McAvoy Amay...: You're saying she didn't have access to the community funds in the business?

Judge Dawn Thro...: Correct? Well, he didn't leave any there for her to take out. I think one time, she got \$800 and he was mad about that.

Mr. McAvoy Amay...: Wasn't there an order though, from the court in February, that she had access to the business account, to take the \$10,000 a month?

Judge Dawn Thro...: Correct? There was an order.

Mr. McAvoy Aamay...: Are you aware that she was indeed taking that \$10,000 month from the business account?

Judge Dawn Thro...: No. In fact, I'm aware that she wasn't, when there wasn't the money there. When there was money there, yes. She took it out. We saw those statements every month. She provided us with the Mueller Hines statements, because we were monitoring.

Mr. McAvoy Aamay...: We'll have to go through them, but we'll go through them later. To Exhibit B... Says again, your financial disclosure... You prepared this, right? You said?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Okay. So, on February, you disclosed that your firm had been paid \$25,400 at that time?

Judge Dawn Thro...: No, that 25,400 would've included the money she paid to the firm of Cerceo & Nami. I think that's the name of it. Jason Nami's firm. She paid him at least, I think, 7,500, of that 25.

Mr. McAvoy Aamay...: Okay. So, it's this amount minus the 7,500?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Okay.

Judge: Counsel, hang on. When you said February 25th. What year?

Mr. McAvoy Aamay...: No. This one is February 13th of 2019 is the disclosure date.

Judge: Of 2019. Oh, okay. Thank you.

Mr. McAvoy Aamay...: You're welcome, Judge. Okay, Dawn. So, let's go down to Mueller 3-3-6 or no, 3-3-7. Sorry about that, 3-3-7. This is again the statements of the various bank accounts. Right?

Judge Dawn Thro...: Let me catch up with you. I have to scroll through that.

Mr. McAvoy Aamay...: Maybe, Mueller 337 and 338.

Mrs. Lorien Col...: What Exhibit is it again?

Mr. McAvoy Aamay...: Exhibit D or wait, no Exhibit B. Hold on. Yeah, exhibit B. Sorry about that.

Judge Dawn Thro...: B okay. Hold on.

Mr. McAvoy Aamay...: Stumbling myself.

Judge Dawn Thro...: Okay. I'm trying to find the... Okay, here we go. Getting closer. Well, exhibit B is the financial disclosure form.

Mr. McAvoy Amay...: Yes. And it's Mueller 337. Which is your...

Judge Dawn Thro...: Oh, Okay.

Mr. McAvoy Amay...: Right?

Judge Dawn Thro...: Right. Okay. Got it. Sorry.

Mr. McAvoy Amay...: [crosstalk 00:09:47] Confused. You see that?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: You prepared this one, right?

Judge Dawn Thro...: Yes I did.

Mr. McAvoy Amay...: Okay. So, the Citibank checking two,

Judge: I'm having a hard time hearing cause there's [crosstalk 00:10:01]. We got little kids in the background?

Mr. McAvoy Amay...: It sounds like it.

Judge Dawn Thro...: Yes. I have a kid in the background. That's only one.

Judge: Oh [crosstalk 00:10:17]. Okay.

Mr. McAvoy Amay...: Sorry about that. So, there's a \$49,000 that's put into 2-4-2-7, right? That's the insurance proceeds?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay. Are you aware that the insurance policy was paid for by community property funds?

Judge Dawn Thro...: I assume so.

Mr. McAvoy Amay...: Okay. And then you have 2-4-3-5, that's the \$107,891.

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: That be the money from the Meadows account, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay. And that's community property disclosed on this form, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay, and then you have this \$2,002.06 that's claimed as community, or as sold property in 6-1-5-4, right?

Judge Dawn Thro...: Yes. And I think that what it may be is that, that was, I think it was more than 49 that she got from the insurance policy. That's the only way that makes sense. That I put separate property there. I mean, for the \$2,002.06.

Mr. McAvoy Amay...: And so the total amount of this amount of money is going to be what, \$159,893.06. Right? Of all three accounts.

Judge Dawn Thro...: Yes. All three Citibank.

Mr. McAvoy Amay...: Yes. \$159,893.06.

Judge Dawn Thro...: Yeah. I'll trust your math on that. I didn't do it that quickly.

Mr. McAvoy Amay...: All right.

Judge Dawn Thro...: It looks right.

Mr. McAvoy Amay...: We're going to go to the next exhibit. It's going to be Exhibit C. This has been stipulated to that these are the Meadows Bank account statements between January of 2019, and I believe August of 2019.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: Okay? So, you see on this first page, it's Mueller 138. Yes. Okay. You see that \$215,782.71? That's the previous balance, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: And then you see the withdrawal that's the \$107,891 she withdrew, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: He withdrawals it on January 9th, correct?

Judge Dawn Thro...: Yep. January 9th, 2019. Yes.

Mr. McAvoy Amay...: All right. Now, if you go to Mueller, 140, which is going to be two pages down.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: Okay. Do you see where there's the withdrawal of the 15,000 on May 7th? 17th, sorry.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay. And then do you see where it also says that there's another 7,000 withdrawn from the account on June 4th of 2019? Yes.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: If you move on down, it's going to be Mueller 142.

Do you see where there's another thousand dollars withdrawn on July 15th?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay. And then you see where there's a closing withdrawal of \$83,662.45 on July 16th, 2019.

Judge Dawn Thro...: Yes. I that see that.

Mr. McAvoy Amay...: Okay. That is before the entry of the marriage settlement agreement, correct?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: The Meadows account didn't even exist at the time of the marriage settlement agreement because all the funds were taken from it, correct?

Judge Dawn Thro...: That's [crosstalk 00:14:04] yeah.

Mr. McAvoy Amay...: Okay. Now, if you go down, the corresponding withdrawal receipts are in this document as well. So if you go to Mueller 143.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Do you see the withdrawal receipt, by your client? The 107,891?

Judge Dawn Thro...: Yes. I see that.

Mr. McAvoy Amay...: On the next page, Mueller 144, 15,000 withdrawn by your client?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: On the very next page, 7,000 withdrawn by your client as well. Correct?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And then, next page, this is 1500, correct?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Page after that, is the thousand, correct?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And then finally, \$83,662.45, withdrawn by Mrs. Hines, and closing the account on July 16th, 2019, correct?

Judge Dawn Thro...: Yep. That's what that tells you.

Mr. McAvoy Amay...: Is that a breach of the marriage settlement agreement that you agree to with Mr. Radford Smith?

Judge Dawn Thro...: I don't think so, because I can't tell without... If those funds weren't available, as long as the funds were available to give him, his share of them, no.

Mr. McAvoy Amay...: But if they did not exist, to give him, then that's a breach?

Judge Dawn Thro...: Yeah. If the funds disappear to give him the 36,000 and change, that was agreed to in the final version of the MSA. Yes. If that money just had been spent, I suppose that would be.

Mr. McAvoy Amay...: Okay. And so there's been a stipulation already entered into the record, in the previous hearing of this case, that Craig is entitled to an offset of the \$427,000 equalization payment, because she took this money. I mean, this has already been stipulated to. So, because of that, that means she breached the contract first, right?

Judge Dawn Thro...: No,

Mr. McAvoy Amay...: You just testified that if the money was not available to give to him, that would be a breach, right?

Judge Dawn Thro...: If it wasn't available. Yes. But there's nothing to state that it's not available.

Mr. McAvoy Amay...: Okay.

Judge Dawn Thro...: So, she moved it.

Mr. McAvoy Amay...: Okay. We'll move on. Going to go to the Hines Citibank accounts, which is Exhibit D. Were you provided the account statements for these accounts between January and may of 2019?

Judge Dawn Thro...: I don't know. As I said today, we produced right around 10,000 pages. Though I don't know if these were provided to us before the settlement and the last statement that I provided to Mr. Smith with that email. So, I don't know. I can't tell you today whether we did receive them or not.

Mr. McAvoy Amay...: All right. What's the balance of the accounts at the end of this. So, it's going to be C-H-0-0-0-200. What is the balance of this account on January 9th to 31st statement? Of the accounts... Of all of them.

Judge Dawn Thro...: Oh, okay. Hold on, I want to make sure I'm on the right page. I think you said 2...

Mr. McAvoy Amay...: 200.

Judge Dawn Thro...: 200. Okay. Sorry. I'm not on the right page.

Mr. McAvoy Amay...: C-H-0-0-0-200.

Judge Dawn Thro...: Okay. \$159,033.94.

Mr. McAvoy Amay...: Okay. Now, if you go down to the very next pages, 2-0-1 and 2-0-2.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: So that \$159,000 figure, it is the total amount of all three accounts, right? It's the 2-4-2-7, correct?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And it's also the 2-4-3-5 and the 6-1-5-4.

Judge Dawn Thro...: Yes. Yep. And that matches basically what we had on the financial disclosure form.

Mr. McAvoy Amay...: Yep.

Judge Dawn Thro...: Except the interest, I think. Yeah.

Mr. McAvoy Amay...: And then if you go down to, I'm going to show you the next one I want to look at, is going to be the May 31st statement. It's going to be C-H-0-0-0-2-1-6. 216.

Judge Dawn Thro...: Yes. Yes. I've seen that statement.

Mr. McAvoy Amay...: Okay. So, what is the balance as of the May period of all three accounts?

Judge Dawn Thro...: It looks like \$77,583.41.

Mr. McAvoy Amay...: Okay. And that's the balance of the all three of accounts again, if you look the next two pages, it looks like 38,000 and change in 2-4-2-7, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And then it has the looks like 30 something thousand, 36,000 or something like that in 2-4-3-5.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: And then the 2002 in the last account.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: So, it's safe to say that between January 9th of 2019 and May 31st of 2019, Ms. Hines expended about \$83,000 a little over from these three accounts, right?

Judge Dawn Thro...: No, can't say that from this document.

Mr. McAvoy Amay...: Okay. Well, I'll go up. And if we look at the April 2019 statement. If you go to C-H-0-0-0-2-1-2.

Judge Dawn Thro...: Okay. I'm with you.

Mr. McAvoy Amay...: Okay. Do you see where it says that it shows the transactions for 2-4-3-5? It's the middle one. The savings account?

Judge Dawn Thro...: 2-1-2 is the summary. So 2-1-3?

Mr. McAvoy Amay...: Yeah. 2-1-3 is the document.

Judge Dawn Thro...: Yeah. Okay.

Mr. McAvoy Amay...: And you see on April 5th, 2019, there's a debit to pay off American Express account of \$70,790.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay. And so there was an agreement though that the parties were supposed to pay their own American Express debt, right?

Judge Dawn Thro...: No, not as of April, 2019. No. There was not. And in fact, Mr. Mueller was paying his off every month, right out of the business account. No. As of that date? No.

Mr. McAvoy Amay...: Did you disclose these statements to show this amount to Mr. Smith and Mr. Mueller?

Judge Dawn Thro...: I, as I say here today, I don't know if this statement was included in our disclosures.

Mr. McAvoy Amay...: Okay. And so if we come down, let's go back down to the June statement, which I think we've already conceded was the statement that was submitted during the final accounting stuff.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: June 1st to June 30th. It's C-H-0-0-0-2-2-0.

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Do you see that?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: What is the final balance of this account in this period?

Judge Dawn Thro...: \$75,190.08.

Mr. McAvoy Amay...: Okay. So, does that figure sound familiar?

Judge Dawn Thro...: Yes, that's exactly what was in the chart I gave to Mr. Smith on July 28th.

Mr. McAvoy Amay...: The final amount in the marriage settlement agreement?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay. So if you go down, that's the total balance in all three accounts, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: So, all three of these accounts contain community property money, correct?

Judge Dawn Thro...: I don't know. I'm not being funny. It's, there was money moved back and forth, so I don't know if there was, but for the settlement purposes. Yes. We assumed that.

Mr. McAvoy Amay...: Okay. So all three account were community property.

Judge Dawn Thro...: Yes. So, they were counted as community property for the final marital settlement agreement.

Mr. McAvoy Amay...: All right. I'm going to go down to Exhibit F. Sorry, we're skipping over a little bit.

Judge Dawn Thro...: No problem.

Mr. McAvoy Aamay...: This Exhibit it's Mueller, it starts with Mueller 1-5-1. This is an email from Radford two Craig. If you see there, he's discussing the loan still, it's in that first paragraph. You see where he says, "that should take the loan that you need to secure the 420." See that?

Judge Dawn Thro...: Yes. Yes. I see that in the first paragraph.

Mr. McAvoy Aamay...: This is like the very last date. Like, you guys are still talking about the loan. The loan is a part of the agreement.

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Okay.

And of course you have, on the next page, 152, you have the email from you to Radford, regarding final accounting, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Aamay...: And then if you look down to Mueller 154. You recognize this document?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: So this was your final accounting of the savings account balances, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Aamay...: Okay. And then it includes this Bank of Nevada account, which was a personal account, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Aamay...: That money went directly to Christina, right? All of that.

Judge Dawn Thro...: No. None of that went to Christina. At least as at the time of July 29th. No, we tried to take that money too and apply it, but we couldn't get the money out of there, even though it was a joint account.

Mr. McAvoy Aamay...: Okay. If you go down to Mueller, 158. That's the June statement from the Citibank account, right?

Judge Dawn Thro...: Okay. Yes.

Mr. McAvoy Aamay...: This was included in that email as well for the final accounting?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay. And then finally, there's the, starting at Mueller 162, this is the edited marriage settlement agreement, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: That last date?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: You'll go down to Mueller 165. Do you see the provision where it's talking... It's the highlighted section is what I want to question you on.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: Okay. So, this references the June 2019th date, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: And that's the agreement date?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: So how come the savings account, the 2-4-2-7 account from the Citibank account is not included here, even though the funds are?

Judge Dawn Thro...: In that, You're talking about in paragraph [crosstalk 00:26:00].

Mr. McAvoy Amay...: Yeah. You see? It says two savings accounts at Citibank in the name of Christina Hines account number 2-4-3-5 and 6-1-4-5 with a total balance of \$75,190.08, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: You see that?

Judge Dawn Thro...: Yeah, I see that.

Mr. McAvoy Amay...: But, that's not correct, right? That's the full balance of all three accounts, right?

Judge Dawn Thro...: All three of them. Yes. The 75,000 is what was in all three of them. I don't know why I did that other than a typographical layer and trying to get this done as quickly as possible.

Mr. McAvoy Amay...: You, you guys were rushing because the trial was coming up and you're trying to finalize it. Right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay.

Hey, so here you have the discussion of the distribution, right? Craig's going to receive the \$66,071 from the Meadows Bank account and the 29,087 from the Bank of Nevada account, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Amay...: Okay, and then, Go down... Go here on Mueller 167. It says the \$29,087.70 in the Bank of Nevada account, and the 66,000 from the Meadows Bank account, savings account, which is 61,000, so he used to satisfy the obligations to Christina, right?

Judge Dawn Thro...: Yes.

Mr. McAvoy Amay...: Okay, but ultimately in the end, what was agreed is the \$29,087.70 went to Christina, and then Craig would be the left with the 36,000 in the Meadows, right?

Judge Dawn Thro...: No, I don't think... on the crediting, let's see credit to that... No, he was still getting the whole 29,000 from the Bank of Nevada money market account 7-0-0-6. That was always going to him.

Mr. McAvoy Amay...: Go down. All right. So, we're done with this exhibit because you might as well just use the final one, right?

Judge Dawn Thro...: Correct. Yeah. Cause there is, like I said, one material [crosstalk 00:28:33].

Mr. McAvoy Amay...: That's the best course of action, obviously.

Judge Dawn Thro...: Right.

Mr. McAvoy Amay...: If you go down to Exhibit G. I got some questions for you about that.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: It's going to start with Mueller 576.

Judge Dawn Thro...: Okay.

Mr. McAvoy Amay...: You recognize this document?

Judge Dawn Thro...: Yes.

Judge: What, what exhibit? Letter? I'm sorry.

Mr. McAvoy Aamay...: Exhibit G. Okay. So, this is the Meadows account statement from 2015, that you were discussing earlier that you showed where she had taken the 140,000, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Aamay...: Okay. And then if you look down to the next page, there's the \$140,000 check that she took the money out, right?

Judge Dawn Thro...: Correct. There's a withdrawal slip? Or no, that's a deposit. The next statement? Next page you mean?

Mr. McAvoy Aamay...: I think the next page, is that a deposit or is it, I think it's a withdrawal.

Judge Dawn Thro...: Savings deposit.

Mr. McAvoy Aamay...: Oh, is it a deposit?

Judge Dawn Thro...: Yep. That's the deposit back into the account.

Mr. McAvoy Aamay...: And then, so she then deposits that money back into the account on...

Judge Dawn Thro...: November 25, 2015.

Mr. McAvoy Aamay...: It looks like November of 2015, right?

Judge Dawn Thro...: Correct.

Mr. McAvoy Aamay...: So, my trying to understand what's going on in the settlement meeting, you guys are trying to get this done before trial comes, because it's looming and you guys are trying to get this ready. And Craig at the settlement meeting, he says there's \$140,000, she took from our Meadows account that's missing. Right?

Judge Dawn Thro...: We were actually looking at this statement, these statements, and he saw 140 and got mad.

Mr. McAvoy Aamay...: He complains about the missing money from the Meadows account. Then you present his attorney and him.... Well, I think you testified earlier that he left the room. So, you presented Mr. Smith with these statements showing that, oh, she took the 40,000 and then put it back.

Judge Dawn Thro...: Correct.

Mr. McAvoy Aamay...: But at the date of this discussion, isn't it true that she had taken out another 129,800 and I believe, 41 dollars from the Meadows account by that June settlement meeting?

Judge Dawn Thro...: Well, we know she took the 107 in January.

Mr. McAvoy Aamay...: And then she took the 15,000 in May and then she took like another 1500 after that, I think, in June 3rd, I believe. Remember, we went over those, right?

Judge Dawn Thro...: Right.

Mr. McAvoy Aamay...: About 129,000, a little over.

Judge Dawn Thro...: Right.

Mr. McAvoy Aamay...: So, just asking you, don't you think that when Craig raised the issue of missing money from the Meadows account, and then you presenting these documents to the attorney, that gave the impression that all of the money that was missing from the Meadows account had been returned?

Judge Dawn Thro...: No.

Mr. McAvoy Aamay...: No.

Judge Dawn Thro...: No.

Mr. McAvoy Aamay...: But you do admit that at the time that this discussion was happening while she had removed the 140,000 and put it back.

Speaker 1:

Another 129,800, and I believe \$41 from the Meadows account at this June... By that June settlement meeting.

Don Rome:

Well, we know she took the 107 in January.

Speaker 1:

And then she took the 15,000 in May and then she took another 1,500 after that, I think, in June 3rd, I believe. Remember we went over those, right?

Don Rome:

Right.

Speaker 1:

About 120,000 or 29,000 a little over.

Don Rome:

Right.

Speaker 1:

So can I ask, just asking you, don't you think that when Craig raised the issue of missing money from the Meadow's account, and then you presenting these documents to the attorney that, that gave the impression that all of the money that was missing from the Meadow's account had been returned?

Speaker 1:

No.

Don Rome:

No?

Speaker 1:

No.

Don Rome:

But you do you admit that at the time that this discussion was happening, while she had removed the 140,000 and put it back, she'd also removed another 129,000 between January and the June settlement, right?

Don Rome:

Yeah, she did. Yeah. But that, wasn't part of the discussion.

Speaker 1:

Okay. [silence 00:01:22 to 00:01:22] I'm going to go next to exhibit P. [silence 00:01:39 to 00:01:52]

Don Rome:

P as in Paul, right?

Speaker 1:

Yeah. Sorry for going out of order. I should have had... [crosstalk 00:01:56].

Don Rome:

No problem. I just wanna catch up with you.

Speaker 1:

Yeah.

Don Rome:

And what page number you looking at?

Speaker 1:

It's gonna be CH000082 is what we're going to start up. Are you there?

Don Rome:

Not yet. No. Sorry.

Speaker 1:

Yeah. Take your time. [silence 00:02:23 to 00:02:39] Let me know when you get there. [silence 00:02:40 to 00:02:40]

Don Rome:

I'm still in the Anthem, getting through the Anthem report. Okay. No, I'm still on... The Anthem report is very long.

Speaker 1:

Yeah.

Don Rome:

Okay. Exhibit P and then there's this page that says exhibit 18. All right. And you said page eight, what 82? 82 at the bottom CH82?

Speaker 1:

Yes. Yes. CH00082

Don Rome:

Yes, I'm there.

Speaker 1:

Okay. This is, do you see that December 17th 2018 payment to your firm \$3,000?

Don Rome:

Yes.

Speaker 1:

Okay. If you go to 87 now.

Don Rome:

Okay.

Speaker 1:

Going to be January 4th, 2019, Christina paid from her American Express account another 5,000.

Don Rome:

On 87?

Speaker 1:

It's yeah, it's CH00087, be \$5,000 on January 4th, 2019.

Don Rome:

The page I have that says eight seven shows a 3,400 page, a \$3,400 payment to Throne and Hauser on January 11th. Am I on the wrong page?

Speaker 1:

Oh no, that's right. Just, it should be just up from that though, I believe.

Don Rome:

Okay.

Speaker 1:

Or maybe it's 86. Let me see.

Don Rome:

Oh, yep. I'm on it. It's, yeah. 83. 83.

Speaker 1:

Okay.

Don Rome:

Yep. Yeah, 1/4/19, \$5,000. Yep.

Speaker 1:

And then, we just talked about there's the \$3,400, right?

Don Rome:

Yes. January 11th.

Speaker 1:

Yeah. And then there's on January 24th there's 6,500. Do you see that?

Don Rome:

Yep.

Speaker 1:

To your firm. Okay.

Don Rome:

Yes.

Speaker 1:

And then on February 7th, if you go down, there's another payment for 2,500, right?

Don Rome:

Yes.

Ms. Cole:

It's the bate seven... [crosstalk 00:05:12].

Don Rome:

Okay. And then if you go to 105, there's another 7,500 payment to you, right? [silence 00:05:18 to 00:05:32]

Don Rome:

Yep. On February 22nd. Yes.

Speaker 1:

Yeah. And then 113, there's another \$7,500 payment from this American Express account.

Don Rome:

Okay. What? I'm sorry, what pay? Oh, 115. You said, right? Okay.

Speaker 1:

113, 113.

Don Rome:

113, Okay. Yep. 7,500. Yes. On 3/11

Speaker 1:

On this same page. Do you see that subtraction \$70,790 and 24 cents?

Don Rome:

Yep. There is that payment now.

Speaker 1:

So that's the payment from the Citibank account that contained the \$170,000 of community funds.

Don Rome:

Yep. I assume so.

Speaker 1:

So, Ms. [Hines 00:06:21] took community property money and paid a significant portion of her attorney's fees that were owed to you.

Don Rome:

Yes.

Speaker 1:

Community property money, correct?

Don Rome:

Yes.

Speaker 1:

And that was never disclosed to Mr. Smith?

Don Rome:

No, that was definitely disclosed to Mr. Smith because he saw these Amex statements and yes, both parties were using community funds to pay off their Amex statements. Yes.

Speaker 1:

But you're not sure if Mr. Smith and Craig had the January to May 2019 Citibank statements though? You're only sure that they had the June and July ones, right?

Don Rome:

Only sure they had the June one, because that was attached to my email.

Speaker 1:

That statement that would've shown where that 70,000 was coming from, right?

Don Rome:

Yes. [silence 00:07:23 to 00:47:07] Just had to clarify, some of that money that was paid to Throne and Hauser on that Amex was also... Then we wrote the check to Anthem Forensics. So some of it was expert witness fees.

Speaker 1:

So, when the settlement discussions are going on and you're saying that each party is going to pay their own American Express debt, but you're not completely sure that the Citibank statements that showed that she had already paid the \$70,000 to pay off the American Express debt from the community property. I mean, don't you think that, that's kind of something that should have been disclosed? That, that statement showing that a significant portion of community property funds was used to pay off a debt that was being discussed in the settlement discussion. Don't you think that those statements should have been certainly disclosed to Craig and Radford Smith just to make sure that everybody knows what amount of money has gone where? I mean, don't you think that, that would've been a good idea?

Don Rome:

I don't know how to answer that question because when we were discussing them paying their own Amex statements, we knew that Mr. Mueller only had one, whatever was owed for that month on there because he paid it off every single month, right out of the business. So, no, I don't know that your statement is accurate.

Speaker 1:

So that was disclosed though? So, he disclosed that. You had access to that information, right?

Don Rome:

Yeah. I subpoenaed it.

Speaker 1:

But you're not sure that you disclosed that she was doing the same thing.

Don Rome:

I'm not sure that we didn't.

Speaker 1:

[crosstalk 00:09:48].

Don Rome:

Yeah, no, I'm not sure that we didn't either.

Speaker 1:

Well, I mean, I've asked the opposing counsel in this case repeatedly to show me any kinds of evidence that your firm disclosed that information, and to date their answer to me was we don't have to do that. And so...

Don Rome:

Their answer was what?

Speaker 1:

Their answer to me was that they didn't have to disclose that information. Do you think that, that's correct that they don't have to disclose that proof?

Ms. Cole:

I'm going to object that premise is a misstatement on our part. I believe... [crosstalk 00:10:27].

Speaker 1:

I can get the email, if you like.

Ms. Cole:

I believe what I said was we both have access to the discovery in the case.

Speaker 1:

No, no, my [crosstalk 00:10:33].

Ms. Cole:

Of discovery, and so did we.

Speaker 1:

My express request, and I made it very, very clear to you Ms. Cole, that if you gave me proof that those Citibank statements between January of 2019 and May of 2019 were fully disclosed to Radford Smith and Craig Mueller, that I would convince my client to settle this matter before we stepped into this courtroom. [crosstalk 00:11:02].

Ms. Cole:

I don't recall that specific statement... [crosstalk 00:11:02].

Speaker 1:

I can provide you the email, and your response was we don't have to.

Ms. Cole:

Oh, okay. I don't believe that's what I said. If you want to go ahead, and I don't believe that email's in evidence. I know that these American Express statements are bates stamped by Christina, that you're showing to Ms. Throne or Judge Throne. These are Christina's bates stamps. [crosstalk 00:11:25].

Speaker 1:

I requested them though. I requested them... [crosstalk 00:11:27].

Ms. Cole:

I think my point was both sides have all the discovery because Craig just went through the entire litigation as well as Christina.

Speaker 1:

But my issue is, was it disclosed to Radford Smith, which it was not, you have to not provided me any information that it was. And so far, Judge Throne does... [crosstalk 00:11:43].

Ms. Cole:

I keep my same... [crosstalk 00:11:45].

Speaker 1:

State's objection on the record and we'll move on.

Ms. Cole:

Yes. Ms. States, I guess the previous evidence, that's not even in evidence.

Judge Throne:

I've overruled the objection. I'll sort it out when I go back and review things. It's a little too confusing right now for me. I'm not really even sure how to rule.

Ms. Cole:

I understand.

Judge Throne:

I'm kind of confused.

Speaker 1:

I can forward you the email, your honor, if you'd like to see it.

Judge Throne:

Any objection to that?

Ms. Cole:

Well, yeah, I'd like to have a chance. I mean, it's not in discovery and it's a settlement discussion, if anything, which is inadmissible, anyway. If he made a settlement [crosstalk 00:12:28] and I made a response to it, that's an inadmissible statement in court as it is.

Judge Throne:

Okay. Y'all are getting into an argument kind of on the side regarding what it is between the attorneys. I'm not sure how, you're kind of losing the question to the witness and that's what you're going to be objecting to. So, go back and ask the question to the witness.

Speaker 1:

Ms. [Rome 00:12:59], Have you been... Did you provide any emails or other correspondence to the attorneys for the new attorneys for Ms. Hines that show that you disclosed these the January 2019 to May 2019 statements to Mr. Radford Smith in advance of, or during the settlement discussions?

Don Rome:

No. I just became aware of that issue today. So, no, I didn't look for that.

Speaker 1:

Okay. [silence 00:13:33 to 00:13:38]. You go back up to exhibit K now. It'll be the final merit settlement.

Don Rome:

Okay. Let me find. [silence 00:14:06 to 00:14:24]

Speaker 1:

That's gonna be, so exhibit K, it's gonna be Mueller five... I want to start with Mueller 582. [silence 00:14:35 to 00:14:47]

Don Rome:

Okay. Almost there. Okay. 582, you said? Okay.

Speaker 1:

Yes.

Don Rome:

Okay.

Speaker 1:

So this is the final executed merit settlement agreement, right?

Don Rome:

Right. Yep. It has both parties signature or initials on the bottom of each page. Yes. That's the final one.

Speaker 1:

Yeah. And so this one says that Craig was gonna receive \$66,071 from the Meadows bank account and the 29,087.70 from the bank of Nevada account, right?

Don Rome:

Correct.

Speaker 1:

And then if you look down later on at Mueller 584.

Don Rome:

Okay.

Speaker 1:

So it says that the \$29,087 and 70 cents from the Bank of Nevada account and the \$66,071 from the Meadows bank account would end up being would end up used to satisfy obligations to Christina below. Right.

Don Rome:

Say that question again, please.

Speaker 1:

Yeah. It's that provision E, so the cash money that he was gonna have in those accounts, we're going to be used to his satisfied obligations with Christina, right?

Don Rome:

Not the 29,000. No.

Speaker 1:

So just the 66?

Don Rome:

Just the 66. Yes. Right. We're using his separate property to satisfy obligations. Yes.

Speaker 1:

Okay. And so what is the date? What was the date this was entered?

Don Rome:

I think our client signed it on Sunday, July 28th and Mr. Mueller signed it at court the next morning, July 29th.

Speaker 1:

And at the date of that, the Meadows bank account didn't exist. Right?

Don Rome:

Apparently not.

Speaker 1:

If you take a look at Mueller 587.

Don Rome:

Okay. I'm there

Speaker 1:

As that Craig was supposed to receive that 36,871 from the Meadows account? 9.2.

Don Rome:

Yes, yes. Leaving him. Yeah.

Speaker 1:

There's a provision in here. I believe it's four, right? Yeah. If you go up, it's going to be Mueller 580, the warranty and full disclosure.

Don Rome:

Yes.

Speaker 1:

So this is a provision that states that both parties fairly disclosed all the property and interests owned or believed to be owned either directly or indirectly at the... Prior to the date of the resolution on June 20th?

Don Rome:

That's not on 580. 581 I think is where paragraph four is. [crosstalk 00:18:07].

Speaker 1:

Yes. 581. I apologize for that. It's the warranty and full disclosure.

Don Rome:

Yes.

Speaker 1:

But you're not, and again, you're not positive that the Citibank accounts statements from January to May of 2019 were disclosed?

Don Rome:

Well, the asset was definitely disclosed.

Speaker 1:

But the account statement show the expenditures though?

Don Rome:

No, I don't know whether that was or not.

Speaker 1:

Okay. Would, if it was not, would that be not full disclosure?

Don Rome:

I don't think so. I think at that point, both of them had waived disclosure of any further documents we were trying to set. That's part of a settlement is we were waving that, including getting updated statements from his accounts.

Speaker 1:

I think I don't have any further questions for Judge Throne for now or now. I'm done, Judge.

Judge Throne:

Okay. All right. Ms. Cole, is there any redirect?

Ms. Cole:

Yes, your honor. Thank you. Don, you wanna be called Don? [crosstalk 00:19:25].

Don Rome:

Yes. Don is fine. [crosstalk 00:19:25].

Ms. Cole:

I was gonna say Judge. Don, the initial questions had to do with the loan and I apologize, I wasn't here for the direct, so I'm not sure what you testified about the loan before, but when you say it was part of the settlement, you recognize that it wasn't included in the marital settlement agreement as a promise to perform.

Don Rome:

No, the wording in the marital settlement, no, doesn't refer to him getting a loan. No, it refers to him giving her money.

Ms. Cole:

Right. And it talks... [crosstalk 00:20:02].

Don Rome:

Whatever he got that money from.

Ms. Cole:

... It talks about if the payment isn't made in a certain amount of time, it's reduced to judgment. Is that what? And if you want to refresh your recollection of the MSA, let me know.

Don Rome:

Yes. I know exactly what provision you're talking about. Yes.

Ms. Cole:

So, what do you mean when you say that the loan was a part of the settlement? When on the other hand, it wasn't included in the MSA and there was a statement in the MSA saying that no one was no one made any promise to induce the other to enter into the agreement. Meaning there were no other side deals or there were no other agreements outside of the four corners of the MSA.

Don Rome:

Okay. I guess I could best explain it as a, it was a moving target thing because as of June 20th, him getting that loan commitment letter so that we knew he could get the loan was the deal breaker. If he didn't have that by July 22nd, he didn't have that by July 22nd. And then we renewed negotiations and there was some give and take on things like the cash being applied, some of the cash that would've gone to Mr. Mueller being applied to things he owed her or to prepaying some of the payments and stuff, that was a negotiation afterwards. And so, and as well as the negotiation that we didn't need, it was moot at that point, the loan commitment letter. Somehow he needed to get the money, whether he sold it, got a loan, sold an asset or two was irrelevant.

Ms. Cole:

Okay. So, what kind of letter was this? Was it an actual, you have been approved for a loan, or was it a, it looks like there's a pre-approval, that's pretty... [crosstalk 00:21:50].

Don Rome:

Not a pre-approval an actual commitment. The ex financial institute commits to giving him a loan of \$450,000.

Ms. Cole:

Okay. And when do you recall you saw a document that was similar to a commitment letter for the first time?

Don Rome:

One that we thought was a commitment letter? Never.

Ms. Cole:

So what happened after? Well, what did you see then?

Don Rome:

We were sent, it was a letter from a bank back east. It basically was like a pre-qual letter, pre-qualification letter that you get when you want to go buy a house, no actual commitment to that. And then we had that debate with Mr. Smith and his associate, Miss Stutsman was her name. I think she's changed her last name.

Ms. Cole:

Okay. So at that point, why was there no more language in the agreement about the loan? Was that something that Christina waived at that point is any further negotiations or commitments on the loan? Because I just see your testimony saying that this was a part of our agreement and then it's not in the

MSA, which is the only enforceable document between these parties. So I want to understand what you meant when you testified that way.

Don Rome:

What I meant that the condition of us taking the trial off and not finishing our trial, but not doing the trial, was him getting that loan commitment letter. That horse is already out of the barn by the time we get to July 22nd and we file our pre-trial memorandum, and we ramp up our prep of all our witness and we had our expert witness ready to go. We had, those are the witnesses we had to call off, was our expert witness and I think that was... [crosstalk 00:23:58].

Ms. Cole:

Okay. But you would agree with me then that the commitment to get a loan, wasn't actually a part of the party's final agreement that they made in their degree and in their MSA?

Don Rome:

Correct. Yeah. We didn't care how he got the money, as long as he got the money.

Ms. Cole:

Okay. So, any discussion or argument or side conversations about a loan aren't relevant to the actual agreement the parties made? Is that right?

Don Rome:

Correct.

Ms. Cole:

Their actual agreement that they... [crosstalk 00:24:26].

Don Rome:

Their actual final agreement. Yes. The loan issue was the... That was closed cause we didn't care how he got it. He had time to get the money by September and he could sell assets, he could get a loan, get a personal loan. He has lots of rich friends. He could get it wherever he wanted to get it.

Ms. Cole:

I want to revisit the discussion about the Citibank accounts. You said you don't remember if they're in discovery, but you agree that the balances of the Citibank accounts were all specifically listed in your financial disclosure form back in February 2019, correct?

Don Rome:

Correct. And I know we produced the original opening documents, where she opened each of those three accounts cause I know where that was in our, I believe, our third supplemental production in January.

Ms. Cole:

Okay. And then any money going out of the community accounts to the Citibank accounts would have been shown on the community accounts, right? So if transfers were made, say from Meadows to Citibank, it would show on the Meadows account that Craig was a joint owner that, that transfer was made to a Citibank or that Christina took that money out. Is that correct?

Don Rome:

Yes.

Ms. Cole:

But would you agree with me that there were no more additions to Christina's Citibank accounts from February to June when you settled. That all she did with those accounts was spend money from February to June?

Don Rome:

Yes. That's what it looks like. Yes.

Ms. Cole:

So Craig had notice of the initial accounts and what month did those open, the Citibank accounts? If you recall?

Don Rome:

January, January, 2019.

Ms. Cole:

Okay. And at some point she deposited the Meadow's money. I believe that was in January. Is that correct? And then... [crosstalk 00:26:15].

Don Rome:

The Meadows money and the insurance money, yes. Went into those three accounts.

Ms. Cole:

Okay. And then you disclosed those balances in February to Craig?

Don Rome:

Correct.

Ms. Cole:

Okay. And then the money was never, or the accounts were never added to after that point until basically ever, when the party settled you got the June statements to Craig. And did Craig ever ask you at that point as a condition of settling that he needed to see every single bank statement between February and June to settle the case?

Don Rome:

No.

Ms. Cole:

Okay. And I think you answered this, but is it your opinion that it is a... The settlement is not a fair and full disclosure if you didn't have previous bank statements of one of the parties... [crosstalk 00:27:12].

Don Rome:

Correct.

Ms. Cole:

... The date of settlement?

Don Rome:

Craig Mueller was definitely on notice that those accounts had a hundred and, I think Mr.... Sorry. I don't want to massacre... [crosstalk 00:27:24].

Speaker 1:

Don't worry about the name.

Don Rome:

Sorry. It's a lot of there. But yes, that he had noticed that at the beginning of January, there was 159 or 58, whatever, 150 some odd thousand in the Citibank accounts. And when we gave him the June statement, which I know I did, because I attached to the email, and it only had 75,000 left in it. You definitely noticed that 75,000 went someplace else. And they did not ask for that information.

Ms. Cole:

Was there any money, cause I see you put balances of everything in the MSA, and wasn't like there's an account here and you get it, it was this amount of money is in this account as of this date. Was there any money as of the date of the party's settlement? Whether even, well on the date of the settlement date, which I believe is June 20th, that's missing from their contract? Were there any hidden accounts or any money out there floating around that wasn't listed in the agreement from the date they settled?

Don Rome:

No.

Ms. Cole:

And have you ever heard an allegation that there was money out there that didn't get put in the settlement agreement?

Don Rome:

No.

Ms. Cole:

Okay. I noticed when you were asked questions about Christina's American Express statements, including the one where this 70,000 was paid I guess for a statement balance, that those were bate stamped CH and some numbers. Is that your office's bate stamp numbering?

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Don Rome:

No, no. Ours would've been PL00...