

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

STATE FARM FIRE AND )  
CASUALTY COMPANY, et al., )  
Plaintiffs, )

vs. ) CASE NO. CV 01 435208  
CENTURY 21 ARROW REALTY, ) JUDGE MARY J. BOYLE  
INC., et al., )  
Defendants. )

Deposition of ANDREW NEIL DENNEWITZ, a  
witness herein, called by the Defendants for  
Cross-Examination pursuant to the Ohio Rules of  
Civil Procedure, taken before me, the  
undersigned, Mary Lyn Uphold, a Registered Merit  
Reporter, Certified Realtime Reporter and Notary  
Public in and for the State of Ohio, at the law  
offices of Uhlinger & Keis, 75 Public Square, 8th  
Floor, Cleveland, Ohio, on Tuesday, the 2nd day  
of April, 2002, commencing at 10:36 o'clock a.m.



## 1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 UHLINGER &amp; KEIS

4 BY: Herbert L. Nussle, Attorney at Law

5 75 Public Square, 8th Floor

6 Cleveland, Ohio 44113-2079

7 On Behalf of the Defendant Century 21 Arrow

8 Realty, Inc.:

9 COSTANZO &amp; LAZZARO, P.L.L.

10 BY: S. Robert E. Lazzaro, Attorney at Law

11 13317 Madison Avenue

12 Lakewood, Ohio 44107-4814

13 On Behalf of the Defendant Dominion East Ohio

14 Gas:

15 RODERICK LINTON LLP

16 BY: Stephen J. Pruneski, Attorney at Law

17 1500 One Cascade Plaza

18 Akron, Ohio 44308

19 ALSO PRESENT:

20 Sharyn Lynne Peterson

21 Gregory William Conte

22 Debra Lynn Dennewitz

23 . . .

24

25

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CROSS-EXAMINATION (By Mr. Pruneski)..... 4

CROSS-EXAMINATION (By Mr. Lazzaro)..... 76

Defendant's Exhibit 8..... 30

Defendant's Exhibit 9..... 50

Defendant's Exhibits 10 and 11..... 53

(Exhibits retained by Mr. Pruneski)

1                                   ANDREW NEIL DENNEWITZ  
2 of lawful age, a witness herein, having been  
3 first duly sworn, as hereinafter certified,  
4 deposed and said as follows:

5                                   CROSS-EXAMINATION

6 BY MR. PRUNESKI:

7 Q.     Give us your full name, please.

8 A.     Andrew Neil Dennewitz.

9 Q.     And current residence address?

10 A.    3068 Old Mill Road, Hudson, Ohio.

11 Q.    Have you ever had your deposition taken  
12 before?

13 A.    No.

14 Q.    Mr. Dennewitz, if at any time during this  
15 deposition you don't believe you heard my  
16 question, let me know that you haven't heard my  
17 question and I will speak up. If you don't think  
18 you understand my question, let me know you don't  
19 think you understand it and I'll repeat it or we  
20 can have the court reporter read it back or I can  
21 rephrase it.

22 A.    Okay.

23 Q.    If you answer a question, I am going to  
24 assume you understood it and heard it. Is that  
25 fair?

1 A. That's fair.

2 Q. If you need to take a break for any reason  
3 during the deposition, just let me know, and I  
4 would only ask that you answer the question  
5 pending before you before you take the break. Is  
6 that fair?

7 A. Sure.

8 Q. Finally, you have to use words in answering  
9 the questions. We all use phrases like "uh-huh,"  
10 "uh-uh," and hand gestures to describe things.  
11 The court reporter is taking everything down we  
12 say here, and the best way to avoid any  
13 misunderstanding is to use words. Do you  
14 understand that?

15 A. Yes.

16 Q. If I catch you or if Mr. Nussle catches you,  
17 I'm sure we'll tell you to use a word.

18 Could you describe your education to me,  
19 please?

20 A. My education?

21 Q. Yeah.

22 A. I graduated from high school in 1983, from  
23 Ohio University, a four-year college degree in  
24 accounting in 1987.

25 Q. Where have you worked since you graduated

1 from college in 1987?

2 A. Numerous places.

3 Q. Okay. Who is your current employer?

4 A. My current employer is Imperial Home Decor  
5 Group in Beachwood.

6 Q. How long have you worked there?

7 A. Going on three months.

8 Q. Where did you work prior to Imperial?

9 A. Prior to that was four years at Dairy Mart,  
10 and that was in Hudson.

11 Q. What did you do at Dairy Mart?

12 A. I was a tax manager.

13 Q. You started at Imperial the beginning of  
14 this year?

15 A. Yes, January 7th.

16 Q. So you were with Dairy --

17 A. I was also --

18 Q. Go ahead. You were with Dairy Mart from  
19 1997 until January of this year?

20 A. No. I was at Dairy Mart, started in March  
21 of '97 and was laid off April 27th of 2001,  
22 searching for work and unemployed in between.

23 Q. Where did you work prior to working at Dairy  
24 Mart?

25 A. I'm not used to this kind of question.

1 Excuse me. Prior to Dairy Mart was at Revco.

2 Q. How long were you there?

3 A. In Twinsburg. I was there for six months.

4 Q. Prior to Revco, where did you work? Well,  
5 first of all, what did you do at Revco?

6 A. I was in their tax department. I was a  
7 senior tax accountant.

8 Q. Okay. And now prior to Revco, where did you  
9 work?

10 A. Prior to Revco was George Smith &  
11 Associates. It's a local CPA firm in Twinsburg.

12 Q. How long were you there?

13 A. About eight months.

14 Q. You have children?

15 A. Yes.

16 Q. What are their names and ages?

17 A. Stephanie Barnes is my stepdaughter. She is

18 11. Laura Dennewitz is five, my daughter.

19 Alyssa is three.

20 Q. You were married to Debra in June of 1996?

21 A. Yes.

22 Q. You lived at the Old Mill address prior to  
23 June of '96, correct?

24 A. That's correct.

25 Q. When did you move into that address?

1 A. I believe it was in '92, early '92.

2 Q. And you purchased that property?

3 A. Yes. I bought the property and built the  
4 house.

5 Q. You never lived in the property on Turney  
6 Road?

7 A. No.

8 Q. Were you ever listed as an owner of the  
9 property on Turney Road?

10 A. I'm sorry?

11 Q. Were you ever listed as the owner of the  
12 property on Turney Road?

13 A. I was on the deed, yes.

14 Q. Okay. When were you put on the deed or when  
15 did the deed transfer, giving you ownership of  
16 the property?

17 A. I believe it was in '99. I would have to --  
18 I mean, I'm not positive on that, but I believe  
19 that my name was on the deed prior to the sale of  
20 the home, meaning putting it up for sale, I  
21 should say.

22 Q. Why would -- now, prior to your marriage to  
23 Debra, that property was owned by her and -- by  
24 her, correct?

25 A. Uh-huh.



1 Q. "Yes"?

2 A. Yes. Sorry.

3 Q. Did some sort of event occur in 1999 that  
4 required you to change the ownership to your  
5 name?

6 A. Did an event occur?

7 Q. Yeah.

8 A. Not that I'm aware of. I believe -- I'm  
9 thinking back. I think Deb's name was on the  
10 deed, and also another gentleman's name that she  
11 bought the house with was on the deed, which was  
12 Stephanie's father. And we had him quitclaim the  
13 house to us; in other words, remove his name and  
14 put my name on the deed, because we were at the  
15 time attempting to sell the property.

16 Q. Did you pay him any money in exchange for  
17 him quitclaiming the house to you?

18 A. No.

19 Q. Did a lawyer do the quitclaim deed?

20 A. I don't remember.

21 Q. Do you still have a copy of that deed?

22 A. Somebody -- yes. Somewhere in the house we  
23 would, yes.

24 Q. Did you record the quitclaim deed with the  
25 county recorder's office or the auditor now?

1 A. I believe so.

2 Q. Now, after you were married to Debra, she  
3 moved into your house in Hudson?

4 A. Yes.

5 Q. I understand that there was then a decision  
6 made to rent her house on Turney Road?

7 A. That's correct.

8 Q. And you entered into a lease with a Brian  
9 Webb?

10 A. That's right.

11 Q. Do you recall how much rent he paid per  
12 month?

13 A. I believe he was paying exactly what our  
14 house was plus \$100, so I want to say he was  
15 paying somewhere, like, 750 a month, something  
16 like that, 700, \$750 a month.

17 Q. So you're not positive of the amount?

18 A. No.

19 Q. But he was paying 700 to \$750 --

20 A. I think it was somewhere around there.

21 MR. NUSSLE: Let him finish his  
22 question.

23 THE WITNESS: I'm sorry.

24 BY MR. PRUNESKI:

25 Q. I know you know what I'm asking you, but she

1 can't take down everything. It's hard for her  
2 when we're both talking.

3       You were paying a mortgage of 600 to \$650 a  
4 month, and the rent was \$100 more than the  
5 mortgage payment?

6 A.    I believe that's what it was.

7 Q.    Was there a written lease with Mr. Webb?

8 A.    Yes.

9 Q.    Who was responsible for paying the  
10 utilities?

11 A.    Mr. Webb.

12 Q.    While Mr. Webb leased the property, did you  
13 or Debra make periodic inspections of the  
14 property?

15 A.    From time to time.

16 Q.    When you say "from time to time," what do  
17 you mean by that?

18 A.    He had signed a -- I believe additionally --  
19 or initially it was a one-year lease.

20 Inspections, if there was -- if you want to call  
21 it an inspection, occurred when -- or if I went  
22 there to the house to pick up the rent.

23 Q.    How often would -- I'm sorry. I didn't mean  
24 to interrupt.

25 A.    No.

1 Q. How often would you go to the house to pick  
2 up the rent?

3 A. Probably only two or three times, if that.

4 Q. Did you ever -- were you ever required to go  
5 to the house to make repairs while he was leasing  
6 it from you?

7 A. Not that I remember.

8 Q. Do you recall when he left the property,  
9 when his lease terminated?

10 A. We're probably talking early to mid-1998.

11 Q. Why did he terminate the lease?

12 A. He moved back to California.

13 Q. After he moved out, was the property vacant  
14 for a while?

15 A. Yes.

16 Q. Were you required to do any work on the  
17 property before you leased it to someone else?

18 A. Yes.

19 Q. What work did you do?

20 A. I can't remember exactly besides general  
21 cleaning, painting.

22 Q. Okay. The nature of the work was general  
23 cleaning and painting?

24 A. That's what I remember.

25 Q. Were there any major repairs made?

1 A. No, not that I can think of.

2 Q. I understand that you then entered into a  
3 land contract with two individuals for the  
4 property.

5 A. Yes.

6 Q. What were their names?

7 A. Ryan Hunus and Christine Gaeberlin.

8 Q. Prior to the time you entered into that land  
9 contract, did you use a realtor at all to try to  
10 market the property?

11 A. No, not at that time.

12 Q. Who drafted the land contract for you?

13 A. I did.

14 Q. Where did you get the -- where did you get  
15 your knowledge about land contracts in order to  
16 draft one?

17 A. Doing some research, talking to individuals  
18 that had been involved in similar situations, and  
19 I can't say -- I mean, I don't remember where  
20 the -- you know, where we got the format of the  
21 land contract or anything.

22 Q. To the best of your recollection, what were  
23 the terms of the land contract?

24 A. I can't remember, to be honest with you,  
25 specifics, other than monthly payment to be paid

1 at a certain date. I can't tell you exactly what  
2 that payment is without looking at the document.  
3 You know, there would be late fees, if it was  
4 paid late, after a certain time frame. They were  
5 going to be responsible for all the utilities.  
6 And again, the term of the land contract itself.  
7 Without looking at it, I can't remember as to how  
8 long that term was.

9 Q. They obviously had a right to acquire  
10 ownership of the property after a certain period  
11 of time?

12 A. Absolutely.

13 Q. How much were they going to pay you to  
14 obtain ownership?

15 A. To obtain ownership?

16 Q. Yeah. I mean, 100,000, 50,000?

17 A. It was basically whatever the contract price  
18 was. We had agreed on a contract price at the  
19 time when they -- you know, a value of the house,  
20 I believe.

21 Q. What was that value?

22 A. Without looking at the contract, I don't  
23 know.

24 Q. Can you approximate it for me?

25 A. I would imagine maybe somewhere mid to high

1 70s, something like that, I'm thinking. Without  
2 looking, I do not know.

3 Q. Do you still have a copy of that land  
4 contract?

5 A. Yes, I think so.

6 Q. How long were Mr. Hunus and Ms. Gaeberlin  
7 occupying the property?

8 A. Well, that was in 1998, I believe. Is that  
9 right? It didn't last a year. I don't believe  
10 it lasted 12 months.

11 Q. What caused the land contract to be  
12 terminated?

13 A. Nonpayment.

14 Q. And you went to court to terminate the land  
15 contract?

16 A. Yes, we did.

17 Q. When did you retake possession of the  
18 property?

19 A. At some point in August of '99.

20 Q. Between the time they took possession of the  
21 property -- Hunus and Gaeberlin being "they" --  
22 and the time you retook the property, how often  
23 were you there to do inspections?

24 A. Minimal. I mean, maybe once. It wasn't a  
25 real inspection or anything. We wanted them to

1 feel like they were homeowners, as they wanted  
2 also. They were making monthly payments and we  
3 had entered into a contract.

4 Q. Did you ever have to go to the property to  
5 collect the payments they owed under the  
6 contract?

7 A. Yes.

8 Q. How often?

9 A. Maybe twice.

10 Q. So during the time Hunus and Gaeberlin took  
11 possession of the Turney Road property, you were  
12 there three times?

13 A. It's possible.

14 Q. You were never required to make any repairs  
15 to the property during that time?

16 A. None that I remember.

17 Q. When you took possession of the property in  
18 August of '99, apparently there was a decision  
19 made you were going to try to sell it?

20 A. That's correct.

21 Q. Okay. You decided to try to sell it on your  
22 own first without the help of a realtor?

23 A. Uh-huh.

24 Q. "Yes"?

25 A. Yes.



1 Q. What did you do to accomplish the sale on  
2 your own? What steps did you take?

3 A. Advertisements, bulletin boards at my work,  
4 you know, advertisements in local newspapers.

5 Q. Apparently Maple Heights has a property  
6 maintenance code?

7 A. Uh-huh.

8 Q. There was an inspection required by their  
9 local statutes?

10 A. Yes.

11 Q. And you had that inspection done?

12 A. Yes.

13 Q. And there were a number of things they  
14 required to be repaired?

15 A. That's correct.

16 Q. Who did those repairs?

17 A. There would have been a few individuals  
18 involved with it. It would be myself or another  
19 individual. I'm trying to think of his name. I  
20 can't recall the gentleman's name. It's a  
21 brother of a friend of mine. I just can't  
22 remember his first name.

23 Q. A handyman type of individual?

24 A. Yes.

25 Q. Was there any certain type of repair that he

1 performed?

2 A. I would say probably the majority of what  
3 was on that list.

4 Q. Okay.

5 A. But I can't remember without looking at  
6 exactly what's on the list.

7 Q. I'll hand you what we've marked as Exhibit 7  
8 to your wife's deposition, and we'll also refer  
9 to it as Exhibit 7 to your deposition.

10 A. Uh-huh.

11 Q. It was marked by Mr. Lazzaro. It is the  
12 inspection report. First of all, would you take  
13 a moment and look at it and let me know when  
14 you're done?

15 A. (Witness complies with the request.)

16 Q. There is another copy in front of you,  
17 Mr. Dennewitz. So you had this friend's brother  
18 do most of the repairs identified on this  
19 document?

20 A. Correct.

21 Q. And this document, this sales report is  
22 based on an inspection done on September 21st,  
23 1999?

24 A. Yes.

25 Q. It's dated September 23rd, 1999?

1 A. Yes.

2 Q. Do you recall the name of the individual  
3 from the City of Maple Heights that did the  
4 inspection?

5 A. No.

6 Q. Were you with him when he did the  
7 inspection?

8 A. Yes.

9 Q. It looks like on the second page there's a  
10 reference to Scott Packard. Does that --

11 A. Scott sounds familiar, yes.

12 Q. Okay. From your wife's testimony, I  
13 understand that the repairs or corrections called  
14 for by this report were done before you listed  
15 the property with Century 21?

16 A. Yeah. I believe everything was done except  
17 for the concrete work.

18 Q. Okay. When you say "except for the concrete  
19 work," which item are you referring to?

20 A. The garage. Page 1, towards the bottom,  
21 where it says, "Crack fill," that's the garage.  
22 floor, the driveway blocks, the sidewalk. I do  
23 remember even the sidewalk -- well, no, forget  
24 that. It's stated on there about the public  
25 sidewalks.

1 Q. On the --

2 A. That's all I can see.

3 Q. On this document there's reference to a  
4 "Turney Road project"; is there not?

5 A. Yes, I see that.

6 Q. And you saw that at the time you received a  
7 copy of this report?

8 A. Yes.

9 Q. And what did you understand that "Turney  
10 Road project" to be?

11 A. I did not understand what it meant at that  
12 time, because I --

13 Q. Okay. Did you -- go ahead. I am sorry.

14 A. I was going to say that I remember asking  
15 the gentleman about it, and his comment was, "I'm  
16 only here to do the inspections. I can't answer  
17 any other questions as to what's going to happen  
18 with Turney."

19 Q. So he didn't give you any explanation of  
20 what the project was?

21 A. No.

22 Q. There's at least some hints about what's  
23 going to happen, because it talks about public  
24 sidewalks being replaced, correct?

25 A. From what I see here, yes.

1 Q. And the apron being replaced, correct?

2 A. Yes.

3 Q. Now, after you saw this, did you make any  
4 effort to inquire as to what this project was  
5 going to be?

6 A. I can't remember specifically if I made any  
7 phone calls, you know, to the city or to whoever  
8 to find out about it. I cannot remember.

9 Q. You don't know if you tried to find out or  
10 not?

11 A. I don't remember specifically if I did.

12 Q. Well, did you try to find out?

13 A. I'd have to say no.

14 Q. Okay. You tried to sell the property on  
15 your own for a period of time and then decided to  
16 hire a realtor, correct?

17 A. Yes.

18 Q. Why did you decide to hire a realtor?

19 A. We weren't moving the property ourselves.

20 Q. There still was a mortgage on the property  
21 at this time?

22 A. Yes.

23 Q. So you were paying that mortgage without the  
24 benefit of receiving rent?

25 A. That's correct.

1 Q. How did you choose Century 21 Arrow Realty?

2 A. Local. Local firm. They knew the area,  
3 knew the local market.

4 Q. Did you know any realtors at that firm  
5 before you signed an agreement with them to  
6 market your property?

7 A. I did not personally, no.

8 Q. How did you know they were a local firm?  
9 How were you aware of their being involved in the  
10 sale of real estate in the area?

11 A. Just through advertisements, business cards  
12 that were left.

13 Q. What do you mean "business cards --"

14 A. Mailers.

15 Q. What do you mean "business cards that were  
16 left"?

17 A. Business cards from the individual, from  
18 Chuck Amato, from Century 21. Keep in mind, I  
19 guess let me just explain that. When we listed  
20 the house for sale by owner, that's when the  
21 realtors came out of the woodwork, to stop by,  
22 take a look at the house, leave their business  
23 cards, saying, "Hey, if you can't sell this, give  
24 me a call. I've got somebody that's interested."  
25 Those types of things occurred while we were

1 trying to sell the property by ourselves.

2 Q. Mr. Amato left a business card at your  
3 property, at your house?

4 A. I believe so.

5 Q. Did you interview him before you signed an  
6 agreement with Century 21?

7 A. We talked with several different  
8 individuals, I believe, companies.

9 Q. And you chose Mr. Amato over others?

10 A. That's correct.

11 Q. Why?

12 A. We felt comfortable.

13 Q. But you never knew him beforehand, correct?

14 A. No.

15 Q. Handing you what we've marked as Exhibit 2.

16 MR. NUSSLE: Can I just give him  
17 the actual one?

18 MR. PRUNESKI: Oh, yeah, please.

19 BY MR. PRUNESKI:

20 Q. In fact, for the record, Mr. Dennewitz, all  
21 the exhibits we marked in your wife's deposition  
22 we'll use in yours and they're numbered with the  
23 yellow tab.

24 A. Okay.

25 Q. Exhibit Number 2 is the exclusive right to

1 sell agreement, dated November 15th, 1999, with  
2 Century 21 Arrow Realty, and that's your  
3 signature on the bottom of this document,  
4 correct?

5 A. Yes.

6 Q. And you signed it on November 15th, 1999?

7 A. Yes.

8 Q. There's a reference to Todd Plumley. He was  
9 someone who inquired about purchasing the  
10 property before you contacted Century 21?

11 A. That's correct.

12 Q. Was Century 21 aware that the property was  
13 vacant at the time they listed it?

14 A. Yes.

15 Q. How was the list price of \$84,900  
16 determined?

17 A. I'd have to say that based on -- there was  
18 an analysis. I believe, that was shown to us by  
19 Century 21 and the agent of recent home sales in  
20 the area.

21 Q. Who made the decision to list it at \$84,900?

22 A. I think ultimately it was our decision, but  
23 based on the realtor's suggestions.

24 Q. Was there any discussion at the time you  
25 were developing the list price as to what would



1 be a fair sale price?

2 A. I don't remember specifically, no.

3 Q. Did you discuss that it would probably sell  
4 for less than the list price?

5 A. I believe it was possible. Yeah, I'm sure  
6 we discussed that.

7 Q. Did you discuss that it could sell for more  
8 than the list price?

9 A. I don't remember that conversation, no.

10 Q. Did you and your wife have any discussions  
11 about a price that you would accept if someone  
12 offered it?

13 A. I don't remember those conversations between  
14 my wife and I, no.

15 Q. Your wife indicated there was at least some  
16 thought that you would take a thousand or two  
17 less than the list price. Do you recall that?

18 A. I don't remember, no.

19 Q. Were there any open houses at the property  
20 after it was listed with Century 21?

21 A. I can't say for sure if there were.

22 Q. Do you know what I mean by an "open house"?

23 A. I know what you mean by an "open house,"  
24 Sunday afternoon visits.

25 Q. After the property was listed, did you

1 receive any communications from Mr. Amato about  
2 prospective purchasers, people he showed the  
3 house to?

4 A. I do remember one or two phone calls of  
5 showing the property or another -- you know, a  
6 phone call from him stating that another realtor  
7 was showing the property. Dates I don't  
8 remember.

9 Q. At the time Mr. Amato was entering into --  
10 you were entering into this agreement with  
11 Century 21 and him to show the property and  
12 market it, did you have any discussions about the  
13 possibility of making any improvements to the  
14 property to help sell it?

15 A. No. I don't remember any of those  
16 conversations, no.

17 Q. Did he make any suggestions to you to paint  
18 walls or replace carpet?

19 A. I don't remember those, no.

20 Q. You say you don't remember them.

21 A. I can't say if they happened.

22 Q. You don't know if they happened or not?

23 A. I don't know if they happened. I don't --

24 Q. Did you do any improvements, repairs to the  
25 property after it was listed with Century 21?

1 A. No. I believe when we listed it with  
2 Century 21, it was in its salable condition.

3 Q. After the property was listed with  
4 Century 21 on November 15th, 1999, how often did  
5 you go to the property to see it?

6 A. After that date, it was probably only once  
7 or twice.

8 Q. Now, let's back up. You reacquired the  
9 property in August 1999.

10 A. Uh-huh.

11 Q. How often were you at the property between  
12 the date you obtained possession through the  
13 court proceeding and the date you listed it with  
14 Century 21?

15 A. At least once a week, if not maybe twice,  
16 for probably no more than an hour or two at a  
17 time, because it was after work.

18 Q. At that point the gas bills were put back in  
19 your name?

20 A. In August of '99, that's correct.

21 Q. You made those arrangements with the gas  
22 company?

23 A. Yes, I did.

24 Q. I'll show you what we marked and you have in  
25 front of you as Exhibit 1. Would you take a look

1 at those and let me know whether those are the  
2 gas bills that were put in your name back in  
3 August of '99 and continuing through, I believe,  
4 May of 2000?

5 A. Yes, they are.

6 Q. Okay. Now, those bills were sent to the Old  
7 Mill address in Hudson?

8 A. Yes.

9 Q. Now, at some point you found out more  
10 information about the Turney Road project; is  
11 that correct?

12 A. Yes.

13 Q. Okay. What did you find out?

14 A. There was a notification that I found, and I  
15 believe that was on the 22nd of November. I'd  
16 have to look at the letter that I had written to  
17 be sure of dates or anything like that. But  
18 other than --

19 Q. Let's help --

20 A. There was a notice from East Ohio Gas that  
21 there was going to be a gas main relocation.

22 Q. And where was it posted at the property?

23 A. I don't remember.

24 Q. On one of the doors?

25 A. It's possible, but I don't remember.

1 Actually, I think it was stuck in between two  
2 doors, or in one of the doors.

3 Q. What did the notice look like?

4 A. It was a little gray card folded over and it  
5 had, like, a card inside of it. (Indicating.)

6 Q. And what did the card tell you?

7 A. Without seeing it, I don't remember exactly  
8 what it said.

9 Q. Did you keep it?

10 A. Yeah.

11 Q. Do you still have it?

12 A. Yes.

13 MR. PRUNESKI: Let's talk about  
14 that a minute. He's not your client, but can I  
15 ask you to get it from him?

16 MR. NUSSLE: Sure. I had no idea  
17 he still had it.

18 THE WITNESS: I just found it last  
19 night.

20 MR. PRUNESKI: I would love to see  
21 it.

22 BY MR. PRUNESKI:

23 Q. Let's talk about it. You looked at it last  
24 night?

25 A. I saw it in a file. I did not look at it in

1 particular.

2 Q. Did you -- let's handle it this way.

3 MR. PRUNESKI: Would you mark this  
4 Exhibit 8, please?

5 (Thereupon, Defendant's Exhibit 8  
6 of the A.N. Dennewitz deposition  
7 was marked for purposes of  
8 identification.)

9 BY MR. PRUNESKI:

10 Q. We are going to hand to you what we've  
11 marked as Exhibit 8 to your deposition,  
12 Mr. Dennewitz, and there are two items with this  
13 exhibit. One is a gray envelope and the other  
14 one is a green card. The first question to you  
15 is, I'll ask you to take a moment and look at  
16 that green card and let me know, is that the card  
17 you found posted at the property?

18 A. Without reading this, I can't say if that's  
19 what I -- if that's what was in the envelope, but  
20 this is exactly what I found stuck in the side  
21 door, from what I can remember, of the house.  
22 (Indicating.)

23 Q. When you talk about "this," you're talking  
24 about the gray envelope?

25 A. This particular envelope, and there was

1 something in there.

2 Q. And there was some handwriting on the  
3 envelope, correct?

4 A. I do not remember that.

5 Q. Or handwriting on the green card?

6 A. There was my handwriting on the green card  
7 of who I called to find out about this.

8 Q. You don't recall if there's any handwriting  
9 from someone at East Ohio Gas on that document or  
10 on the card?

11 A. I would have to look at it to see.

12 Q. Can we ask you to send that to Mr. Nussle --

13 A. Sure.

14 Q. -- so he can copy it and share it with  
15 everybody --

16 A. Absolutely.

17 Q. -- and he can get it back to you?

18 The card told you that there was a main  
19 relocation being done?

20 A. That's correct.

21 Q. Okay. Could you look at Exhibit 3? You  
22 mentioned your letter that you had some diary  
23 notes about, of the events.

24 A. There we go.

25 Q. For the record, Exhibit 3 begins with a fax

1 cover sheet from you to Mr. Novak at East Ohio

2 Gas dated January 11th, 2000, correct?

3 A. Yes.

4 Q. And that's your handwriting and you did fill  
5 out that fax sheet?

6 A. Yes, I did.

7 Q. And it included an e-mail that you attempted  
8 to send to him that he did not receive?

9 A. Yes.

10 Q. And then it also includes a letter that you  
11 had drafted to a Crystal Welsh at State Farm,  
12 correct?

13 A. Yes.

14 Q. And that letter -- or that draft of that  
15 letter is dated January 5th, 2000, correct?

16 A. Correct.

17 Q. Was this letter sent to Crystal Welsh at  
18 State Farm on January 5th, 2000, or was it simply  
19 a draft you did on that date?

20 A. It would either have been sent on the 5th or  
21 the day after.

22 Q. In this letter there is a lot of  
23 documentation about dates.

24 A. Yes.

25 Q. How did you recall the specific dates that



1 you used or identified in this letter?

2 A. I kept pretty good notes.

3 Q. Okay. So let's go back. You were at the  
4 property, and we can try to use this to refresh  
5 your recollection, Exhibit 3, but it was November  
6 22nd, 1999?

7 A. Yes. That was after we signed the contract  
8 with Century 21.

9 Q. Now, the contract is dated the 15th,  
10 correct, Exhibit 2?

11 A. Oh, sorry. Yes.

12 Q. Now, did you go to this property and find  
13 the card the same day you signed the agreement,  
14 or was it later?

15 A. No. I think we actually delivered this  
16 contract to Chuck on the 22nd.

17 Q. So even though you --

18 A. And that was the date that, after making the  
19 trip to Century 21 Arrow Realty in Garfield  
20 Heights, coming back down Turney Road and  
21 stopping at the house, and that's when I found  
22 that particular card about the gas main  
23 relocation.

24 Q. So he had -- you and Mr. Amato had filled  
25 out this right to sell agreement and you took it

1 home to your wife to sign, is that what happened?

2 A. I can't remember, yeah, if Deb was with me.

3 Q. No reason to believe the two of you didn't  
4 sign the document on November 15th, correct?

5 A. No, not at all.

6 Q. Was that -- I'm guessing there was a delay  
7 in you returning it to him? Does that explain  
8 why you didn't go to the property until a week  
9 later?

10 A. Yes.

11 Q. So your recollection is the day you gave him  
12 the contract, you then stopped by the property  
13 after you left the real estate office?

14 A. That's correct.

15 Q. All right. And you saw the green card in  
16 the envelope on the property somewhere?

17 A. It was on the side door.

18 Q. Okay. Did you call anybody after receiving  
19 that notice?

20 A. Not that day, no.

21 Q. Now, the green card specifically doesn't  
22 have any reference to main relocation, does it?

23 A. I didn't see it on this particular card, no.

24 Q. And the envelope doesn't have any reference  
25 to main relocation?

1 A. Not on this envelope, but mine does.

2 Q. Someone had written main relocation on the  
3 top of the envelope?

4 A. I believe at the top of this it said "Main  
5 relocation" in quotes, I think.

6 Q. And there was a phone number and a name  
7 mentioned also?

8 A. I'd have to look at the envelope, but I'm  
9 sure there was.

10 Q. What did you do after you saw that notice  
11 posted at the property?

12 A. I was wondering what was going on, and it  
13 was probably a week later when I called.

14 Q. Did you receive any notices from the City of  
15 Maple Heights regarding the work on the road?

16 A. None that I remember.

17 Q. You don't recall receiving anything in  
18 writing from Maple Heights?

19 A. No, I don't recall that.

20 Q. You don't recall reading anything in the  
21 newspaper about the work they were going to do on  
22 Turney Road?

23 A. Not in the Summit County version of the  
24 Cleveland Plain Dealer, no.

25 Q. And you never saw any local newspapers

1 published in Maple Heights describing the work?

2 A. No.

3 Q. So you called East Ohio Gas?

4 A. Yes.

5 Q. Where did you get the number that you  
6 called?

7 A. I believe the number was written on that  
8 envelope.

9 Q. You referenced that you spoke to a Julie P.?

10 A. Yes.

11 Q. Now, you wrote this letter that you sent to  
12 the insurance company a month and a half later,  
13 at least, after you made that call?

14 A. Yes.

15 Q. How did you recall that date? Did you make  
16 notes?

17 A. Yeah. I actually made notes on this.

18 (Indicating.)

19 Q. Okay.

20 A. That stated that I spoke with Julie P. On a  
21 given date, and probably even had the time. That  
22 I did see last night peeking through that little  
23 window, so I can tell you that for sure.

24 Q. You didn't write down her last name, just  
25 the "P"?

1 A. I had "Julie P." on my note that I saw.

2 Q. And she just took a message from you?

3 A. I believe that's what happened, yes, because  
4 as my letter states, Sam is the one that actually  
5 returned my call.

6 Q. Did you make a note -- how did you remember  
7 Sam's name? Did you make a note of that also?

8 A. Yes.

9 Q. Where did you make that note?

10 A. Probably some scratch paper or something  
11 that I had at work.

12 Q. Do you still have that paper?

13 A. That I don't know. I would have to look.

14 Q. Did you have it at the time you wrote this  
15 letter?

16 A. Yes, absolutely.

17 Q. Did Sam describe the work that was being  
18 done?

19 A. I can't recall specifically. I just knew  
20 that work was being done that had to do with the  
21 widening of the road.

22 Q. Okay. What is your understanding of what a  
23 "main relocation" involved?

24 A. I don't -- at the time when I got that  
25 notice, I had no idea what that meant, as to how

1 it applied to our particular house.

2 Q. You didn't understand that they were moving  
3 the location of the gas line to a different  
4 location?

5 A. Well, I think you can infer that from the  
6 term "main relocation" itself, but again, as to  
7 how that applied to our house, you know, at 15302  
8 Turney Road, I have no idea.

9 Q. You make a point in your January 5th letter  
10 on the entry for November 30th of saying, "It was  
11 never mentioned that the gas service would need  
12 to be turned off for any reason whatsoever." If  
13 they were moving a gas line, wouldn't you expect  
14 that it had to be turned off?

15 A. Again, that's possible, but it wasn't  
16 something that was specifically mentioned.

17 Q. Are you saying that because you thought they  
18 should have mentioned it to you? Why did you  
19 mention that in this letter?

20 A. No. I can't remember what I was -- you  
21 know, why I put that there on November 30th of  
22 '99.

23 Q. Between -- after November 30th of 1999, did  
24 you go inspect the property during December?

25 A. During December, I think the time I was

1 there -- as my letter states, it was the 13th.

2 Q. And you said you were only there a couple  
3 times, and one was November 22nd and the second  
4 time was December 13th, correct?

5 A. That's as I remember, yes.

6 Q. Why were you taking gas meter readings?

7 A. Because we were being mailed estimated gas  
8 bills during the time that the house was vacant,  
9 and I wanted to make sure that -- I should say  
10 the estimated bills were much higher than the  
11 actual usage, and I didn't want to pay more than  
12 what I felt we should.

13 Q. So you would go to the property and take a  
14 reading and call it in to the gas company?

15 A. That's correct, yes.

16 Q. Now, at the bottom of that January 5th  
17 letter that's part of Exhibit 3, you called the  
18 meter reading department to report the reading,  
19 correct?

20 A. That's correct.

21 Q. Who did you talk to?

22 A. I don't remember.

23 Q. You don't have a record of that?

24 A. No. I don't remember who I talked to.

25 Q. And you make a point of stating "and

1 reminded that person that the residence was  
2 vacant"?

3 A. Yes.

4 Q. And they needed to contact you at the  
5 billing address in Hudson "or at my employer if  
6 needed."

7 A. Uh-huh.

8 Q. About what?

9 A. If there were any concerns that they had.  
10 In other words, we left the neighbor next door  
11 our phone number. They had our phone number in  
12 Hudson, basically just, "If you see any unusual  
13 activity, give us a call," just having a neighbor  
14 keep an eye on your house. The same thing with  
15 the gas company. I would imagine the same thing  
16 with the water company or, you know, the electric  
17 company, that I left all of the utilities that  
18 were still turned on at that house, they should  
19 have had our billing addresses and phone numbers,  
20 and even my work phone number if for any reason  
21 they needed to get in contact with us.

22 Q. What do you mean by "Telephone numbers on  
23 file were verified for any future concerns or  
24 questions"?

25 A. My recollection at that time was that when



1 we took over the house in August of '99 from Ryan  
2 and Chris, at that point I had given them phone  
3 numbers and addresses. That was when we took  
4 possession of the property and had forwarded --  
5 you know, had the bills forwarded to our house  
6 instead of being left at the Turney Road address.

7 Q. How did you verify the telephone numbers on  
8 December 13th?

9 A. I don't understand the question, how did I  
10 verify --

11 Q. Did you ask them, "What phone numbers do you  
12 have for me," or did you tell them what phone  
13 numbers they should have for you?

14 A. I would imagine if I was verifying, I would  
15 have probably asked them what numbers they have  
16 listed on our account and where they can contact  
17 us.

18 Q. You imagine it. Do you know what you did?  
19 Do you remember what you did?

20 A. No.

21 Q. All right. Now, did you receive any notices  
22 from any other utility about the work being done  
23 on Turney Road?

24 A. No.

25 Q. Electric, the water company, anybody?

1 A. No.

2 Q. The weather was very cold at the end of  
3 1999. Do you recall that?

4 A. No more -- I don't know -- I don't remember  
5 it being unusually cold.

6 Q. You never went to inspect the property  
7 between November -- or December 13th and the  
8 beginning of the year?

9 A. No.

10 Q. Did you make any efforts to leave, you know,  
11 water running to make sure pipes didn't freeze  
12 up?

13 A. At the house? No.

14 Q. During the last couple weeks of December,  
15 did you have any communications with Mr. Amato  
16 regarding his efforts to sell the property?

17 A. None that I remember.

18 Q. Any contact from him that he showed it to a  
19 prospective purchaser?

20 A. I don't remember that. The last  
21 conversation I think I remember having with Chuck  
22 was prior to my last visit to the property, and  
23 that was basically -- I think it was his -- his  
24 comments were to tell me that "Don't expect much.  
25 Holiday season, people aren't looking to buy

1 homes right now. Hopefully things will pick up  
2 after the first of the year."

3 Q. Now, did you ever find any other written  
4 notices at the property?

5 A. Not that I recall.

6 MR. NUSSLE: You mean other than  
7 the one he's testified to?

8 MR. PRUNESKI: Yes.

9 MR. NUSSLE: Okay.

10 BY MR. PRUNESKI:

11 Q. When you were at the property on December  
12 13th, 1999, could you observe and see the work  
13 being done on Turney Road?

14 A. Not that I remember in front of our house,  
15 no.

16 Q. Was there evidence of construction being  
17 done?

18 A. I can't recall that, no.

19 Q. Was the sidewalk torn up?

20 A. I don't know.

21 Q. Was the apron still present, you know,  
22 between the sidewalk and the street?

23 A. I know what you're asking, but I don't know  
24 if it was there or not, and I can't remember if  
25 the sidewalk was still there or not at that date.

1 Q. Did you see construction workers working on  
2 it, you know, down the street from the house?

3 A. Not that I could recall.

4 Q. Do you have any recollection of construction  
5 work being done along Turney Road near the Turney  
6 Road house that you owned in December of 1999?

7 A. At some stretch of Turney Road, yes, there  
8 was. As to whether that was right in front of my  
9 house or Deb's house there, I cannot remember if  
10 it was there or not.

11 Q. Did they at some point tear up the sidewalk  
12 in front of the Turney Road property for the  
13 construction project?

14 A. I assume so.

15 Q. Did they tear up the apron?

16 A. I would assume so.

17 Q. And they replaced it?

18 A. Yes, it was replaced --

19 Q. At some point --

20 A. -- eventually.

21 Q. I'm sorry. At some point you saw a new  
22 sidewalk there in front of the house, you know.  
23 new concrete?

24 A. I believe that was after '99, at some point  
25 in 2000 I think that concrete was done.

1 Q. And at some point the apron was replaced and  
2 grass seed was planted and new grass was there on  
3 the apron in front of the house?

4 A. I'm just trying to -- I don't remember. I  
5 don't remember ever having new grass there. But  
6 could you repeat what you were just saying again?  
7 I apologize.

8 Q. Sure. At some point there was new grass,  
9 there was a new apron in front of the house, you  
10 know, between the sidewalk and the street and new  
11 grass was planted?

12 A. At some point, yes.

13 Q. At some point the street was wider than it  
14 used to be?

15 A. That was long after we sold the property.

16 Q. So the street wasn't completed until long  
17 after you sold the property?

18 A. That's correct.

19 Q. And when did you sell the property?

20 A. June, I think, June, July of 2000, somewhere  
21 around that time frame.

22 Q. At the beginning of January 2000, you  
23 received a phone call from Mr. Amato?

24 A. That's correct.

25 Q. What time of the day was it?

1 A. It was early in the morning. I don't want  
2 to say early in the morning. It was prior to  
3 lunch was all I remember that day.

4 Q. What did he say to you?

5 A. He basically told me that he had a friend  
6 down the street -- and I'm going by what I've  
7 read in this letter, because without that, I  
8 mean, to remember the exact conversation from  
9 over two years ago, I couldn't give you that.  
10 But generally, the gist of the conversation was,  
11 you know, it's one of those -- I hadn't talked to  
12 him in a few weeks. "How was your holidays?  
13 How's things going?" "You know what, a buddy of  
14 mine lives down the street and had his gas shut  
15 off because they were doing some work over there.  
16 Did you get any phone calls from anybody?" Which  
17 I said, "No." He said, "Well, you might want to  
18 go over and check the property," kind of thing,  
19 "you know, because my friend lives down the  
20 street and he had to get his gas turned on and  
21 off." So it kind of piqued my interest at that  
22 point to make some calls.

23 Q. So what did you do?

24 A. I called to find out if the gas had been  
25 shut off.

- 1 Q. And whom did you call?
- 2 A. East Ohio Gas.
- 3 Q. What did they tell you?
- 4 A. Yes, it had.
- 5 Q. And what did you do after you found that  
6 out?
- 7 A. Tried to figure out when I could get over  
8 there to get it turned back on.
- 9 Q. Did you make arrangements with them?
- 10 A. With East Ohio Gas, yes.
- 11 Q. When?
- 12 A. For that evening, on the 3rd. Keep in mind,  
13 these phone conversations were happening while I  
14 was at work that day.
- 15 Q. And you did make arrangements to get to the  
16 property that night?
- 17 A. Yes.
- 18 Q. And when you got there that night, you saw  
19 the damage?
- 20 A. That's correct.
- 21 Q. Did you find any notices posted at the  
22 property when you arrived on the 3rd?
- 23 A. Not that I recall.
- 24 Q. Did you look for any?
- 25 A. It was dark. It was 9:30 -- 9:00 -- 8:30,

- 1 9:00, I guess.
- 2 Q. That's not my question.
- 3 A. No.
- 4 Q. Did you look for any?
- 5 A. I don't remember looking for any notices,  
6 no.
- 7 Q. When you talked to Mr. Amato, how long did  
8 the conversation last?
- 9 A. I don't recall.
- 10 Q. Now, in terms of Century 21 marketing the  
11 property, when you drove by the property, how did  
12 you know they had the property listed for sale?
- 13 A. There was a sign in the yard.
- 14 Q. Anything else other than a sign in the yard?
- 15 A. Not that I can remember.
- 16 Q. Was the sign in the yard when you were there  
17 on December 13th, 1999?
- 18 A. I believe so.
- 19 Q. And was the sign there when you showed up on  
20 January 3rd at the property?
- 21 A. I think so.
- 22 Q. The sign had a phone number on it?
- 23 A. I believe it did.
- 24 Q. Do you remember the phone number?
- 25 A. It would have been the Garfield Heights



1 phone number.

2 Q. Did Mr. Amato ever mention to you that calls  
3 had been made by East Ohio Gas to Century 21  
4 regarding the termination of the gas -- temporary  
5 termination of the gas service?

6 A. You're asking me if Mr. Amato mentioned --

7 Q. Ever told you --

8 A. -- ever told me that those calls had been  
9 made?

10 Q. Yeah.

11 A. I never heard that from him, no.

12 Q. He never told you that they received phone  
13 calls?

14 A. Not that I can recall, no.

15 Q. Who, if anybody, was with you when you found  
16 the damage at the property?

17 A. When I found the damage, it was just myself  
18 when I opened the door, but shortly thereafter  
19 there were East Ohio Gas people.

20 Q. They arrived shortly after you did?

21 A. Yes.

22 Q. And do you recall their names?

23 A. Mo. Maurice I think was his real name. And  
24 Steve Novak.

25 Q. East Ohio Gas took photographs?

1 A. Yes.

2 Q. I'll show you what we'll mark as Exhibit 9  
3 to your deposition.

4 (Thereupon, Defendant's Exhibit 9  
5 of the A.N. Dennewitz deposition  
6 was marked for purposes of  
7 identification.)

8 BY MR. PRUNESKI:

9 Q. Okay. Mr. Dennewitz, we marked as Exhibit 9  
10 to your deposition a series of color copies of  
11 photographs.

12 A. Yes.

13 Q. I have the originals if you want to see  
14 them. First of all, I heard you exclaim off the  
15 record you've not seen those pictures before?

16 A. I have not.

17 Q. But do those pictures depict the condition  
18 of the property as you found it on January 3rd,  
19 2000, to the best of your recollection?

20 A. To the best of my recollection, yes.

21 Q. And you were aware that the East Ohio Gas  
22 employees that were there that night took  
23 photographs?

24 A. Yeah. I knew that Steve did.

25 Q. Did you take any photographs?

1 A. I don't remember if I had a camera there or  
2 not. I don't remember.

3 Q. Do you have any recollection of taking  
4 photographs at any time, whether that day or  
5 another day?

6 A. Yeah, we would have pictures.

7 Q. Okay. Do you still have them?

8 A. Or a video. Yes.

9 Q. What do you mean "or a video"? Do you have  
10 a video?

11 A. I think we have a video, where I took a  
12 brief video with a video camera.

13 Q. Have you given that video to anyone?

14 A. No one has asked for it.

15 Q. Have you given the pictures to anyone?

16 A. I don't believe so, no.

17 MR. NUSSLE: Do you want the  
18 video?

19 MR. PRUNESKI: Let's check it out,  
20 Herb.

21 MR. NUSSLE: You found out this  
22 morning.

23 THE WITNESS: Sorry.

24 BY MR. PRUNESKI:

25 Q. You had Mo or Maurice turn off the water

1 that night?

2 A. He did most of the work. I followed.

3 Q. And when did you call the Division of Water  
4 to tell them the water was turned off?

5 A. I would have to look here at the letter and  
6 see exactly what time. I believe it would have  
7 been right after 10:40 when we were able to shut  
8 off the main valve -- when he was able to shut  
9 off the main valve, I would say.

10 Q. So based on this letter, you believe you  
11 contacted the water department that night?

12 A. Oh, I know I did.

13 Q. While I'm thinking about it, do you recall  
14 receiving this yellow card at the property when  
15 you received the gray card? And I haven't marked  
16 it as an exhibit, but I will.

17 A. I'm sorry. Repeat your question.

18 Q. Yeah. Do you recall receiving that yellow  
19 card posted at the property?

20 A. No, I do not.

21 Q. Okay. When we take a break, we'll mark that  
22 card as Exhibit 10. And I'm going to show you a  
23 blue card. Do you recall seeing or finding a  
24 blue card that we'll mark as Exhibit 11 at the  
25 property at any time?

1 A. No. The only one I have is this.

2 Q. And by "this" you're referring to Exhibit 8?

3 A. Yes.

4 (Thereupon, Defendant's Exhibits  
5 10 and 11 of the A.N. Dennewitz  
6 deposition were later marked for  
7 purposes of identification.)

8 BY MR. PRUNESKI:

9 Q. Now, when you -- at some point you met  
10 Mr. Amato at the property before you listed it.  
11 Did you walk through the property with him?

12 A. Yes, I believe we did.

13 Q. When Exhibit 2, the exclusive right to sell  
14 agreement was filled out, somebody had to fill in  
15 all the blanks before you signed it, correct?  
16 Was that done at the property or in his office,  
17 or somewhere else?

18 A. I need to stop for a second and ask you a  
19 question.

20 Q. If you don't understand --

21 A. Yeah. And it's about your previous  
22 question. You were asking if Mr. Amato and I  
23 toured the property prior to signing this  
24 contract?

25 Q. Yes.

1 A. Yes, we did. I apologize. I think I said I  
2 don't remember, because I was thinking that you  
3 were asking -- we were on -- we were in  
4 January -- I was in January in my mind.

5 Q. That's okay.

6 A. Not back in November.

7 Q. Okay. Do you recall -- where were you when  
8 he handed you this exclusive right to sell  
9 agreement for your signature?

10 A. I don't remember specifically where I was.

11 Q. You told me earlier you took it home for  
12 your wife to sign.

13 A. I believe that's what happened, yes.

14 Q. Did he go through the property with you  
15 prior to November 15th when you guys signed and  
16 dated that document. "you guys," you and your  
17 wife?

18 A. Yes.

19 Q. Did he hand you this document at the  
20 property that day, or did you go to his office or  
21 a local restaurant or somewhere else to fill it  
22 out?

23 A. I'm sorry. Repeat that, please.

24 Q. Sure. When you did the tour of the property  
25 with him, inspection of the property, did he and

1 you fill out -- did you fill out this exclusive  
2 right to sell agreement with Mr. Amato that day  
3 at the property, or was -- and I'll tell you --  
4 or was it done another day or was it done at  
5 another location or was it done in another  
6 location on another day?

7 A. Well, I think it was done -- and again, from  
8 my recollection, I believe this contract was left  
9 with us -- or with me. The selling price is my  
10 handwriting. The dates, the check marks, the  
11 "Turney Road" would have to be Chuck's  
12 handwriting. Anything else is mine or my wife's.  
13 So I think it happened over -- you know,  
14 something that was left with me that was more or  
15 less blank. "If you want to do it, sign it and  
16 get it back to me."

17 Q. But all the handwriting that's on this  
18 document was put there before you signed it? In  
19 other words, you put the price in and then you  
20 signed it?

21 A. Oh, yes. Everything would have been,  
22 including the reference to Todd, the dollar  
23 amount, yes.

24 Q. Now, once -- let's get back into January.  
25 You see the damage, you've notified the water

1 department, you made a call to the insurance  
2 company at some point, correct?

3 A. Uh-huh.

4 Q. Was it the next day?

5 A. Probably.

6 Q. And then you worked on your letter that you  
7 sent to them on the 5th, correct?

8 A. Uh-huh.

9 Q. Or maybe the day after?

10 A. Uh-huh.

11 Q. "Yes"?

12 A. Yes. Sorry.

13 Q. Did you go to the property and meet with an  
14 insurance representative at the property?

15 A. Yes.

16 Q. When did you do that?

17 A. At some point after January 3rd. I can't  
18 recall the date.

19 Q. How long after, days or weeks?

20 A. Within a week.

21 Q. Okay. Do you recall the person you met  
22 there?

23 A. Crystal, I believe it was.

24 Q. And how long did you spend with Crystal at  
25 the property?



1 A. I can't recall exactly.

2 Q. Now, it's January -- the first ten days of  
3 January of 2000. Was the sidewalk still there in  
4 the front of your property?

5 A. I don't remember if the sidewalk was there  
6 or not.

7 Q. You know, was there evidence that the yard  
8 had been ripped up at the property?

9 A. Well, I'm sure if they had relocated the gas  
10 main, that affected our property and the gas was  
11 shut off for a particular reason, yes, there  
12 would have been some sort of construction or  
13 something.

14 Q. You don't have any --

15 A. I don't remember what the property looked  
16 like two years ago.

17 Q. -- recollection of seeing the property all  
18 ripped up?

19 A. At some point, yes, but whether that's prior  
20 to the damage or after the damage, I don't  
21 recall.

22 Q. Okay. Now, in December when you were there,  
23 did you see markings for the project, like yellow  
24 paint on the sidewalk, yellow flags in the devil  
25 strip? Did you see the markings from the

1 utilities companies showing you -- locating the  
2 companies along your street -- along your  
3 street -- along Turney Road?

4 A. I remember seeing markings on trees.

5 Q. What kind of markings on trees?

6 A. X's.

7 Q. Do you remember seeing little yellow flags  
8 and yellow paint along the sidewalks along the  
9 road?

10 A. Yeah, at some point, I think so.

11 Q. Do you remember seeing more than one color  
12 of paint and flag?

13 A. Uh-huh.

14 Q. What other colors did you see?

15 A. Orange maybe.

16 Q. You remember seeing colors of what, paint,  
17 flags or both?

18 A. Flags. I think I saw yellow flags. There  
19 might have been an orange flag.

20 Q. Do you know what those flags were there for?

21 A. No.

22 Q. Did you ever ask anybody why those flags  
23 were there?

24 A. I don't recall specifically.

25 Q. Did you talk to any of your neighbors about

1 the work being done? "Neighbors" meaning -- I  
2 know you never lived there, Mr. Dennewitz --

3 A. Yeah.

4 Q. -- old neighbors of your wife about the work  
5 being done.

6 A. There may have been some casual  
7 conversations. I don't remember specifically.

8 Q. What do you mean there may have been some  
9 casual conversations?

10 A. Something in passing, you know. I don't --  
11 I don't know how to explain that. You know, I  
12 don't know if there was or not. I don't  
13 remember.

14 Q. Who did all the repair work on the property  
15 after the insurance company was there and saw the  
16 property, made an inspection?

17 A. It was a company called Ameri-Steam.

18 Q. What work did Ameri-Steam do? Describe it.

19 A. They basically came in and tried to clean  
20 the place up, get rid of the water, any standing  
21 water, removed items and to dry out the house.

22 Q. Okay. Who repaired the drywall?

23 A. Who repaired the drywall?

24 Q. Yeah, the drywall in the ceilings that had  
25 fallen.

1 A. One of their subcontractors. I mean, they  
2 were the company that handled everything, and  
3 they got their -- Ameri-Steam hired the general  
4 contractor and whatnot to work on the property.  
5 I don't remember the gentleman or the company's  
6 name.

7 Q. Did you go to the property to inspect the  
8 repair work that was being done?

9 A. Yes, from time to time.

10 Q. Just using Exhibit 9 as an example, there's  
11 a picture in the bottom right-hand corner, and  
12 the only thing it shows is a sectional couch,  
13 correct?

14 A. Yes.

15 Q. That was a couch apparently owned by Debra  
16 that was left at the property?

17 A. Yes.

18 Q. But the renters used that couch, or did you  
19 put that couch in there after Hunus/Gaeberlin  
20 were kicked out?

21 A. No. It would have been there, I remember.

22 Q. The renters, they used it?

23 A. Yes.

24 Q. What about Mr. Webb, had it been there when  
25 he was living on the property?

1 A. I think so.

2 Q. Now, that's showing a picture of the family  
3 room?

4 MRS. DENNEWITZ: Yes.

5 THE WITNESS: In the basement.

6 BY MR. PRUNESKI:

7 Q. Well, that's the basement?

8 A. That's the basement.

9 Q. There's some sort of tile floor in the  
10 basement. Was that replaced?

11 A. Yes.

12 Q. What replaced it?

13 A. Carpet.

14 Q. There's a picture of a sink with a blue  
15 countertop on the first page of Exhibit 9.

16 A. Yes.

17 Q. Where is that located?

18 A. In the basement.

19 Q. The kitchen was in the basement in this  
20 property, or was there a separate --

21 A. There was a separate sink and countertop in  
22 the basement.

23 Q. Was that countertop replaced? Was any part  
24 of the sink or countertop --

25 A. Yes.

1 Q. That was replaced?

2 A. Yes, it was.

3 Q. The three pictures on the second page of  
4 Exhibit 9 are also pictures of the basement?

5 A. Yes.

6 Q. And then the third page of Exhibit 9 also  
7 has at least two pictures of the basement area?

8 A. Yes.

9 Q. Showing where the ceiling had fallen down  
10 and was on the ground?

11 A. Yes.

12 Q. What is the third picture that's on the  
13 right-hand side of the page under the words  
14 "State Farm versus Century 21"?

15 A. What is this picture? (Indicating.)

16 Q. Yes.

17 A. I believe that was in the bedroom and a  
18 picture of the paint peeling off the walls.

19 Q. Where was this bedroom located?

20 A. This bedroom would have been directly above  
21 this section of the house, where the basement  
22 ceiling had fallen through. (Indicating.)

23 Q. It's on the first floor?

24 A. Yes.

25 Q. The fourth page of Exhibit 9, the final

1 page. is more pictures of the basement?

2 A. Basement, basement, first floor bedroom.

3 (Indicating.)

4 Q. So there was some damage to the first floor?

5 Was there a second story to this house

6 aboveground?

7 A. Yes.

8 Q. Was there damage on the second story?

9 A. It was a loft. I don't want to say loft,  
10 but there was a second story, full second story.

11 Q. Was there damage on that second story?

12 A. Water damage, yes.

13 Q. Where?

14 A. On the walls.

15 Q. Did any of the ceilings cave in up there?

16 A. No.

17 Q. Water damage on the second story, could you  
18 tell where the pipe broke that caused damage on  
19 the second story?

20 A. I didn't see any --

21 Q. A faucet, a sink?

22 A. No, there's nothing like that up there on  
23 the second floor. What I mean by water damage on  
24 the second floor, at least what I saw with my  
25 eyes, was streaks, water streaks in the paint on

1 the walls from the dampness in the house.

2 Q. Okay. So there was no pipe, water pipe that  
3 broke up on the second story that stained the  
4 walls?

5 A. Not that I'm aware of, no.

6 Q. It was just the dampness in the house?

7 A. It was from the dampness in the house, my  
8 understanding.

9 Q. Did pipes break in any of the -- you know,  
10 the plumbing fixtures in the house, sinks,  
11 bathtubs, or did they just -- the plumbing  
12 fixtures that were in the ceilings and in the  
13 walls break?

14 A. I can't -- I mean, to me, where -- no.  
15 Specific fixtures, sinks that were not in the  
16 basement, I don't remember anything -- any of  
17 those pipes that were in that particular room  
18 being busted, but where it all connects in the  
19 basement is where it all happened, from what I  
20 remember.

21 Q. Did any ceilings of rooms on the first floor  
22 of the house fall down?

23 A. Not that I recall.

24 Q. Okay. The first floor of the house, was  
25 there carpeting in, like, the first floor family



1 room?

2 A. Yes.

3 Q. All right. Was it damp?

4 A. Yes.

5 Q. Do you know where that water came from?

6 A. I would assume that water came from this

7 particular incident.

8 Q. Well, I mean, did it come from the ceiling,  
9 did the pipes in the floor below it break, or did  
10 the pipes somewhere on the first floor break and  
11 water flowed?

12 A. Oh, I believe -- no. I apologize. I  
13 believe that it came from the pipes in the floor  
14 of the first floor. You know, if there was any  
15 water -- in other words, the ceiling of the  
16 basement.

17 Q. Okay. Did any of the walls, you know, fall  
18 off of their mountings on the first floor?

19 A. Not that I recall, no.

20 Q. Do you have any pictures of damage on the  
21 first or second floor of the house?

22 A. It's possible.

23 Q. Ameri-Steam did all the repair work. Did  
24 they spend all the money doing the repairs?

25 A. I can't answer that. I don't know.

1 Q. There was a number -- I'm going to hand you  
2 what we marked as Exhibit 5 to your wife's  
3 deposition.

4 MR. NUSSLE: I think it's in  
5 here.

6 BY MR. PRUNESKI:

7 Q. Which is 22 pages of documents from State  
8 Farm, and they include a number of checks payable  
9 to your wife, and in a couple cases, your wife  
10 and Ameri-Steam. Was all the money that was paid  
11 on this claim used to make repairs to the  
12 property?

13 A. I believe so, yes, except for the check that  
14 was to us. Well, actually, I shouldn't even say  
15 that, because we turned around and put new  
16 concrete in the driveway. So yes, basically  
17 anything that was paid out on this claim was  
18 turned around and used for repairs on the  
19 property.

20 Q. There are two checks that were made payable  
21 to Ameri-Steam, and your wife and Ameri-Steam.  
22 They're on the second and third pages of the  
23 exhibit. They total almost \$44,000, correct?

24 A. Yes.

25 Q. All right. Ameri-Steam then made all the

1 repairs to the house from that money?

2 A. I would assume so, yes.

3 Q. You didn't keep any of the money --

4 A. No, no, absolutely not.

5 Q. -- because repairs were less?

6 A. No. We signed the check and mailed it to  
7 them.

8 Q. And there were several other checks issued  
9 to your wife?

10 A. Yes.

11 Q. In varying amounts of 4- or \$5,000, correct?

12 A. The majority. I don't want to say the  
13 majority. Some of these were utility bills  
14 during the reconstruction process that State Farm  
15 reimbursed us for.

16 Q. And at some point you put a new driveway in?

17 A. Yes.

18 Q. And you made a comment that "We used that  
19 for a new driveway." Some money you received on  
20 this claim was used to pay for a driveway?

21 A. Yeah.

22 Q. How much of it?

23 A. Well, I mean, the driveway itself was  
24 \$4,500.

25 Q. Okay. And how much of this money did you

1 receive to do -- use to do a driveway, repair or  
2 replace a driveway?

3 A. Well, any of this money that we would have  
4 received would have been put into the house to  
5 sell it.

6 Q. Okay. Well --

7 A. I mean, I can't say a specific dollar  
8 amount.

9 Q. On the front page, we know the first two  
10 checks were signed over to Ameri-Steam?

11 A. Uh-huh.

12 Q. They both had their name on them?

13 A. Yes.

14 Q. And then there's one, two, three, four,  
15 five, six checks that total almost \$5,000. Was  
16 that the money used to pay for the driveway?

17 A. Yes.

18 Q. Okay. But some of these were used to --  
19 were actually paid to you to reimburse utility  
20 bills that you paid?

21 A. Right, that's correct.

22 Q. Okay. But this is the money that was used  
23 to pay for the new driveway, these other checks?

24 A. Yeah. I mean, I could show you invoices of  
25 what it cost to fix the property up, you know, to

1 do the concrete work.

2 Q. Okay.

3 A. To have another individual come back and fix  
4 some -- you know, any other remaining city  
5 inspection items. That would most likely total  
6 what those dollar amounts are, or even more.

7 Q. So these dollar amounts -- these checks, in  
8 other words, were used -- they weren't  
9 reimbursing you for money you paid out of pocket  
10 because of damage to the house, they were  
11 reimbursing you for damage caused by the water --

12 A. Caused by the water damage.

13 Q. -- and you used it to pay for a driveway?

14 A. Yes.

15 Q. So you didn't have 4,000 or \$4,500 in an  
16 account in your name somewhere that you then  
17 transferred out to pay for the driveway?

18 A. I wish. No. I wish that were the case.

19 Q. Now, you sold the property when, in June of  
20 2000?

21 A. I think that's when the contract was signed.

22 Q. Okay. And it was sold for \$91,000?

23 A. I'd have to look at the contract, but yes, I  
24 believe so.

25 Q. Who did you list the property with at that

1 time? Did you use another realtor?

2 A. We used another realtor.

3 Q. Who was it?

4 A. Baginsky, American Realty.

5 Q. And that amount is \$6,000 more than you had  
6 it listed for before this damage occurred?

7 A. Uh-huh, yes.

8 Q. All right. Is it fair to say that once the  
9 property -- the damage -- the water damage was  
10 repaired, the property was in better shape than  
11 what it was when it was listed for sale with  
12 Century 21 in November of '99?

13 A. It's possible, yes.

14 Q. Why is it only possible? Was it or wasn't  
15 it?

16 A. I would say from the looks inside the house,  
17 of items being newer, yes.

18 Q. New carpet?

19 A. Yeah, new carpet.

20 Q. New floors?

21 A. New paint.

22 Q. New paint?

23 A. Yes.

24 Q. From where you worked in Hudson to the  
25 house, how long would it take you to get there?

1 A. Probably about a half hour.

2 Q. From your residence to the Turney Road  
3 property, how long would it take you to get  
4 there?

5 A. About the same.

6 Q. You owned the property in Hudson for a lot  
7 longer than you owned -- or you were involved  
8 with Debra's property on Turney Road, correct?

9 A. Yes.

10 Q. You built the house, correct?

11 A. Yes.

12 Q. And you make efforts over time to make sure  
13 you take care of it, it's kept in proper  
14 condition?

15 A. Sure.

16 Q. And you would agree that any person who owns  
17 property, who owns a house has a duty to look  
18 out, take care of their house?

19 A. Yes.

20 Q. Any person who owns a house has a duty to  
21 maintain it?

22 A. I think that's personal preference.

23 Q. Have you ever gone away for any period of  
24 time on vacation where you required someone else  
25 to check on your house from time to time?

1 MR. NUSSLE: Is this the Hudson  
2 house or any house?

3 BY MR. PRUNESKI:

4 Q. Any house, any house. Any piece of  
5 property.

6 A. Probably nothing more than, "If you see any  
7 strange activity, here's how you can get ahold of  
8 us." "Come over and feed the dogs," yes.

9 Q. Have you gone on vacation for a week or more  
10 than a week?

11 A. Yes.

12 Q. You had no one ever pick up the mail?

13 A. No.

14 Q. Newspapers?

15 A. No. We stopped the newspapers and had the  
16 post office stop the mail. We had somebody feed  
17 the dogs, yes.

18 Q. Would you ask them to take a look out for  
19 anything else other than feed the dogs?

20 A. Yeah, "Keep an eye on the place. Here's a  
21 key if you need it to get in."

22 Q. Do your parents ever spend time in Florida,  
23 or do they still work?

24 A. No.

25 Q. They don't still work?



1 A. No.

2 Q. And they don't spend time in Florida or out  
3 of town?

4 A. My dad does from time to time, yes.

5 Q. From time to time does he go away for more  
6 than a week, more than a couple weeks?

7 A. No.

8 MR. NUSSLE: I'll object, but go  
9 ahead.

10 BY MR. PRUNESKI:

11 Q. Okay. I would ask you to take a look at one  
12 more item. It's marked as Exhibit 4. It's a  
13 letter that was sent to you from East Ohio Gas.  
14 Do you recall receiving this letter?

15 A. Yes.

16 Q. And I take it you reviewed it when you  
17 received it?

18 A. Uh-huh.

19 Q. And I ask you to take a moment and review it  
20 again right now and let me know when you're  
21 finished.

22 A. I'm finished.

23 Q. Do you recall reading that letter at the  
24 time you received it?

25 A. Yes.

1 Q. Do you recall seeing anything in there that  
2 you did not believe was correct or was  
3 inaccurate?

4 A. The November 19th, '99 notification I can  
5 only assume was this. (Indicating.)

6 Q. Okay.

7 A. Exhibit 8.

8 Q. So you're not saying that's an inaccurate  
9 representation?

10 A. I don't -- if that's -- if that's the one  
11 that I have and picked up on November 22nd, and  
12 as I had stated before, I don't remember seeing  
13 your Exhibit 10 or Exhibit 11.

14 Q. So you have no reason to --

15 A. But other than that, after the 13th, I  
16 wasn't there. I can't say what happened.

17 Q. No reason to -- you have no knowledge of  
18 facts that would render any of these statements  
19 inaccurate?

20 A. None whatsoever.

21 Q. Did you ever call Mr. Amato and leave him a  
22 message?

23 A. Yes.

24 Q. Did you get his voice mail?

25 A. Yes.

1 Q. Do you recall his voice mail message or  
2 introduction?

3 A. It's more of a philosophical-type greeting,  
4 if you would call it that.

5 Q. What do you mean by that?

6 A. It was like the thought of the day, is the  
7 way I kind of looked at it.

8 Q. Okay.

9 A. And I see your reference in this letter -- I  
10 see a reference in this letter to accept a  
11 challenge, and I do remember hearing that on his  
12 voice mail, yes.

13 Q. You remember hearing those words on his  
14 voice mail?

15 A. Yes.

16 Q. Could you give me the context of it, to the  
17 best of your recollection?

18 A. To the best of my knowledge, it would be  
19 something along the lines of "Accept the  
20 challenges today if you want to succeed  
21 tomorrow," something like that, but I think it  
22 was much longer than that.

23 Q. Did it have an introduction -- was it in his  
24 voice? Was it his voice?

25 A. It sure sounded like it, yes.

1 Q. It didn't appear to be, you know, either a  
2 computerized voice on a phone system or someone  
3 else introducing him?

4 A. No.

5 Q. Did he identify himself as Chuck Amato  
6 before that message?

7 A. That I can't tell you, like if it said, "You  
8 have reached the desk of Chuck Amato" or anything  
9 like that beforehand. I don't know.

10 Q. When you say the message was much longer,  
11 how much longer? Was it 10 seconds long, 20  
12 seconds long?

13 A. Yeah, it may have lasted 10, 15 seconds, I  
14 would think.

15 Q. And you clearly remember the words "accept  
16 the challenge" as being part of the message?

17 A. Yeah, absolutely, absolutely.

18 MR. PRUNESKI: Thank you,  
19 Mr. Dennewitz. That's all the questions I have  
20 at this time.

21 THE WITNESS: Okay.

22 CROSS-EXAMINATION

23 BY MR. LAZZARO:

24 Q. Hi, Mr. Dennewitz. My name is Skip Lazzaro,  
25 and I represent Century 21 Arrow Realty. I just

1 have a few questions to ask you.

2 A. Okay.

3 Q. How many times did you have physical contact  
4 with Mr. Amato, you and him in the same room or  
5 in a car or however; do you remember?

6 A. I'm just thinking. It probably happened  
7 only a couple times over at the house. Two or  
8 three times.

9 Q. Two or three times?

10 A. I guess.

11 Q. How many times did you speak to Mr. Amato?

12 A. Probably 10 to 15 different times.

13 Q. When you had these physical contacts and you  
14 met Mr. Amato two or three times, what was the --  
15 the first time you met him, do you remember the  
16 date?

17 A. No. It was in the summer and early fall  
18 when we were trying to sell the house by owner,  
19 and he, you know, dropped something -- had left  
20 something at the door, and we called and I  
21 believe had met him at the house one time.

22 Q. And there was another time he came to the  
23 house?

24 A. And I think the other time was around the  
25 time that we were signing the contract.

1 Q. So it would be two times that you met him?

2 A. Yeah. When I said two to three --

3 Q. Okay. And you talked to him on the phone  
4 about 10 or 15 times?

5 A. That's a guess, yes.

6 Q. Did you ever speak to anyone other than a  
7 secretary answering the phone, you know, or  
8 someone else answering the phone at Arrow Realty  
9 concerning the sale and the listing of this  
10 house, other than Chuck Amato?

11 A. I don't recall speaking with anybody other  
12 than Chuck, no.

13 Q. Could you please pick up Exhibit Number 2?  
14 It's a listing agreement.

15 A. Got it, got it, got it.

16 Q. Would it be fair to say that your signature  
17 is on this document?

18 A. Yes.

19 Q. Would it also be fair to say that you had  
20 the document in your possession for at least a  
21 week before you signed and returned it to  
22 Mr. Amato?

23 A. I believe so, yes.

24 Q. So it would be fair to say that you were  
25 well familiar with the terms on this listing

1 agreement?

2 A. I was familiar with them at the time, yes.

3 Q. Okay. And is there anywhere on this listing  
4 agreement which states that Century 21 Arrow  
5 Realty would maintain your house?

6 MR. NUSSLE: Just note an  
7 objection as to what the contract does or doesn't  
8 say, any of those questions.

9 BY MR. LAZZARO:

10 Q. Is there anywhere on this listing agreement  
11 which states that Century 21 Arrow Realty would  
12 maintain your house?

13 A. Without sitting here and reading it word for  
14 word --

15 Q. Why don't you read it then.

16 A. I would imagine that it doesn't say that  
17 they're going to maintain my house.

18 Q. Does it say anywhere on the agreement that  
19 Century 21 Arrow Realty would service your house?

20 A. What do you mean by "service"?

21 Q. Check the filters, clean the gutters, check  
22 the gas lines, water heater?

23 A. No.

24 Q. Does it say anywhere in that agreement that  
25 Century 21 Arrow Realty would regulate the

1 utilities in your house?

2 A. No. They weren't asked to.

3 Q. Okay. They weren't asked to. Fair enough.

4 Did it say anywhere in the agreement that they  
5 would inspect your house at any given time?

6 A. No.

7 Q. Did it ever say in there that they would act  
8 as a bailor in regards to your house? And what I  
9 mean by "bailor," that they would watch your  
10 house for you?

11 A. No.

12 Q. Would it be fair to say that that agreement  
13 only obligates Century 21 Arrow Realty to obtain  
14 a purchaser for your house?

15 A. Can you repeat that, please?

16 Q. Would it be fair to say that the only  
17 obligation imposed on Century 21 Arrow Realty in  
18 regards to that agreement was to obtain a  
19 purchaser for your house?

20 A. Yes.

21 Q. Now, in that agreement here, it talks about  
22 in the last -- three-quarters of the way down, it  
23 starts with "I understand." It talks about  
24 problems with septic tanks, gas, water lines or  
25 plumbing. Would it be fair to say that it states



1 that that was your responsibility?

2 A. Where do you see that in this agreement? I  
3 am sorry.

4 Q. It says, "I understand that," and it talks  
5 there about problems with gas, plumbing lines,  
6 water lines.

7 A. Okay. I apologize. Can you repeat your  
8 question again? I see where it is now. I am  
9 just reading it.

10 Q. It states in there that that is your  
11 responsibility, correct?

12 A. It states that it is our responsibility to  
13 disclose any known defects to the realtor,  
14 correct.

15 Q. And that has to do with plumbing lines, gas  
16 lines, heating, anything like that, correct?

17 A. That's correct.

18 Q. When you listed the house with Mr. Amato,  
19 was there any discussion about the Turney Road  
20 project?

21 A. Not that I can recall, no.

22 Q. On November 15th, you were well aware of the  
23 Turney Road project, correct?

24 A. I'd have to look back in some of my notes.

25 Q. Okay. Let's --

1 A. I can't remember if my original notification  
2 was actually on the 22nd.

3 Q. Look at Exhibit Number 7, point of sale  
4 repair.

5 A. Yeah, there is notification on that. I do  
6 remember.

7 Q. Okay. So you were well aware of the Turney  
8 Road project going forward, but you did not  
9 discuss it with Mr. Amato?

10 A. We knew that some sort of Turney Road  
11 project was going to happen, not knowing the  
12 details, and I do not remember discussing that  
13 with Mr. Amato.

14 Q. You did state in your deposition that when  
15 you left, that you had given your phone number  
16 and name to some neighbors in case there were any  
17 problems, they could call you.

18 A. Some lady that lives next door.

19 Q. What's her name?

20 A. Karen.

21 Q. Do you know her last name?

22 A. No.

23 Q. Could you find out for me?

24 A. Not off the top of my head.

25 Q. Could you find out for me?

1 A. Sure.

2 Q. And could you get her phone number and  
3 address to your attorney, please, and have them  
4 contact me?

5 A. I don't know if they still live there.

6 Q. Would it be fair to say that when your gas  
7 was turned off, their gas was probably turned off  
8 also?

9 MR. NUSSLE: I'll object. Go  
10 ahead.

11 THE WITNESS: You're asking me if  
12 it's fair to say that theirs would have been  
13 turned off?

14 BY MR. LAZZARO:

15 Q. Uh-huh.

16 A. On that same date, I don't know. They may  
17 have just been working at my house.

18 Q. Did you ever talk to her about the gas being  
19 turned off?

20 A. No, I did not.

21 Q. Never. How many times did you speak to her  
22 between November 15th and January 3rd?

23 A. I don't recall. I couldn't tell you.

24 Q. Did you speak to her?

25 A. I don't recall that either.

1 Q. You don't recall ever speaking to her?

2 A. No.

3 Q. Did she ever call you and say, "Hey, they're  
4 going to turn the gas off"?

5 A. No.

6 Q. What was the purpose of giving her your  
7 phone number?

8 A. If there was any unusual activity.

9 Q. Did you consider turning the gas off unusual  
10 activity?

11 MR. NUSSLE: Object. Go ahead.

12 BY MR. LAZZARO:

13 Q. Would you consider it unusual activity?

14 A. I'm sorry?

15 Q. Would you consider turning the gas off in  
16 the middle of winter an unusual activity?

17 A. I can't say that that's unusual activity. I  
18 guess I would answer that with a question of is  
19 widening the road in the middle of winter an  
20 unusual activity because it's part of the  
21 project?

22 Q. How old are you now?

23 A. Thirty-seven.

24 Q. During your whole 37 years, did you ever  
25 reside in a house where they turned the gas off

1 in the middle of winter?

2 A. I don't know. I don't recall. I don't have  
3 gas where I live, so I don't know.

4 Q. When you grew up -- where did you grow up  
5 at?

6 A. Chillicothe, Ohio.

7 Q. And they had gas there, didn't they?

8 A. Yes, but I don't recall gas in our house at  
9 the time when I ever lived there.

10 Q. Do you ever recall anybody anywhere that you  
11 know that ever had their gas turned off in the  
12 middle of winter?

13 MR. NUSSLE: I'll object. Go  
14 ahead.

15 BY MR. LAZZARO:

16 Q. I'm just asking, do you have a recollection  
17 of anybody ever having their gas turned off?

18 MR. NUSSLE: Wait. Skip, you're  
19 asking a question and I'm noting an objection and  
20 then you're asking a question.

21 MR. LAZZARO: I'm rephrasing it.

22 MR. NUSSLE: I'm letting him  
23 answer the question.

24 MR. LAZZARO: Thank you.

25 MR. NUSSLE: I'm not trying to

1 dissuade him from answering it. So go ahead and  
2 answer the question to the best of your ability.  
3 I'm just noting it for the record.

4 THE WITNESS: To the best of my  
5 ability, do I recall in all my 37 years anyone  
6 ever having their gas shut off in the middle of  
7 winter? I am sure it's happened, but I  
8 couldn't --

9 BY MR. LAZZARO:

10 Q. You don't recall?

11 A. I don't recall somebody telling me that  
12 their gas got shut off in the middle of winter,  
13 no.

14 Q. Did you ever ask Mr. Amato, "Make sure the  
15 gas at 15302 Turney Road will remain on"?

16 A. No.

17 Q. Did he ever volunteer to say, "Hey, I'll  
18 watch the gas, make sure it's on"?

19 A. No.

20 Q. Is it your testimony that between December  
21 14th and January 2nd, you never went to that  
22 house?

23 A. Between what dates again? I'm sorry?

24 Q. December 14th, 1999 and January 2nd, 2000,  
25 you never went to that house?

1 A. No.

2 Q. Did you have any personal knowledge that  
3 Mr. Amato knew that the gas would be turned off  
4 at 15302 Turney Road in December of '99?

5 A. Did I have any personal knowledge that he  
6 knew anything?

7 Q. That the gas would be turned off.

8 A. No.

9 Q. Now, you stated that you contacted the East  
10 Ohio Gas Company several times and informed them  
11 that if the service was going to be turned off at  
12 your house, that they were to contact you,  
13 correct?

14 A. Yes.

15 Q. Why would you ask them to contact you if the  
16 service would be turned off?

17 A. If anything were to happen. I mean, it's --  
18 I believe that the service, at one point when we  
19 were renting the house and the bills had changed  
20 hands, something did get shut off along the way,  
21 whether it be -- whatever utility it was, whether  
22 it was the gas or whether it was the water, the  
23 telephone or whatever. And I didn't -- all I  
24 could think of at the time was I didn't want that  
25 to happen, so specifically it was to tell all the

1 utilities that "If anything was going to change  
2 or, you know, if anything is changing in our  
3 billing or anything is changing in our service,  
4 please contact us."

5 Q. Did you call the electric company and tell  
6 them that, too?

7 A. I believe I did, yes.

8 Q. Who did you speak to at the electric  
9 company?

10 A. I don't recall.

11 Q. You remember who you spoke to at the gas  
12 company but you don't remember who you talked to  
13 at the electric company?

14 A. I would have to go back and look at some  
15 files at home.

16 Q. Would you do that?

17 A. Yeah, sure.

18 Q. I'd like to know who you contacted at the  
19 electric company.

20 A. If I can find that, absolutely.

21 Q. Would it be fair to say that the reason you  
22 contacted the gas company was because of the  
23 notice that you received on November 22nd, 1999?

24 A. In what time -- what conversation are you  
25 referring to of mine with the gas company?



1 Q. I'm looking at your letter here dated  
2 January 5th where you said --

3 A. Let me go back to that. Excuse me.

4 Q. Sure. And you stated on there on November  
5 22nd, 1999, you found a notice from East Ohio Gas  
6 Company regarding main relocation.

7 A. Yes.

8 Q. Did that prompt you to call the gas company?

9 A. I don't recall calling other than on  
10 November 30th, so it was seven, eight days later.

11 Q. So between the time that the house was  
12 vacant between, I believe, August of '99 and  
13 November 30th of '99, you never called the gas  
14 company to tell them, "Hey, if there's a problem  
15 with my service, call me"?

16 A. Again, I'd have to go back and look at some  
17 notes as to whether that's happened or not. I  
18 know I did talk to the people at the gas company  
19 to do meter readings and to make sure that they  
20 had phone numbers.

21 Q. Did you ever tell them, though, "Hey, the  
22 house --" would it be fair to say that November  
23 30th is the first time you told the gas company  
24 that, "Hey, the house is vacant. If there's a  
25 problem with the gas service, call me"?

1 A. No. I would say that it was probably back  
2 in August when I told the gas company and all of  
3 the utility companies that the house was vacant.

4 Q. Do you remember whom you spoke to in August?

5 A. I don't believe I have that written down  
6 here. Mrs. Tokar at East Ohio Gas.

7 Q. That was in November. Whom did you speak to  
8 in August, do you remember?

9 A. Mrs. Tokar.

10 Q. Ms. Tokar. And you told her at that point,  
11 "the house is vacant, call us if there is a  
12 problem"?

13 A. I don't know if that's the date that I told  
14 her that or not. If I don't have it stated  
15 there, I am not sure. All I have stated there is  
16 I left a meter reading and that I did ask her to  
17 make sure that -- I must have asked her to make  
18 sure that the gas did not get shut off, because I  
19 told her the house was vacant and that we needed  
20 to switch over the names of the bills.

21 Q. And you called on November 30th also and  
22 told them the same -- you told a --

23 A. I spoke with a different department on  
24 November the 30th.

25 Q. You talked to Sam M.

1 A. Yeah.

2 Q. When you received that notice on November  
3 22nd, did you call Mr. Amato and say, "Hey, we  
4 received a gas notice that there is going to be  
5 gas work, watch it"?

6 A. No, not that I remember.

7 Q. Then you call the gas company again on  
8 December the 13th and you remind them again about  
9 your number and the house is vacant and whatnot,  
10 correct?

11 A. Yes.

12 Q. You didn't call Mr. Amato at the same time  
13 and tell him that same thing, did you?

14 A. Mr. Amato knew that the house was vacant.

15 Q. You never told him, "Hey, watch the gas  
16 lines"? I think we've talked about that before.

17 A. No.

18 MR. LAZZARO: I have no further  
19 questions. Thank you very much.

20 MR. PRUNESKI: Nothing else.

21 MR. NUSSLE: Tell her you'll  
22 reserve your signature.

23 THE WITNESS: I'm sorry?

24 MR. NUSSLE: Tell her you'll  
25 reserve your signature.

1 THE WITNESS: I will reserve my  
2 signature.

3 (Thereupon, the A.N. Dennewitz  
4 deposition was concluded at  
5 12:09 o'clock p.m.)

6 . . .

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, ANDREW NEIL DENNEWITZ, do verify that I have read this transcript consisting of 94 pages and have had the opportunity to make corrections.

-----  
ANDREW NEIL DENNEWITZ

Sworn to before me, -----

Notary Public

this ----- day of -----

-----  
Notary Public

My commission expires -----

mlu

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF OHIO, )  
                  ) SS:  
SUMMIT COUNTY, )

I, Mary Lyn Uphold, a Registered Merit Reporter, Certified Realtime Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, ANDREW NEIL DENNEWITZ, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to Stenotype in the presence of said witness, afterwards prepared and produced by means of Computer-Aided Transcription and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio on this 8th day of April, 2002.

*Mary Lyn Uphold*

-----  
Mary Lyn Uphold, RMR, CRR

My commission expires May 30, 2002.