

1 THE WITNESS: Thank you.

2 THE COURT: You're not going to have to come  
3 back to this wonderful place, at least right away.

4 If any of you want to stand up for a second,  
5 go ahead.

6 MS. ELCANO: I just wanted to confirm,  
7 Exhibit G was entered, as in Greg; correct?

8 THE COURT: Yes. I have it marked as being  
9 admitted, yes.

10 MS. ELCANO: Thank you. I just wanted to  
11 double-check.

12 THE COURT: Actually, the clerk is a better  
13 source of information on this than I am. I put X's next  
14 to what I think is admitted.

15 MS. ELCANO: I call Erika Meszaros, Your  
16 Honor.

17

18 ERIKA MESZAROS,

19 having been first duly sworn,

20 was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MS. ELCANO:

24 Q Good afternoon. Could you please state your

1 name and spell your name?

2 A My name is Erika Meszaros, E-r-i-k-a  
3 M-e-s-z-a-r-o-s.

4 Q Who is your current employer, Ms. Meszaros?

5 A Washoe County Department of Social Services.

6 Q And approximately how long have you been  
7 employed there?

8 A I have been there -- it will be eight years  
9 next month.

10 Q And in what capacity are you presently  
11 employed?

12 A I am currently in the Emergency Response  
13 Unit. It's an assessment unit.

14 Q What are your responsibilities as an ERU  
15 worker or an Emergency Response Unit worker?

16 A It's to respond to reports received by the  
17 agency, typically after-hour reports based on the  
18 immediate need for us to go out and intervene.

19 THE COURT: I'm not going to -- I don't know  
20 who is or isn't a witness in this case, so --

21 UNIDENTIFIED VOICE: No, Your Honor. I'm a  
22 chief deputy public defender.

23 THE COURT: Okay. I'm just making sure  
24 because -- I'll leave it up to the parties if someone

1 comes in. If it's a witness, then we need to advise  
2 them. Sometimes they're not here when they're -- when we  
3 invoke that rule, and then when they come in, everybody's  
4 mad after that.

5 MS. ELCANO: I appreciate that.

6 THE COURT: I don't know all the witnesses,  
7 so the parties are going to have to enforce that rule.

8 Go ahead.

9 MS. ELCANO: Thank you.

10 BY MS. ELCANO:

11 Q How long have you been employed as an  
12 Emergency Response Unit worker?

13 A I've been there in that unit for about three  
14 years.

15 Q And could you please briefly describe your  
16 educational background for the Court?

17 A Yes. I have a bachelor's in social work and  
18 a master's in social work.

19 Q Are you a licensed social worker?

20 A Yes, I am.

21 Q What specialty training, if any, have you  
22 undergone while employed at Social Services?

23 A All the trainings with regard to the  
24 assessment and evaluations of families and cases. We do

1 a lot of child-age development type of trainings, we do a  
2 lot of substance abuse trainings, effects of substances  
3 on children.

4 Q And I want to turn specifically to the  
5 Emergency Response Unit process. When typically -- and  
6 you kind of answered this -- does an Emergency Response  
7 Unit worker get involved in a case?

8 A We are typically involved after hours, which  
9 is usually after 5:00. If it's an immediate response  
10 needed, which is a P-1 response needed on a report that's  
11 come into the department, or if there's not -- if the day  
12 workers are all out and there's a need for us to respond,  
13 that they will then give us the report.

14 At times, too, we go out on cases that day  
15 workers have responded to but have not made contact with  
16 the person, and because -- because of the child's age or  
17 because of the circumstances, they want us to go back out  
18 and check in the evenings.

19 Q What is the difference between an Emergency  
20 Response Unit worker and an assessment worker?

21 A Emergency response is just that; we go out,  
22 we look at the situation currently happening at that  
23 point, and we make contact with the family, and we assist  
24 in putting in measures to resolve the situation or to

1 change the situation or to assess the situation, and if  
2 nothing is happening, then nothing's happening.

3 We then come back, we input that information  
4 into our program, our UNITY program, and then the case,  
5 the next day, is then assigned to an assessment worker  
6 that further assesses the situation or assesses the  
7 family's needs.

8 Q So would it be fair to say that you're  
9 involved in a case for a very short amount of time and  
10 then the continual assessment or investigation is  
11 completed by an assessment worker?

12 A Correct.

13 Q And what specifically are you trying to  
14 determine when conducting your investigation?

15 A The immediate safety factors or safety  
16 threats on a child.

17 Q Were you involved with an investigation  
18 regarding Ethan Hunt-Taylor?

19 A Yes, I was.

20 Q When, approximately, were you involved?

21 A July 11, 2014.

22 Q And why did you become involved?

23 A Our agency had received a report with regards  
24 to allegations of neglect based on the environment and

1 the condition of the home at the time for Ethan.

2 Q Did anyone assist you in this investigation?

3 A Yes. Typically, with emergency response, we  
4 have partners, and my partner that night was Mr. Eddie  
5 Martinez.

6 Q How old was Ethan or what was his date of  
7 birth, if you recall?

8 A His date of birth is January 1, 2014, so at  
9 that time he was about six months old.

10 Q And who is Ethan's mother?

11 A Jacqueline Guerrero.

12 Q And what was this report coded as?

13 A It was coded as a P-2.

14 Q Which gave you how long to respond?

15 A It gave us approximately 24 hours. However,  
16 with emergency response, when we get a P-2 coding, we  
17 have to respond that day.

18 Q What did you do first when you received this  
19 report?

20 A At that time I do believe Ms. Guerrero was  
21 visiting with her other children, so we asked her to come  
22 into our office, and we addressed the issue with her in  
23 person, letting her know that there was -- that the  
24 agency had received a report with allegations of --

1 concerns for her residence, that we needed to go out and  
2 check her residence.

3 Q And you keep saying "we." Who is "we"?

4 A Myself and Mr. Martinez as well as our  
5 supervisor, Janet Higgins.

6 Q And what was Ms. Guerrero's response to you  
7 when you had these discussions with her?

8 A She was very -- she was upset. She was  
9 willing to allow us to come to her residence but was very  
10 upset that we were going to remove her child from her at  
11 that point.

12 Q And where was Ethan?

13 A Ethan was with her.

14 Q Okay. What steps did you take after you  
15 spoke with Ms. Guerrero?

16 A We made a plan with regards to taking her  
17 home. We were going to transport her and Ethan because  
18 they had walked to the agency, so I believe that  
19 Mr. Hunt-Taylor had brought the keys to the residence for  
20 her. We transported the family back to the residence in  
21 order to be able to get -- gain access into the home to  
22 be able to assess the environment.

23 Q And, again, you said "we." Who is "we"?

24 A Myself and Mr. Martinez.

1           Q     When you refer to "her," I just need to be  
2 clear.

3           A     Mrs. Guerrero.

4           Q     And then, finally, you said you transported  
5 the family back home.

6                     Who did that include?

7           A     Ms. Guerrero, Mr. Taylor-Hunt [sic], and  
8 Ethan.

9           Q     Thank you.

10                    When you arrived at the family residence,  
11 where was it located?

12           A     2071 Fourth Street, and it was Trailer No.  
13 45.

14           Q     What did you observe when you went into the  
15 residence?

16           A     Entering into the residence, there was quite  
17 a bit of clutter outside of the residence, small things  
18 on the ground, things -- there was a broken window, which  
19 we had talked to Mr. Taylor-Hunt [sic] about. He talked  
20 about having -- he believed that somebody had thrown a  
21 rock in it and that he was going to fix it.

22                    Walking into the home, we noticed that one of  
23 the sliding -- the glass door was broken, so it was kind  
24 of -- they had tried to fix it and boarded it.

1           Q     I don't mean to interrupt, but can you just  
2 tell me specifically what you observed? You just said  
3 "we observed," and I just wanted to make sure it's what  
4 you observed.

5           A     I also walked into the kitchen -- so the  
6 trailer's a fairly small area. We walked in -- I walked  
7 into the living room area. To the right is the kitchen  
8 area. There was two refrigerators at that time, which  
9 was explained to us that they were in the process of  
10 emptying one fridge into the other, and so only the  
11 freezer worked in the one fridge and the other one wasn't  
12 yet plugged in.

13                There was clutter on the countertops, there  
14 was grime on the countertops, dishes that were  
15 overflowing. There was, like, a steak knife that was  
16 sitting outside on the counter. I don't know if it was a  
17 steak knife, but there was some sort of knife out on the  
18 counter.

19                There was clutter on the desktop, and on the  
20 floor it was -- it was a bit grimy. There was small  
21 particles consisting of, like, loose change, small  
22 debris, bottle caps from, like, plastic bottles. There  
23 was plastic bottles, there was some trash, and there was  
24 piles of clothing in the living room area.

1                   And as you walked into the back bedroom, the  
2 bed had some clothing in it, baby's -- where the baby  
3 slept, which was a playpen, appeared to be clean, free of  
4 clutter, appeared to have clean linen in it.

5                   Q     Do you recall whether you smelled anything?

6                   A     I do not recall that, no.

7                   Q     And upon your arrival and walking through the  
8 house, what happened next?

9                   A     We had a discussion with regards to what --  
10 the areas of the home that needed to be rectified. It  
11 was a fairly small residence, and, therefore, the thought  
12 was that it was easily remedied.

13                   It appeared that Mr. Hunt-Taylor had begun  
14 sweeping while Ms. Guerrero was with us at the office, so  
15 there was piles of garbage that had already been swept  
16 up, so we discussed about picking those things up and  
17 washing dishes and making sure the fridge got transferred  
18 over, to kind of lessen the clutter in the residence  
19 because it was so small.

20                   Q     Did you identify any other concerns in  
21 speaking with Ms. Guerrero?

22                   A     We didn't. Ms. Guerrero was very fearful of  
23 coming into the residence, so the tour of the home was  
24 mostly conducted by Mr. Hunt-Taylor. Ms. Guerrero kind

1 of remained outside.

2 Eventually we did talk to her enough to say,  
3 "We're not removing your child at this point, but we do  
4 need you to come in so we can show you what needs to be  
5 rectified."

6 So she did come in, and she at that point did  
7 point out -- we did point out to her -- I did point out  
8 to her the areas that needed to be rectified.

9 Q What were those areas specifically?

10 A Mostly what's on -- like knee level down, the  
11 ground stuff, things that -- garbage, the particles, the  
12 dishes. We also talked about the dishes and the fridge.

13 Q Why knee level down?

14 A Because Ethan, who was six months, was not  
15 yet mobile through the residence. However, it was only a  
16 matter of time before he was out of that playpen and  
17 everywhere else.

18 Q And were you aware of an open case involving  
19 Ms. Guerrero?

20 A Yes, I was.

21 Q And what role, if any, did that play in your  
22 investigation?

23 A For myself, it did not.

24 Q And did you offer any services to the family

1 to address these issues that you identified?

2 A At that point we did not. I did not.

3 Q And why was that?

4 A Because it is an open case, and so part of  
5 our job is to go back and explain to the worker that has  
6 the open case what services we thought may be needed in  
7 the residence.

8 Q And what additionally did you discuss with  
9 Ms. Guerrero or the family regarding the future process?

10 A We advised that it is an open case, it was an  
11 open investigation, that there would be an assessment  
12 worker assigned.

13 At that point we had already -- we already  
14 knew who the assigned worker was, and we let her know  
15 that the assigned worker, Denise Tyre, would be coming  
16 back out to assess the situation, so she needed to remedy  
17 the areas we discussed.

18 Q Did you take pictures of the residence during  
19 your investigation?

20 A Yes, I did.

21 Q Can you turn to Exhibit Z, as in zebra,  
22 please.

23 What are those?

24 A So the first picture is when we initially

1 arrived. That's my partner, Mr. Eddie Martinez, walking  
2 in front of me, looking at the garbage on the ground and  
3 just -- it was just kind of to give --

4 MR. ELKINS: Objection to the  
5 characterization. The photograph speaks for itself.

6 MS. ELCANO: Your Honor, perhaps I should --

7 THE COURT: She can give a general  
8 description. Instead of her describing the pictures, she  
9 can describe what she saw.

10 BY MS. ELCANO:

11 Q Are these the pictures you took during the  
12 investigation? If you can review all of them and make  
13 sure they are and they accurately represent what you saw.

14 A Yes. Yes, they are.

15 MS. ELCANO: I would request that Exhibit Z,  
16 as in zebra, is admitted into evidence.

17 I can have her walk through each picture if  
18 there is an objection, but in the interest of time, I  
19 was --

20 THE COURT: So you're moving to admit Z?

21 MS. ELCANO: Yes, Your Honor.

22 THE COURT: Any objection?

23 MR. ELKINS: No objection.

24 THE COURT: Z is admitted, and that would be

1 1 of 24 to 24 of 24.

2 (Petitioner's Exhibit Z was admitted.)

3 BY MS. ELCANO:

4 Q And, Ms. Meszaros, was Ethan removed?

5 A No, he was not.

6 Q And why not?

7 A Because at that time Ethan wasn't mobile. We  
8 believed the home was easily rectified or could be easily  
9 remedied, and he spent most of his time in the playpen  
10 that was clean. So at that time there wasn't anything  
11 imminent about where he was at.

12 Q When you say "imminent," what are you  
13 referencing?

14 A Anything that was clearly visible or clearly  
15 definable that would cause him to be injured or harmed,  
16 because he was kept in a playpen.

17 Q Did you complete a NIA?

18 A No, I did not.

19 Q And why not?

20 A Because I'm emergency response, and for me it  
21 was just to go out and assess the current situation that  
22 was occurring, the current report.

23 Q And would -- I think you indicated an  
24 assessment worker was assigned to this case. Could that

1 assessment worker complete the NIA?

2 A Yes, they would.

3 Q And who was the assigned assessment worker?

4 A Denise Tyre.

5 MS. ELCANO: I have no further questions.

6 THE COURT: Pass the witness?

7 MR. ELKINS: Okay, Judge.

8

9 CROSS-EXAMINATION

10 BY MR. ELKINS:

11 Q So, Ms. Meszaros, was it your job to  
12 substantiate or unsubstantiate the report?

13 A No, it was not.

14 Q Okay. So if I understand you correctly, you  
15 inspected the home based upon the report, and you found  
16 that there was no basis for removing the child at that  
17 time because the child's area was clean and free of  
18 hazards?

19 A Correct. The area he was confined to, yes.

20 Q And then you had a conversation with the  
21 parents, and you said you had some concerns about other  
22 areas of the home that needed to be cleaned up; is that  
23 right?

24 A Correct.

1 Q Do you have the photographs in front of you?  
2 A I do, sir.  
3 Q So would you go to, 7, 8, 9 -- 7, 8 and 9.  
4 Those would be photographs of dirty dishes;  
5 is that correct?  
6 A Dirty dishes, grimy countertops, correct?  
7 Q So this is the sink area?  
8 A Correct.  
9 Q Photograph 10 appears to be a large pile of  
10 canned food; is that right?  
11 A Correct.  
12 Q I take it there were no cupboards in the  
13 kitchen; is that right?  
14 A I believe they were -- the cupboard was being  
15 utilized for a different type of storage.  
16 Q So this would be food stacked on a counter;  
17 is that right?  
18 A And a knife, correct. Food stacked on a  
19 counter and a knife.  
20 Q Okay. Do you recall the dimensions of the  
21 trailer, approximately?  
22 A I don't.  
23 Q You said it was very small, though; correct?  
24 A It was small living quarters, yes.

1           Q     If you go to Photograph No. 5, on the floor  
2     there appears to be a bowl of cat food; is that right?  
3           A     Correct.  
4           Q     And Photograph No. 12, I believe the cat is  
5     in the picture.  
6           A     Correct.  
7           Q     And Photograph No. 12, it appears that a  
8     table has been placed in front of the television; is that  
9     right?  
10          A     Correct.  
11          Q     Essentially keeping the television from  
12     moving, I assume; right?  
13          A     I have no idea.  
14                MS. ELCANO:  Objection.  She doesn't know why  
15     the table was placed there.  
16                MR. ELKINS:  I don't know if she does or not,  
17     Judge, but --  
18                THE COURT:  That's what she said, she doesn't  
19     know, so that's fine.  Move on.  
20     BY MR. ELKINS:  
21          Q     Also in that photograph I see something pink.  
22     It looks like -- is that a child's kitchenette --  
23          A     Yeah.  
24          Q     -- against the wall?

1                   And then there's a piece of luggage in the  
2 foreground; is that correct?

3           A       Uh-huh.

4           Q       And what is the red tank? Do you know what  
5 that is to the right of the luggage?

6           A       Looks like a Dirt Devil.

7           Q       So it's a vacuum cleaner?

8           A       Correct.

9           Q       And then in the upper left-hand corner of the  
10 photograph, I see what appears to be -- is that some kind  
11 of a receptacle for an infant?

12          A       Like a walker, yeah.

13          Q       It's been a while, so --

14          A       Yeah, it's a walker.

15          Q       And then does it look like a sippy cup and  
16 some objects used for feeding a child there? Is that  
17 what that is?

18          A       I believe it's a sippy cup. There's a better  
19 picture of that on No. 14.

20          Q       There it is. Absolutely. Thank you.

21                   If you look at 14, this object which contains  
22 the child's -- it looks like a stuffed animal; is that  
23 correct?

24          A       Uh-huh.

1 Q And this is something the child sits in; is  
2 that right? Probably not at six months, though?

3 A Correct.

4 Q And there's some kind of, it looks like,  
5 bedding in this? Is that a blanket, maybe?

6 A I'm not sure what was stuffed in there.

7 Q Does that look dirty to you, the blanket or  
8 whatever that is?

9 A The blanket, no. The stuffed animal, a  
10 little bit, but not the blanket.

11 Q The stuffed animal, okay.  
12 And the child's seat itself, doesn't it look  
13 clean?

14 A Yes, it does.

15 Q And is that a -- it looks like a blackboard  
16 behind the -- to the right? Is that a blackboard?

17 A That's what it looks like, yes.

18 Q On the next photograph, No. 15, we see what  
19 looks like a counter, and on the counter appears to be a  
20 diaper or diapers in the foreground?

21 A Uh-huh.

22 Q And then there appears to be a Tigger doll?

23 A Uh-huh.

24 Q Do you know, in the -- there's a tied, it

1 looks like, plastic bag.

2 A Uh-huh.

3 Q Do you have any idea what it contained?

4 A I don't.

5 Q It doesn't appear to be trash, does it?

6 A I don't recall.

7 Q But there's no -- I mean, there's nothing  
8 coming out of it?

9 A It's tied up.

10 Q The photograph speaks for itself.

11 In photograph 16 I see what looks like  
12 something that a child pushes that makes noise; is that  
13 correct?

14 A Correct.

15 Q And then another piece of luggage, it looks  
16 like?

17 A Correct.

18 Q It looks like maybe a pair of camouflage  
19 pants on top or sweater or jacket or something and then  
20 linens; is that right?

21 A Correct.

22 Q Then to the right of that I see a number of  
23 children's videotapes; correct?

24 A Correct.

1           Q     In the next photograph, No. 17, there's a  
2 broom, and it looks like some objects that have been  
3 swept up into the corner; is that correct?

4           A     Correct.

5           Q     Photograph 18, it looks like the bathroom  
6 counter; am I correct?

7           A     Yes.

8           Q     And doesn't that look clean to you?

9           A     Cluttered.

10          Q     But clean?

11          A     Yes.

12          Q     The next photograph appears to be the  
13 bathroom floor.

14                Looking at the tub, it looks like it's been  
15 cleaned, doesn't it?

16          A     I can't recall that.

17          Q     Do you see any grime in the tub in this  
18 photograph?

19          A     I see grime on the wall.

20          Q     Are you talking about on the interior of the  
21 shower?

22          A     Correct. Alongside the wall, up above the  
23 bathtub.

24          Q     Well, there's a discoloration; correct? Do

1       you recall specifically that that was grime?

2                   MS. ELCANO:  Objection.  She already  
3       identified it as grime.

4                   MR. ELKINS:  Judge, it's cross-examination.

5                   THE COURT:  Do you recall what it was?

6                   THE WITNESS:  I don't recall what it was.

7                   MR. ELKINS:  Okay.

8                   THE COURT:  Move on.

9       BY MR. ELKINS:

10               Q       The next picture, No. 20, shows the toilet,  
11       and the lid is closed.

12                       Does the toilet appear dirty to you?

13               A       No.

14               Q       Number 22, this is the Pack 'n Play?

15               A       Correct.

16               Q       Now, do you know, is that color balance  
17       accurate there or is that the cell phone; do you know?

18                       MS. ELCANO:  Objection.  How --

19                       MR. ELKINS:  Let me rephrase the question.

20       BY MR. ELKINS:

21               Q       You saw the Pack 'n Play?

22               A       Correct.

23               Q       You saw the colors?

24               A       Yes.

1           Q     Were those stripes in the Pack 'n Play itself  
2 or is that from a phone?

3           A     Where are you talking about?

4           Q     See on the mattress there looks like stripes?

5           A     I don't have that on my pictures, so --

6           Q     Then that explains that, doesn't it?

7           A     It's probably the printing.

8           Q     Thank you very much.

9                 So the Pack 'n Play is clean? You had no  
10 concern with --

11          A     Yeah. I had no concern.

12          Q     The next picture depicts some linen on the  
13 bed and some clothes in the hamper? That's 23.

14          A     Correct.

15          Q     Those don't look dirty, do they? They don't  
16 look soiled?

17          A     The clothes -- the hamper -- I didn't smell  
18 them and I didn't touch them, so I do not recall.

19          Q     Looking at them, do they look soiled to you?

20          A     I couldn't tell.

21                 MR. ELKINS: I don't have any further  
22 questions. Thank you.

23         /////

24         /////

REDIRECT EXAMINATION

BY MS. ELCANO:

Q So, Ms. Meszaros, obviously you didn't remove Ethan?

A No.

Q Obviously there were portions of the house that you were okay with, but there were obviously areas that you were concerned about?

A Yes.

Q And why were you concerned?

A Because the -- at Ethan's age, while he was not mobile, he was coming up on being mobile, and there were things that he could grab, get into. Plastic bags, the things on the floor are all choking hazards for a child of his age, so those were the concerns.

MS. ELCANO: I have no further questions.  
Thank you.

THE COURT: Is this witness excused?

MS. ELCANO: I would request that she is.  
I'm unaware as to whether or not she has been subpoenaed.

MR. ELKINS: No, we didn't subpoena her,  
Judge.

THE COURT: You're permanently excused, then.  
Let's go ahead and take a five-minute recess,

1       then we'll come back and finish.

2               MR. ELKINS: Judge, can we have ten so I can

3       visit the facility?

4               THE COURT: We'll come back at 10 after.

5               (A recess was taken.)

6               THE COURT: Case No. FV14-03897 in the matter

7       of the Taylor children, four of them. The parties are

8       present with their clients.

9               Ms. Elcano, your next witness.

10              MS. ELCANO: Denise Tyre, Your Honor.

11              THE COURT: How are we doing on time?

12              MS. ELCANO: We'll see.

13

14                               DENISE TYRE,

15                       having been first duly sworn,

16               was examined and testified as follows:

17

18                               DIRECT EXAMINATION

19       BY MS. ELCANO:

20               Q       Good afternoon. Can you please state and

21       spell your name?

22               A       Denise Tyre, T-y-r-e.

23               Q       And your first name, how do you spell that?

24               A       Denise, D-e-n-i-s-e.

1           Q     Thank you.

2                     And who is your current employer?

3           A     Washoe County Department of Social Services.

4           Q     Approximately how long have you been employed

5     there?

6           A     Just over two years.

7           Q     And in what capacity are you presently

8     employed at Washoe County Department of Social Services?

9           A     I'm an assessment social worker.

10          Q     How long have you been employed as an

11     assessment worker?

12          A     Just over two years.

13          Q     Where were you employed prior to Washoe

14     County Department of Social Services?

15          A     U.S. Bank.

16          Q     Can you please describe your educational

17     background for the court?

18          A     I have a bachelor's degree in social work.

19          Q     Are you a licensed social worker?

20          A     Yes.

21          Q     Please describe your job duties and

22     responsibilities as an assessment worker.

23          A     I receive allegations of abuse or neglect,

24     and I respond and make contact with families and assess

1 safety of children in the home.

2 Q What special training have you completed  
3 while employed at Washoe County Department of Social  
4 Services?

5 A I've completed about six months in the  
6 training unit where I followed a senior social worker as  
7 well as received cases of my own under direct  
8 supervision.

9 Q Were you employed by Washoe County Department  
10 of Social Services in March and April of 2014?

11 A Yes.

12 Q And in what capacity were you employed there?

13 A I was an assessment social worker.

14 Q Were you involved in an assessment  
15 investigation regarding Ethan Hunt-Taylor?

16 A Yes.

17 Q When did you first become involved in his  
18 case?

19 A I first received a report July 11th of 2014.

20 Q And who was the worker previously associated  
21 with that?

22 A Rocio Lopez.

23 Q Pardon me. In regards to Ethan  
24 Hunt-Taylor --

1           A     I -- I'm sorry.

2           Q     Go ahead.

3           A     I believe it was Alicia Kraft.

4           Q     Thank you.

5                 Was ERU involved in that investigation?

6           A     They assisted me in making contact with the

7     family.

8           Q     Who was that worker?

9           A     Erika Meszaros and Eduardo Martinez.

10          Q     Thank you.

11                 And why did you become involved in this case?

12          A     We received a report regarding Ms. Guerrero

13     and Mr. Hunt-Taylor's home and the safety of Ethan in

14     that home. The report alleged that the home environment

15     was dirty or unsafe, that there was moldy food in the

16     refrigerator that was disconnected, was what was in my

17     report.

18          Q     And did you go out and investigate that

19     report?

20          A     I did.

21          Q     You did?

22          A     On the 11th of July I attempted at the home

23     and was unable to make contact, so I requested the

24     after-hours crew, which would be Erika Meszaros and

1 Eduardo Martinez, would initiate contact for me.

2 Q What occurred after Ms. Meszaros and  
3 Mr. Martinez went out to the home in regards to your  
4 investigation?

5 A I followed up the next day.

6 Q And what did you do?

7 A I met with Ms. Guerrero in the home as well  
8 as Ethan in the home and followed up in initiating my  
9 assessment.

10 Q What day was that, approximately?

11 A I believe it was the 12th.

12 Q Of?

13 A July 2014.

14 Q And what did you observe when you were there  
15 on July 12, 2014?

16 A I observed, in regards to the home, the home  
17 to be messy. I observed no direct safety threats at that  
18 time.

19 Q And where was this home located?

20 A It was in a mobile home park off of Fourth  
21 Street.

22 Q What did you do after you met with the family  
23 on July 12th?

24 A I continued to assess the family and provide

1 services throughout my investigation.

2 Q Did you complete a NIA in regards to the July  
3 incident?

4 A Yes.

5 Q And approximately when did you complete that  
6 NIA?

7 A I believe it was September 7, 2014.

8 Q Can you please turn to Exhibit H, as in  
9 Henry, in that exhibit book.

10 What is that document?

11 A That's the NIA that I completed.

12 Q And it was created on what day?

13 A August 24, 2014.

14 Q What was the conclusion of your NIA?

15 A The conclusion of this NIA was that there was  
16 no impending danger and that Ethan was safe.

17 Q Did you author this document?

18 A Yes.

19 Q And can you review it and determine if it's a  
20 true and accurate copy of the NIA that you authored?

21 A Yes.

22 MS. ELCANO: I would request that Exhibit H,  
23 as in Henry, is entered into evidence.

24 THE COURT: Any objection?

1 MR. ELKINS: Judge, will you just give me a  
2 minute?

3 Judge, same objection as with regard to the  
4 other exhibits as well.

5 THE COURT: With the same ruling, H is  
6 admitted.

7 (Petitioner's Exhibit H was admitted.)

8 BY MS. ELCANO:

9 Q And, Ms. Tyre, when you were completing this  
10 investigation, were you aware of an open case?

11 A Yes.

12 Q And who did the open case involve?

13 A Ms. Guerrero's two older children.

14 Q Would it be possible it included three older  
15 children?

16 A Yes, three older children is true.

17 Q Those were obviously Ethan's siblings; is  
18 that correct?

19 A Yes.

20 Q You indicated that Ethan was not removed and  
21 there was no impending danger found.

22 Did you offer Ms. Guerrero and the family any  
23 services?

24 A Yes.

1 Q What services were those?

2 A On the 31st of July, a domestic violence  
3 incident occurred between Ms. Guerrero and  
4 Mr. Hunt-Taylor --

5 MR. ELKINS: Objection, Judge. It's hearsay  
6 in another form.

7 MS. ELCANO: Your Honor, we do have the  
8 criminal records which have been admitted into evidence  
9 and demonstrate that Mr. Hunt-Taylor was convicted of the  
10 domestic violence incident. I can limit Ms. Tyre's  
11 testimony as to the information she received from  
12 Ms. Guerrero, however.

13 THE COURT: That's fine, then. Objection is  
14 overruled. Proceed how you said you were going to  
15 proceed.

16 BY MS. ELCANO:

17 Q So, Ms. Tyre, if I could clarify, you  
18 indicated that additional services were offered to the  
19 Guerrero family and that there was a domestic violence  
20 incident.

21 How did you become aware of that domestic  
22 violence incident?

23 A We received a report to the agency.

24 Q And did you discuss this with Ms. Guerrero?

1           A     I did.

2           Q     What did Ms. Guerrero inform you of?

3           A     She informed me that the domestic violence  
4 incident did happen, and at that point she was eligible  
5 for services and funding through a program -- a VOCA  
6 program, which are service -- monies directly applicable  
7 to domestic violence victims.

8           THE COURT:   What kind of program?

9           THE WITNESS:  It's called VOCA, Victims of  
10 Crime.

11          THE COURT:   V-O-C-A?

12          THE WITNESS:  Yes.

13                 So at that point those were additional monies  
14 that she had not been eligible for until that day.

15          BY MS. ELCANO:

16           Q     I want to back up a little bit to your  
17 conversation with Ms. Guerrero specifically surrounding  
18 the domestic violence incident.

19                 Who did Ms. Guerrero identify as the  
20 aggressor or the --

21           A     Mr. Robert Hunt-Taylor.

22           Q     And what did Ms. Guerrero indicate to you  
23 occurred?

24           A     To my recollection, she was pushing a

1 stroller with Ethan in it, and he had struck her in some  
2 way, and that she contacted the police and pursued him  
3 being arrested for that.

4 Q And was an investigation opened as a result  
5 of this?

6 A No. Because I already had an  
7 investigation -- are you talking about with CPS?

8 Q Yes. In regards to the domestic violence?

9 A I already had an open investigation, so it  
10 was just kind of lumped in all together.

11 Q Did Ms. Guerrero indicate to you whether or  
12 not Mr. Hunt-Taylor was arrested as a result of this  
13 incident?

14 A Yes.

15 Q What did she say?

16 A He was arrested.

17 Q So you indicated -- if we can kind of go back  
18 to the services issue, what additional services did you  
19 offer to the family given the domestic violence incident  
20 as well as the investigation from July 12th?

21 A Throughout my investigation I identified that  
22 Ms. Guerrero struggled with housing. VOCA will pay for a  
23 deposit and the initial fees to get into an apartment,  
24 and so those were monies that were available to us after

1 the domestic violence incident. So we attempted to use  
2 the VOCA funding along with Section 8.

3 Her Section 8 had come up and she now had  
4 turned to being qualified for Section 8, so I assisted in  
5 helping her find -- helping her to try to find an  
6 apartment. I also provided multiple bus passes to  
7 Ms. Guerrero, I provided her with some supplies when she  
8 needed them, and at that time -- at this time that's all  
9 I can recall.

10 Q And you said she struggled with housing.  
11 What do you mean by that?

12 A She was living between different places.  
13 Especially after that domestic violence incident,  
14 Mr. Hunt-Taylor and she were residing together, and so  
15 after that she was -- she was trying to find somewhere  
16 else to live, so she was living in between different  
17 friends' houses, family, and we were really trying to  
18 help her become independent so that she and Ethan could  
19 have a place to reside.

20 Q And you keep using the pronoun "she." Who is  
21 "she"?

22 A I'm sorry. Ms. Guerrero.

23 Q Thank you.

24 Additionally, Ethan was residing with

1 Ms. Guerrero during this whole time?

2 A During this whole time, yes.

3 Q So you indicated you attempted to help  
4 Ms. Guerrero obtain an apartment.

5 Was she successful in obtaining an apartment?

6 A No.

7 Q And why not?

8 A In order to obtain the funding, a lease  
9 needed to be submitted to be able to get the check cut,  
10 and unfortunately that lease was never submitted.

11 Q To your knowledge had Ms. Guerrero obtained a  
12 lease?

13 A No.

14 Q And so what happened next at this point?

15 A As part of this investigation, we're required  
16 and standard procedure is to make at least two in-home  
17 contacts to see the children. I was attempting to make  
18 my final in-home contact with Ms. Guerrero and was  
19 unsuccessful in doing so.

20 Eventually I was able to have contact with  
21 her on September 10, 2014, in which she reported to me  
22 that she had no diapers left and was in desperate need of  
23 diapers. So I told her I would buy her diapers as long  
24 as we could have the arrangement that I was allowed to

1 bring them to her personally and conduct that last home  
2 visit so that we could just close out that investigation  
3 from July 11th.

4 Q I'm sorry. I want to back up.

5 So you indicated she had not -- Ms. Guerrero  
6 had not obtained a lease. Do you know why she hadn't  
7 obtained a lease?

8 MR. ELKINS: Objection, Judge. Obviously  
9 calls for hearsay.

10 MS. ELCANO: It doesn't obviously --

11 THE COURT: It depends on how she knows that.  
12 If it was from Ms. Guerrero, then it's an exception to  
13 the hearsay. How did you know that she was unable to --

14 THE WITNESS: Ms. Guerrero had actually  
15 reported to me that she was living in that apartment, so  
16 I attempted a home visit on September 5, 2014, to which I  
17 viewed the inside of the apartment to be completely  
18 vacant.

19 BY MS. ELCANO:

20 Q I'm sorry. What do you mean? What  
21 apartment? I think --

22 A The apartment that she was supposed to obtain  
23 using the VOCA funds, she had indicated to me that she  
24 did turn in the lease and that she was living there, so I

1 attempted a home visit, and that is when I learned that  
2 she actually wasn't living there.

3 Q So let me back up a little bit.

4 Where was that alleged apartment located?

5 A It's at the Bicentennial apartment complex.

6 Q Did you ever see a lease provided?

7 A No.

8 Q And so kind of back me up.

9 I think where we last left off, you indicated  
10 the struggle with housing and the services and you were  
11 trying to help Ms. Guerrero get a lease, and then I asked  
12 if she had gotten a lease, and you said no.

13 So kind of what happened in between that  
14 period, if you can explain the whole housing story based  
15 on your conversations with Ms. Guerrero and your personal  
16 knowledge?

17 A In the agency, a lot of times the social  
18 worker isn't the person that actually obtains these kinds  
19 of services and fills out the forms. We have people who  
20 support and help us with that.

21 At this point we were utilizing the victim's  
22 services program through Reno Police Department, and so  
23 if she had obtained the lease, it wouldn't have been  
24 turned in to me.

1           So I was talking with Ms. Guerrero to find  
2   that information, and she indicated to me that she did  
3   obtain the apartment, and she gave me an address, which  
4   on the 5th I attempted a home visit. I looked in the  
5   windows because they were open, and the apartment was  
6   completely vacant, at which point I was approached by the  
7   apartment manager.

8           Q     And through your investigation were you able  
9   to establish whether or not Ms. Guerrero lived there?

10          MR. ELKINS:  Objection.  She's already  
11   testified as to what her personal knowledge was, Judge.

12          THE COURT:  I'm assuming, based on what she's  
13   testified to this point, she wasn't living there.

14          MS. ELCANO:  Thank you, Your Honor.

15   BY MS. ELCANO:

16          Q     So moving forward, I think you were  
17   indicating that you basically -- you and Ms. Guerrero  
18   agreed that you would provide or you were going to  
19   provide diapers and close the case and meet with  
20   Ms. Guerrero for the very last time?

21          A     Yes.  The 10th was my last contact with her.

22          Q     So what happened at that point?

23          A     I set up an appointment on the 10th.  We set  
24   an appointment for me to meet, where she gave me an

1 address of where she was living, and that was, again,  
2 another motel complex off of Fourth Street. No. 38 was  
3 the number she had given me. I set an appointment with  
4 her, I told her I'd be out around noonish because I  
5 needed the morning to get the diapers and I would bring  
6 them to her directly, and she said, "Okay. I'll meet you  
7 there."

8 Q And who is "she" again?

9 A Ms. Guerrero.

10 Q And what occurred at noon?

11 A I arrived at the home and was met by another  
12 person who had resided in the home.

13 Q And the home was located where?

14 A It was off of Fourth Street. And I want to  
15 say it's the Red Lion Motel complex, No. 38.

16 Q And what happened next?

17 A I spoke with the lady who lived there.  
18 Unfortunately, she didn't speak very much English, so I  
19 called my office and asked for someone to translate over  
20 speaker phone.

21 Q So without going into detail as to what was  
22 relayed to you, did you ever speak with Ms. Guerrero  
23 again?

24 A Yes. That following -- the following

1       afternoon, the same afternoon.

2               Q       Were you able to meet Ms. Guerrero at that  
3       apartment complex?

4               A       No.

5               Q       Did she show up?

6               A       No.

7               Q       And what explanation did Ms. Guerrero give  
8       you?

9               A       She said she hadn't been there, she was  
10       staying at her cousin's house for the night because, if I  
11       can recall, she was in the hospital or somebody related  
12       to her was in the hospital. However, she had never met  
13       me there.

14              Q       And were you able to determine whether or not  
15       Ms. Guerrero resided at the motel?

16                   MR. ELKINS:  Objection.  Calls for hearsay.

17                   MS. ELCANO:  I'm asking whether she was able  
18       to determine it.  I can ask the basis.

19                   MR. ELKINS:  A yes-or-no answer I have no  
20       objection to, Judge.

21                   THE WITNESS:  I did actually go in the home,  
22       the No. 38 off Fourth Street, and was able to view  
23       multiple items of clothing that I've seen Ms. Guerrero  
24       wear in the past.  I was able to confirm with the person

1       that lived there that that was where she was staying.

2               MR. ELKINS:  Objection to the statement of  
3       another person that --

4               THE COURT:  That's hearsay.

5               You saw her clothes there, though?

6               THE WITNESS:  I saw her clothes there.  I saw  
7       Ethan's belongings there.

8       BY MS. ELCANO:

9               Q       So based on what you saw in the motel room,  
10       did you believe Ms. Guerrero was residing there.

11              A       Yes.

12              Q       Thank you.

13              So what happened next?  You spoke to  
14       Ms. Guerrero, I believe, on September 11th.  Am I correct  
15       in the timing?

16              A       Yes.

17              Q       What happened at that juncture?

18              A       Prior to that, during the day, I had obtained  
19       a warrant to place Ethan into custody due to the  
20       condition of that home.

21              Q       And the condition of which home when you  
22       state --

23              A       The home that she didn't meet me at.

24              Q       And that was the Red --

1           A     The Red --

2           Q     -- Lion?

3           THE COURT:   Number 38.

4           THE WITNESS:   Number 38.

5   BY MS. ELCANO:

6           Q     And so can you please describe what you saw  
7   in No. 38?

8           A     There was animal feces in the room that I was  
9   able to identify her clothing and items in.   There was  
10   dirty diapers throughout the room.   At this point Ethan  
11   was walking because I had had contact with him up until  
12   that point and had seen him do so, and those kinds of  
13   issues -- the clutter, the dirty diapers, the animal  
14   feces, and the animal urine, the, you know, poorly  
15   patched together sleep setting -- would pose a risk to a  
16   child of Ethan's age at the time.

17          Q     So let's go back to what you observed.

18                   Do you recall whether there was an odor?

19          A     Yes.

20          Q     Can you describe that odor to the Court?

21          A     It smelled like urine or feces, like a cat  
22   box.

23          Q     And I think you kind of went into this, but  
24   just to draw this together, why did those conditions pose

1 a safety concern to Ethan?

2 A Ethan was mobile at that point, and when kids  
3 are mobile and able to walk, their safety is extremely  
4 affected by their environment. They pick things up, put  
5 things in their mouth, they step in things.

6 Q So what was --

7 A They can easily contract diseases that way.  
8 And so at that point, with his age, that vulnerability, a  
9 home that would be in that kind of condition would pose a  
10 safety threat to a child.

11 Q Did you take pictures of the home?

12 A Yes.

13 Q Could you please turn to Exhibit FF, which is  
14 Frank Frank, in that.

15 Do you recognize these documents, if you  
16 could flip through them and tell me?

17 A Yes.

18 Q Can you please tell the Court generally what  
19 these are pictures of?

20 A This is the room that Ms. Guerrero was living  
21 in with Ethan.

22 MR. ELKINS: Objection, Judge, to the  
23 conclusion. She can describe what this is a photograph  
24 of. I object to her conclusion.

1 MS. ELCANO: What conclusion?

2 MR. ELKINS: That Ms. Guerrero was living  
3 there, Judge.

4 THE COURT: Let's go ahead and get the  
5 testimony. If she hasn't established that she's living  
6 there, then these pictures are irrelevant.

7 MS. ELCANO: I'm sorry. What did you say,  
8 Your Honor?

9 THE COURT: Go ahead and ask her --  
10 Did you take these pictures?

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: Do they truly and accurately  
13 represent what you saw?

14 THE WITNESS: Yes.

15 THE COURT: Go ahead.

16 MS. ELCANO: Thank you, Your Honor.

17 I just kind of want to walk through these  
18 pictures, and I apologize, I guess these are not --

19 THE COURT: Do you want to move for admission  
20 of these pictures?

21 MS. ELCANO: I was going to identify the  
22 particular pictures. I do request that these are  
23 admitted into evidence. I'm happy to walk through them  
24 as well.

1 THE COURT: Any objection?

2 MR. ELKINS: Judge, I don't believe I've  
3 heard a foundation, so I'd object at this point just on  
4 foundation grounds until I've heard it.

5 THE COURT: Well, she took them and she said  
6 they truly and accurately represent what she saw,  
7 so they're admitted. FF is admitted.

8 (Petitioner's Exhibit FF was admitted.)

9 THE COURT: We've kind of laid the ground  
10 rules today on a lot of my -- how I'm going to rule on  
11 things. The reason I asked how we're moving along is, if  
12 we're not moving along very well, then I'm going to  
13 start -- I'm going to start moving along myself.

14 BY MS. ELCANO:

15 Q If you could turn to the second picture --  
16 and I apologize, these are not numbered, so I'm going to  
17 hold them up just to make sure we're all on the same  
18 page.

19 THE COURT: Why don't we go ahead and number  
20 these.

21 MS. ELCANO: Okay. I just don't know if  
22 there's --

23 THE COURT: Here, let's make sure everybody's  
24 on the same page. That was good, the way you had them

1 before.

2 MS. ELCANO: I apologize. I think this says

3 "Back Room" on it. Maybe they all do.

4 THE COURT: So that's --

5 MR. ELKINS: They all say that.

6 THE COURT: They all do.

7 MS. ELCANO: I can just hold them up as we

8 go, Your Honor.

9 THE COURT: The problem is that doesn't help

10 the record any.

11 What's the first one you see? Describe it to

12 me.

13 THE WITNESS: It's a door that's just cracked

14 open.

15 THE COURT: That's No. -- it's FF-1.

16 MS. ELCANO: FF-1, sure.

17 THE COURT: How many are there total?

18 MS. ELCANO: I believe there are 14.

19 THE WITNESS: I have 14.

20 THE CLERK: 14.

21 THE COURT: What do you see in the second

22 picture?

23 THE WITNESS: It's the entryway --

24 THE COURT: What's right at the top?

1 THE WITNESS: A diaper box.  
2 THE COURT: That's FF-2.  
3 The third picture?  
4 THE WITNESS: It's a picture of a whole room  
5 with a window at the top.  
6 THE COURT: And the baby box is in the  
7 middle?  
8 THE WITNESS: Yes.  
9 THE COURT: That's 3.  
10 4, what do you see in 4?  
11 THE WITNESS: A chair.  
12 THE COURT: With a fan at the bottom?  
13 THE WITNESS: Yes.  
14 THE COURT: That's 4.  
15 THE WITNESS: Then baby box on the left with  
16 the fan on the right.  
17 THE COURT: 5. The next one?  
18 THE WITNESS: A diaper and the baby box at  
19 the top.  
20 THE COURT: 6.  
21 THE WITNESS: Is a shelving with baby food at  
22 the top.  
23 THE COURT: And the box, again, at the  
24 bottom?

1 THE WITNESS: Yes.  
2 THE COURT: 7?  
3 THE WITNESS: This one is shelving.  
4 THE COURT: Not very well focused.  
5 THE WITNESS: No, not focused.  
6 THE COURT: 8? Next one?  
7 THE WITNESS: Baby box at the top, shoes to  
8 the right.  
9 THE COURT: 9?  
10 THE WITNESS: This one's not very well  
11 focused. It looks like clothing.  
12 THE COURT: 10?  
13 THE WITNESS: It's a TV.  
14 THE COURT: 11?  
15 THE WITNESS: Chair to the left, looks like a  
16 bin or basket to the right.  
17 THE COURT: 12?  
18 THE WITNESS: This is shelving with food on  
19 it.  
20 THE COURT: 13. And obviously the last one  
21 is 14. So we've got them.  
22 Go ahead, Ms. Elcano.  
23 MS. ELCANO: Thank you, Your Honor. I  
24 appreciate that assistance.

1 BY MS. ELCANO:

2 Q Could we turn to or could you please turn to  
3 14, Ms. Tyre? Can you please describe to the Court  
4 what's there?

5 A This is an entryway to a room, a picture of  
6 the carpet with multiple urine stains on it, a dirty  
7 diaper, and what looks to be a torn-up trash bag.

8 Q And 3 of 14, if you could please describe  
9 what you see there?

10 A This is a room, picture of a room, in its  
11 entirety with a bed and a window.

12 Q And 4 of 14, please?

13 A This is, if you work your way from the bottom  
14 up, shoes on the bottom, some urine stains on the carpet.  
15 This is animal feces over to the left, the bottom left,  
16 and a blanket folded on top up there. Looks like there's  
17 a fan in the window also on the ground.

18 Q And 5 of 14?

19 A This is a closer-up picture of that feces  
20 that's on the ground as well as some urine stains, a  
21 pillow on the ground that has urine on it.

22 Q And if you could turn to 7 of 14, so I'm  
23 having you skip one.

24 Can you please identify that?

1           A     At the top here, this is baby food. It looks  
2 like rice cereal, formula. And then towards the bottom  
3 is a bed where people would sleep. This is just --

4           Q     Then if you could turn to 12 of 14, is that a  
5 close-up as well?

6           A     This is a pile of clothing and looks like  
7 linens and a pillow. Looks like there's feces on the  
8 towel right there, food on the ground underneath the  
9 chair.

10          Q     You testified you believe this is where  
11 Ms. Guerrero was residing; is that correct?

12          A     Yes.

13          Q     What was the basis for that belief?

14          A     The day before, this is the address that she  
15 gave me, that she told me that she was living in a room  
16 in this house. This room that has pictures -- that the  
17 pictures are taken in, if you look at Exhibit FF-5, those  
18 are shoes that I've seen Ms. Guerrero wear on multiple  
19 occasions. If you look on FF-10, those are items of  
20 clothing that I had seen her wear during -- on multiple  
21 occasions.

22                     The food located in FF-7, at the top is food  
23 that would be age-appropriate for a child that was  
24 Ethan's age at the time, who was nine months, food that I

1 had seen Ms. Guerrero have and feed Ethan in the past.

2 Additionally, the landlord of the home told  
3 me that she --

4 MR. ELKINS: Objection.

5 THE WITNESS: Oh, that's hearsay.

6 THE COURT: That's hearsay, yeah.

7 BY MS. ELCANO:

8 Q Had Ms. Guerrero provided any other  
9 alternative residences to you?

10 A No.

11 Q So no other addresses?

12 A No.

13 Q So you indicated, I think, based on the  
14 condition of the home, a warrant was obtained?

15 A Yes.

16 MS. ELCANO: And, again, Your Honor, in  
17 Exhibit B there is a copy of the warrant.

18 BY MS. ELCANO:

19 Q What was the basis for the warrant?

20 A Due to the living environment posing a safety  
21 threat to Ethan.

22 Q Did you execute this warrant?

23 A I did.

24 Q And where was Ms. Guerrero and Ethan when you

1       executed this warrant?

2               A       She was staying at a woman named -- she was  
3       at a woman named Miss Stalker's home.

4               Q       And what occurred when you arrived?

5               A       I informed Jackie, or Ms. Guerrero, outside  
6       that we had a warrant to place Ethan in custody. In  
7       explaining why, I told her that the home, the address  
8       which she gave me and told me that she was staying, was  
9       absolutely filthy.

10              She replied to me that she hadn't had a  
11      chance to clean it, that she had been busy, and at that  
12      time Ms. Stalker was not permitting to let me in her  
13      residence to obtain custody of Ethan, so I contacted Reno  
14      Police Department to assist me.

15              Q       And you indicated that Ms. Guerrero was at  
16      the Stalker home.

17              What day was this?

18              A       That was on the 11th of September.

19              Q       Of?

20              A       2014.

21              Q       And did you have any indication that  
22      Ms. Guerrero was residing there?

23              A       No.

24              Q       Did she tell you she was?

1           A       She did later but not at the time that I was  
2 there.

3           Q       And approximately when did she allege she was  
4 residing with the Stalkers?

5           A       During the protective custody hearing.

6           MS. ELCANO: And, Your Honor, Ms. Stalker is,  
7 I believe, going to be a witness, so I would like to ask  
8 Ms. Tyre the conversation that she had with Ms. Stalker  
9 as opposed to calling her as a rebuttal witness, if the  
10 Court would permit me to.

11           MR. ELKINS: I object. I object. I have no  
12 idea what she's going to say with regard to whatever it  
13 is Ms. Tyre is giving this anticipatory testimony about.  
14 I don't know if it will actually be admissible based upon  
15 her testimony, so it's -- it's just improper, Judge.

16           MS. ELCANO: I believe the basis is alleged  
17 in the trial statement as well as in the opening  
18 statement that Ms. Stalker will specifically testify to  
19 the fact that she was --

20           THE COURT: I'm going to allow her to testify  
21 about what Ms. Stalker said to her, but if it's not --  
22 I'll admit it subject to it being tied up by the  
23 testimony of Ms. Stalker, and if we don't have that, then  
24 I will not consider it.

1 MS. ELCANO: Thank you.

2 MR. ELKINS: Judge --

3 THE COURT: I can choose the order --

4 MR. ELKINS: I don't doubt that, but I would  
5 like to be heard on this point.

6 THE COURT: You can go ahead and make your  
7 record.

8 MR. ELKINS: Thank you, Judge.

9 First of all, I obviously don't know what  
10 Ms. Tyre is going to say, but, secondly, the testimony  
11 would only be admissible presumably if it were in direct  
12 contradiction to something that the witness Ms. Stalker  
13 testified about.

14 THE COURT: I agree.

15 MR. ELKINS: And so there's no way to know,  
16 obviously, that that's going to be the case. Whatever  
17 she's going to say here I know is going to be prejudicial  
18 to my client, otherwise it wouldn't be asked.

19 THE COURT: Not always.

20 MR. ELKINS: I'm prepared to gamble on that,  
21 Judge.

22 And I submit to you, given the record at this  
23 juncture, that the prejudice significantly outweighs any  
24 probative value that it has if the only purpose is to

1     avoid inconveniencing the witness by having her come back  
2     for a few minutes to give rebuttal testimony. I mean,  
3     she's an employee of the agency, she's accessible to the  
4     district attorney's office, so under these circumstances,  
5     Judge, we would ask that she not be permitted to  
6     anticipate testimony because the prejudicial effect will  
7     be significant, I think, to my client.

8             THE COURT: Objection is overruled. The  
9     Court can decide the order of testimony. There's also a  
10    presumption that I have sense enough -- I shouldn't say  
11    "sense enough" -- I have the ability to set aside  
12    evidence I've allowed in if it turns out to be improper,  
13    and if this isn't tied up by subsequent testimony by  
14    Ms. Stalker, then I'll ignore it and strike the  
15    testimony, so --

16            MR. ELKINS: So my legal objection is there's  
17    no foundation.

18            THE COURT: That's fine. That's fine. And I  
19    don't necessarily disagree with you about whether -- I  
20    don't want this witness to have to come back unless  
21    something -- and, again, I am allowed to decide how the  
22    trial proceeds, so I can allow witnesses out of order,  
23    and that's kind of what we're doing here.

24            So go ahead. The objection is overruled.

1 I'll allow her testimony, but it would be admitted  
2 subject to it being tied up by Mrs. Stalker, and if this  
3 were a jury trial, I would absolutely not let it happen,  
4 but it's not, and I can ignore it if I don't hear  
5 something from Ms. Stalker that's substantially similar.

6 Go ahead.

7 MS. ELCANO: Thank you, Your Honor.

8 BY MS. ELCANO:

9 Q Did you speak with Ms. Stalker?

10 A Very briefly.

11 Q What was your conversation with Ms. Stalker?

12 A My interaction with Ms. Stalker was very  
13 chaotic and threatening. She's the reason I called Reno  
14 Police Department --

15 MR. ELKINS: Objection, Judge.  
16 Nonresponsive. The question was, what was the  
17 conversation?

18 THE WITNESS: My conversation was extremely  
19 limited with her.

20 BY MS. ELCANO:

21 Q Let's first talk about, what did you discuss  
22 with Ms. Stalker?

23 A I discussed allowing us to enter the home.

24 Q And would she allow you into the home?

1           A     No.

2           Q     Did you ask if Ms. Guerrero resided with her?

3           A     No.

4           Q     Did Ms. Stalker indicate to you that

5     Ms. Guerrero was presently residing with her?

6           A     No.

7           Q     Did Ms. Stalker indicate that Ms. Guerrero

8     could reside with her if she wanted to?

9           A     No.

10          Q     And Ms. Stalker's demeanor, would you please

11     describe that to the Court.

12          A     She was angry, cussing at me. It was all

13     very -- it was very chaotic. It's difficult to describe.

14          Q     So you indicated that you contacted the Reno

15     Police Department.

16                 Were you eventually allowed into the home?

17          A     Yes.

18          Q     And what occurred when you were allowed into

19     the home?

20          A     I continued to talk with Ms. Guerrero about

21     the reasons for removal and serve her with a warrant, and

22     then I took custody of Ethan.

23          Q     At any time while you were in the home did

24     Ms. Guerrero indicate, "This is where I sleep. This is

1       where I live"?

2               A       No.

3               Q       Did you observe anything of Ms. Guerrero's in  
4       the home?

5               A       I found one Pack 'n Play that was -- Ethan  
6       was in the Pack 'n Play when I was there.

7               Q       And did you go through the whole home?

8               A       Yes. I looked in every room.

9               Q       How many bedrooms?

10              A       It was a two-bedroom apartment, I believe.

11              Q       And did anyone reside, to your knowledge,  
12       with Ms. Stalker?

13              A       Yes.

14              Q       Who?

15              A       I believe she had children of her own and  
16       possibly another male. There was quite a few people in  
17       the home that didn't live there when I was there.

18              Q       And what occurred after -- at that juncture  
19       were you able to obtain Ethan and take him into custody?

20              A       Yes.

21              Q       And what occurred next?

22              A       I transported him to the foster home.

23              Q       And what foster home was that?

24              A       I believe her name is Sandra Matute.

1           Q     Were any other children placed with  
2 Ms. Matute at that time?

3           A     Yes. Ms. Guerrero's three other children are  
4 placed with her.

5           Q     Aside from the services you've already  
6 discussed, were any additional services offered to  
7 Ms. Guerrero?

8           A     Not by myself.

9           Q     To your knowledge, was Ms. Guerrero employed  
10 based on your conversations with her?

11          A     Not to my knowledge.

12          Q     To your knowledge, based on your  
13 conversations with Ms. Guerrero, how was she meeting the  
14 basic needs of Ethan and herself?

15          A     She had initially been meeting the basic  
16 needs through Mr. Hunt-Taylor, and then --

17               MR. ELKINS: Judge, I'm objecting because I  
18 don't know the basis of the witness's knowledge.

19               MS. ELCANO: I asked based on her  
20 conversations with Ms. Guerrero.

21               MR. ELKINS: Thank you.

22               MS. ELCANO: That was part of the question.

23               THE WITNESS: She had reported to me that she  
24 was initially meeting the needs based on Mr. Hunt-Taylor,

1 and then at the time, after the domestic violence  
2 incident, she had told me that her current boyfriend was  
3 helping her meet the basic needs of the house. Of Ethan,  
4 I'm sorry.

5 BY MS. ELCANO:

6 Q I'm sorry. I didn't hear the last part.

7 A Of Ethan.

8 Q Was Ms. Guerrero's boyfriend identified by  
9 her?

10 A Not to me. I knew his first name, but I  
11 didn't know any other information.

12 Q How did you obtain his first name?

13 A She told me.

14 Q And what was that?

15 A Alberto.

16 Q So was there a Present Danger Assessment  
17 completed by you in this case?

18 A Yes.

19 Q Can you please turn to Exhibit K, as in  
20 Kit-Kat?

21 Can you please identify that document?

22 A This is something that's completed in our  
23 system that's called a Present Danger Assessment.

24 Q And did you author this document?

1           A     Yes.

2           Q     And what was the conclusion of your Present  
3 Danger Assessment?

4           A     That the present danger was identified for  
5 Ethan.

6           Q     And because of that present danger, what  
7 occurred?

8           A     He was placed into custody.

9           Q     Thank you.

10                And did you complete a Safety Plan  
11 Determination in this case?

12           A     Yes.

13                THE COURT: Are you going to move for the  
14 admission of K?

15                MS. ELCANO: I'm sorry. Thank you. I was  
16 powering through.

17                I would request that Exhibit K be admitted  
18 into evidence.

19                THE COURT: Same objection?

20                MR. ELKINS: Same objection, Judge.

21                THE COURT: Same ruling. Exhibit K is  
22 admitted.

23                (Petitioner's Exhibit K was admitted.)

24     /////

1 BY MS. ELCANO:

2 Q Did you complete a Safety Plan Determination  
3 in this case?

4 A Yes.

5 Q When approximately did you do so?

6 A I think it was probably September 28th or  
7 thereafter.

8 Q Can you please turn to Exhibit O?

9 What is that document?

10 A This is a Safety Plan Determination.

11 Q And what was the conclusion from your Safety  
12 Plan Determination?

13 A That Ethan was not safe in his home.

14 Q What was the basis of that conclusion?

15 A That Ms. Guerrero did not have a permanent  
16 home, that she was unable to maintain a permanent home  
17 for she and Ethan, and that we had put reasonable efforts  
18 into trying to assist her with that.

19 Q Did you author the Safety Plan Determination?

20 A Yes.

21 Q And is it a true and accurate copy?

22 A Yes.

23 MS. ELCANO: I would request that Exhibit O  
24 is entered into evidence.

1 THE COURT: Any objection?

2 MR. ELKINS: Same objection, Judge.

3 THE COURT: Same ruling. Exhibit O is  
4 admitted.

5 (Petitioner's Exhibit O was admitted.)

6 BY MS. ELCANO:

7 Q Did you complete a Safety Plan in this case?

8 A Yes.

9 Q Can you please turn to Exhibit M, as in Mary.  
10 Can you please identify that document?

11 A This is a Safety Plan.

12 Q Did you author this document?

13 A Yes.

14 Q Is it a true and accurate copy?

15 A Yes.

16 MS. ELCANO: I would request that Exhibit M,  
17 as in Mary, is admitted into evidence.

18 THE COURT: Any objection?

19 MR. ELKINS: Same objection.

20 THE COURT: Same ruling. M is admitted.

21 (Petitioner's Exhibit M was admitted.)

22 BY MS. ELCANO:

23 Q What was your conclusion in this Safety Plan?

24 A That Ethan would reside with Sandra Matute,

1       who is the foster parent and who would provide for his  
2       basic needs.

3               Q       Did you complete a NIA in this case?

4               A       Yes.

5               Q       Can you please turn to Exhibit I?

6                       What is that document?

7               A       This is the NIA that I completed.

8               Q       So you authored this?

9               A       I did.

10              Q       Is it a true and accurate copy?

11              A       Yes.

12              Q       Was there maltreatment found in this case?

13              A       Yes.

14              Q       So was it substantiated?

15              A       Yes.

16              Q       And what was the basis of the maltreatment?

17              A       Neglect, specifically environmental neglect.

18              Q       Can you explain to the Court a little bit  
19       more what environmental neglect is?

20              A       When a child is found in a home in which the  
21       environment poses a safety to the child, we substantiate  
22       for environmental neglect because a parent allowed their  
23       child to reside in that home.

24                       MS. ELCANO: I would request Exhibit I is

1 admitted into evidence.

2 THE COURT: Any objection?

3 MR. ELKINS: Same objection.

4 THE COURT: Same ruling. I is admitted.

5 (Petitioner's Exhibit I was admitted.)

6 BY MS. ELCANO:

7 Q Ms. Tyre, did you complete Conditions for  
8 Return?

9 A Yes.

10 Q And could you please turn to Exhibit Q, as in  
11 question.

12 What is that document?

13 A This is a Conditions for Return document.

14 Q Did you author that document?

15 A Yes.

16 Q Is it a true and correct copy?

17 A Yes.

18 Q And what were the conditions for return  
19 identified?

20 A That Ms. Guerrero would be willing to work  
21 with Washoe County Department of Social Services, that  
22 she would continue to provide her address and allow  
23 access to wherever she had been residing, that there --  
24 that Ms. Guerrero and Mr. -- and/or Mr. Robert

1 Hunt-Taylor would be planful about using resources and to  
2 properly provide for basic needs, that Ms. Guerrero was  
3 in a home that Ethan could reside with her, that there is  
4 no indication that unknown persons are frequenting in and  
5 out of the home. Those are the ones that apply to  
6 Ms. Guerrero.

7 Q Thank you.

8 MS. ELCANO: I would request that Exhibit --  
9 Was that already admitted, Q?

10 THE COURT: I think Q has already been  
11 admitted.

12 MS. ELCANO: Sorry. I'm getting tired.

13 THE COURT: I keep saying the clerk knows.  
14 That has an X through it.

15 BY MS. ELCANO:

16 Q Was your investigation concluded at this  
17 point?

18 A Yes.

19 Q And was the case transferred to someone else  
20 as a result?

21 A Yes.

22 Q Who was the case transferred to?

23 A Malia Seronio.

24 Q And is she present here today?

1           A     Yes.

2           Q     And can you please identify her?

3           A     She is right here (indicating).

4           Q     Thank you.

5           MS. ELCANO: I believe those are all the  
6 questions I have at this juncture, Your Honor.

7           THE COURT: Pass the witness?

8           MS. ELCANO: Yes.

9

10                           CROSS-EXAMINATION

11       BY MR. ELKINS:

12           Q     Good afternoon, Ms. Tyre.

13                     Let's go back to Exhibit H, the NIA that you  
14 created. I call your attention to page 2.

15                     This is the letter relating to your  
16 investigation of July 11th.

17           A     Yes.

18           Q     With regard to the domestic violence  
19 incidents that you referred to, it was your conclusion,  
20 was it not, that the child was not placed at risk as a  
21 result of that?

22           A     Yes.

23           Q     Okay. Thank you.

24                     And on July 11th Ms. Guerrero lived in the

1 trailer on Fourth Street with Mr. Hunt-Taylor; was that  
2 your understanding?

3 A Yes.

4 Q And you went there?

5 A Yes.

6 Q And that was the same trailer that had been  
7 visited either the same day or day before by  
8 Ms. Meszaros?

9 A Yes.

10 Q In your Safety Plan Determination you  
11 indicated one of the conditions of return was that -- or  
12 one of the issues, obstacles, to return was that  
13 Ms. Guerrero did not have a permanent home; correct?

14 A Right.

15 Q So is it fair to say your understanding was  
16 that that room that you saw was not her permanent  
17 residence; correct?

18 A Throughout my investigation, yes.

19 Q Let's look at those photographs.

20 Let me just ask you -- I think they're ZZ --

21 A FF.

22 Q FF, there it is.

23 First of all, before we go there, the woman  
24 who resided there, she was elderly; right?

1           A     She was.

2           MR. ELKINS: Judge, I'm elderly, too.

3           THE COURT: Experienced.

4   BY MR. ELKINS:

5           Q     In fact, she was very old, wasn't she?

6           A     Yes, she was old.

7           Q     And did you ever see her move from the couch?

8           A     She answered the door.

9           Q     Did she appear to be infirm?

10          A     The contact I had with her, she was moving.

11          Q     Was she sighted?

12          MS. ELCANO: Objection. I don't know who  
13       "she" is.

14          MR. ELKINS: The woman who was present in the  
15       trailer when you arrived.

16          MS. ELCANO: Can we have a name or can we  
17       identify this alleged woman?

18   BY MR. ELKINS:

19          Q     Did she give you a name?

20          A     I don't recall.

21          Q     How superannuated was she?

22          A     I mean, it's difficult from just my contact  
23       with her, but she -- I don't think she had 20/20 vision,  
24       but she could see me and look at me when I talked to her.

1 She was able to get up and answer the door, she walked  
2 back and forth in the hallway a couple times, but she was  
3 very elderly.

4 Q Okay. So she wasn't spry, by any means;  
5 correct?

6 A No.

7 Q And she was, as you said, very elderly.  
8 There was a dog? Did you see the dog?

9 A I did not see the dog.

10 Q Did you see evidence of the dog?

11 A I saw evidence of the dog.

12 Q You don't know where the dog was?

13 A No.

14 Q Ms. Tyre, you never saw Ethan in this  
15 trailer? Is it a trailer or a room or --

16 A It was a room in a trailer.

17 Q So not a hotel or motel?

18 A No, no, no.

19 Q But a trailer?

20 A Yes.

21 Q So you never saw Ethan there, did you?

22 A No.

23 Q You never saw Ms. Guerrero there?

24 A No.

1           Q     And, in fact, isn't it true that you believe  
2     that Ms. Guerrero was avoiding you?

3           A     At that time, no.

4           Q     Well, did you come to determine or decide  
5     that she was probably avoiding you?

6           A     I believed she was before, but she gave me  
7     her address and set an appointment with me.

8           Q     But before you went to this trailer, you  
9     believed she was avoiding you; is that correct?

10          A     Yes, uh-huh.

11          Q     Did you tell the judge who issued the warrant  
12     that you had never seen Ms. Guerrero or Ethan at that  
13     room?

14          A     I don't recall exactly what I said.

15          Q     I'm going to show you what has been  
16     marked -- I call your attention to FF-4, which sounds  
17     like a fighter jet but is actually a photograph.

18                 In FF-4, that depicts -- let me ask you this:  
19     What were the dimensions of this room?

20          A     10-by-14.

21          Q     So it wasn't very big?

22          A     No.

23          Q     Looking at FF-4, FF-5, could a person  
24     reasonably walk around in that room? Is there room to

1 walk?

2 A Yeah. I walked in there.

3 Q Well, is it fair to say that most of the

4 floor is covered with, looks like, linens and a box,

5 diapers, some paper?

6 A Well the diapers I brought.

7 Q I'm sorry?

8 A I brought the diapers.

9 Q This box with the child's picture on it?

10 A Yes. Remember, the agreement was I was going

11 to bring her diapers.

12 Q I see.

13 A So I brought those.

14 Q So that box you put in the room?

15 A I didn't. The lady who you're talking about,

16 the elderly lady, put them there for me.

17 Q I see. So how did that come about? You went

18 to the door and gave her the box?

19 A Uh-huh.

20 Q And she --

21 A And she turned around and put it in there.

22 Then she came back to the door.

23 Q How far -- I'm sorry to interrupt you.

24 A Just -- I mean, just turned not very far, two

1 steps, three steps.

2 Q This room is two steps from the door?

3 A Uh-huh.

4 Q So she put the box in there, and then you  
5 followed her in; is that correct.

6 A Yeah. Well, I talked with her outside for  
7 quite some time first.

8 Q Is it fair to say, Ms. Tyre, it would be  
9 difficult to move around in that room with all of the  
10 clutter?

11 A I don't know that I would say that. If it  
12 was clutter that was hard like tables or things that you  
13 wouldn't really be moving. You can step on a pillow.

14 Q But most of the floor is covered with, it  
15 looks like, some kind of linens; is that right? Or  
16 different objects; correct?

17 A Yes.

18 Q If you look on the floor, there are obviously  
19 dog feces; correct?

20 A Are you looking at FF-5 still?

21 Q I'm looking at -5, yes.

22 A Okay. Yes.

23 Q Do you see dog feces?

24 A Yes.

1           Q     It looks like a dog or some kind of animal  
2     has urinated on the carpet?

3           A     Yeah. Urine was everywhere.

4           Q     Did you ask -- well, you didn't see a dog?

5           A     No.

6           Q     Do you see anywhere in these photographs or  
7     did you see anywhere in the room one of those things that  
8     the kid sits in that looks like a saucer.

9           A     A bouncy chair?

10          Q     A bouncy chair, did you see anything like  
11     that?

12          A     No.

13          Q     Did you see any push toy thing that a child  
14     might push around?

15          A     No.

16          Q     Did you see any children's toys at all?

17          A     There was, throughout the clutter, children's  
18     items, yeah.

19          Q     Did you see a toy? Can you point that out to  
20     me?

21          A     There's a teddy bear on the bed.

22          Q     Let me just make it a little bit simpler.

23                 When you went to the trailer on the 11th, did  
24     you see items that belong to a child? Did you see a

1       bouncy chair?

2               A       Yes.

3               MS. ELCANO:  Objection.  Asked and answered.

4               MR. ELKINS:  No.  This is a different

5       location.

6               MS. ELCANO:  I apologize.

7               THE WITNESS:  I don't specifically recall a

8       bouncy chair, but I believe there was toys, yeah.

9       BY MR. ELKINS:

10              Q       Toys and other objects belonging to a child,

11       for a child; correct?

12              A       Yes.

13              Q       Did you see any of those things in this room?

14              A       No.

15              Q       The food items that appear in -7 on the

16       shelf, those are things that don't spoil; correct?  Or if

17       they do, it's over a long period of time?

18              A       Yes.

19              Q       Did you check to see in the refrigerator --

20       the trailer, did it have a refrigerator?

21              A       I didn't look for a refrigerator.

22              Q       So you don't know if there was any food items

23       that a child would eat in the refrigerator or anything

24       like that?

1 A Right.

2 Q So the items that you believe belong to  
3 Ms. Guerrero are the shoes on -5; is that correct?

4 A Yes.

5 Q And anything else?

6 A The clothing in the closet.

7 Q Let's go to Photograph No. 10.

8 There are -- the photograph, would it be fair  
9 to say, is not that clear?

10 A No, it's not that great.

11 Q It appears that there are a number of empty  
12 hangers in there; is that correct?

13 A I see some.

14 Q In fact, there are what, three or four  
15 shirts, maybe, hanging up there?

16 A Uh-huh.

17 Q And that's it?

18 A That's what I see, yeah.

19 Q When you went to the Stalkers' and -- so you  
20 eventually got inside even though there was resistance;  
21 correct?

22 A Uh-huh.

23 Q Let me ask you this: When you first got  
24 there, who met you at the door?

1           A     Ms. Stalker.

2           Q     And so Ms. Guerrero did not come to the door?

3           A     She did not.

4           Q     How did you learn that Ms. Guerrero was

5     within?

6           A     I asked for her.

7           Q     And did she come to the door at that point?

8           A     Yes. She stepped outside with me.

9           Q     There came a time when you got into the

10    Stalker residence; correct?

11          A     Yes.

12          Q     Was it clean?

13          A     It wasn't unsafe.

14          Q     Okay. So it was normal?

15          A     Normal.

16          Q     And within a room, a bedroom, in the Stalker

17    residence there was a Pack 'n Play; is that right?

18          A     No. It was like in the kitchen/dining area.

19          Q     Okay. It was folded up? .

20          A     No. Ethan was, I believe, standing in it

21    when I got there.

22          Q     So the child was in a Pack 'n Play in the

23    Stalker apartment?

24          A     Uh-huh.

1           Q     Ms. Tyre, at that point was there any  
2 imminent risk to that child that you could perceive?

3           A     That was the reason that we got the warrant.

4           Q     At the point that you saw him standing in the  
5 Pack 'n Play at the Stalker residence, was there any risk  
6 to him imminently?

7           A     No.

8           Q     So the reason you believe that Ms. Guerrero  
9 lived in this room in this trailer is because that's  
10 where she said you could meet her; is that right?

11          A     That's where she told me she was living.

12          Q     Right. Because she wanted to meet you there  
13 because she wanted diapers?

14          A     I said, "I need to see your home. Where are  
15 you living?"

16                     And she said, "This is my address."

17          Q     Did it ever occur to you, Ms. Tyre, that she  
18 might have been misleading you about where she lived?

19                     MS. ELCANO: Objection. Speculation.

20                     MR. ELKINS: She's an assessment worker,  
21 Judge.

22                     THE COURT: You know, that's a thought that  
23 came to my mind. I wrote it in my notes, so I've already  
24 answered that question. Let's move on.

1 BY MR. ELKINS:

2 Q Ms. Tyre, was there any reason that you could  
3 see that leaving the child and the mother at the Stalker  
4 residence would present a risk in terms of the  
5 environment?

6 A I wasn't sure that they could stay there.

7 Q Let's assume for the sake of argument, since  
8 you're not going to be re-called, that she could stay  
9 there. Was there anything about that residence that  
10 posed an environmental risk that you could see?

11 MS. ELCANO: Objection. Calls for  
12 speculation. Ms. Tyre has testified that --

13 THE COURT: Well, it's a -- you're right,  
14 it's a speculative question, but I let her testify about  
15 Stalkers' and now we've got Stalker here.

16 Answer the question.

17 THE WITNESS: I didn't see any supplies for a  
18 child beyond a Pack 'n Play. So at that point I would  
19 say that that would long term be a risk of safety. There  
20 wasn't any food there for him, no clothing, no diapers,  
21 no wipes.

22 BY MR. ELKINS:

23 Q How long did you spend in the Stalker  
24 residence?

1           A     About 20 minutes.

2           Q     Did you inspect the cupboards?

3           A     No.

4           Q     Did you open the refrigerator?

5           A     No.

6           Q     So you don't know what was in the cupboards,  
7 do you?

8           A     Like I said, the only thing that I could see  
9 was a Pack 'n Play.

10          Q     But there were cupboards, were there not?

11          A     There was.

12          Q     But my question was environmental.

13                Was there anything environmentally about the  
14 apartment where Ethan was found that would pose a risk to  
15 him?

16          A     Not at that moment.

17                MR. ELKINS: Judge, I have no further  
18 questions.

19                MS. ELCANO: Your Honor, if we may continue  
20 just so we can finish up tonight, I just have a few.

21                THE COURT: How long do you think we'll be  
22 here?

23                MS. ELCANO: I hope not more than five or ten  
24 minutes, Your Honor.

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THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. ELCANO:

Q Ms. Tyre, you were asked about a permanent residence. How would you define a permanent residence?

A Somewhere where you can stay longer than a few days or a few weeks.

Q And why was a permanent residence an issue with Ms. Guerrero?

A Because in my experience and time that I had spent with her, there was nowhere that she had stayed for more than a few weeks.

Q Was the permanent residence the only issue or concern at the time of removal?

A No.

Q What were the other concerns?

A As part of my NIA, I identified that Ms. Guerrero lacked skills and motivation in order to parent and keep a child safe, and the reason I marked that impending danger was because we had offered her services and services, and they weren't followed through. Had she followed through with services that we offered her, she would have had a permanent residence that was

1     paid for by Section 8 housing.  However, she lost the  
2     Section 8 housing because she didn't follow through.

3                 So as far as an assessment of parenting in  
4     general, it's difficult to provide more services than  
5     most clients get because of her unique situation and all  
6     the services she qualified for and have a client not take  
7     advantage of even one of those services.

8                 In order to parent a nine-month old, even  
9     just a nine-month old, you need to have motivation enough  
10    to fill out a lease and turn it in when someone is  
11    offering you hundreds of dollars of free money and would,  
12    you know, complete the issues that we were identifying in  
13    the home.

14                Q     Where had, based on your conversations with  
15    Ms. Guerrero and your personal observations, had  
16    Ms. Guerrero resided prior to this Fourth Street  
17    residence?

18                A     She had resided with Mr. Hunt-Taylor.  I  
19    think at one point she had reported to me she resided  
20    with her father.

21                Q     And in regards to Mr. Hunt-Taylor, where was  
22    that?

23                A     That was a different trailer off of Fourth  
24    Street.

1           Q     And at any point did you discuss with  
2     Ms. Guerrero why she no longer resided there?

3           A     It was after the domestic violence incident,  
4     and although Mr. Hunt-Taylor was in jail, he was the  
5     reason that they could provide for that residence, and so  
6     she was unable to sustain it because she couldn't pay for  
7     it, essentially.

8           Q     To your knowledge, based on observations or  
9     discussions with Ms. Guerrero only, what happened to the  
10    contents of that prior residence with Mr. Hunt-Taylor?

11          A     My knowledge was that she never returned back  
12    there after the domestic violence incident.

13          Q     And when you went to remove Ethan, what was  
14    Ms. Guerrero's reaction?

15          A     I initially, you know, asked her about the  
16    condition of the place. I said, "Why didn't you meet  
17    me?" You know, that would be what I first asked her.

18                 And she had said that there was something  
19    happening, that, you know, she had been in the hospital,  
20    she was not feeling well.

21                 And then I asked her, you know, "Why  
22    does -- why does that room look like that? Why is it  
23    like this?"

24                 And she said, "Well, I didn't have time to

1 clean. I, you know, have been distracted with being  
2 sick, and so I just came to my cousin's house because  
3 they were watching Ethan while I was in the hospital."

4 Q You testified that there was no environmental  
5 risk at this residence with the Stalkers, so why did you  
6 remove Ethan?

7 A I had received a report in July about  
8 Ms. Guerrero in the home environment. We have history  
9 that she struggled to maintain a safe home environment.  
10 I poured as many resources as I could think of and that I  
11 could come up with to try to keep Ethan in her care.

12 At that point it's unmanageable by the agency  
13 when we have to be hunting her down, finding her every  
14 week, checking the home all the time. It's not  
15 manageable for us to do that. And when I walked into  
16 this room, it was clear to me, from what I could see and  
17 my experience, that she was staying there, and the  
18 information that I was able to collect from other  
19 people -- that's how we do our investigations -- that she  
20 was living there, that she had been there.

21 MR. ELKINS: Objection. Objection. I move  
22 to strike that.

23 MS. ELCANO: Your Honor, this is the basis  
24 for her conclusion and removal.

1 THE COURT: I agree. The objection is  
2 overruled.

3 Go ahead.

4 THE WITNESS: That was my assessment.

5 I was conducting, at the time that I went to  
6 this home, my last home check just to check it off the  
7 box and close the case. In no way was I anticipating to  
8 have to remove Ethan, in no way was I wanting to remove  
9 Ethan, but at that point we didn't have another choice.

10 We couldn't allow Ethan to go back to that  
11 home. We couldn't control where Ms. Guerrero was staying  
12 because she was so uncooperative with me up until that  
13 time. The only place she would meet with me was in the  
14 agency, and at that point I couldn't risk that she would  
15 return back to this house or that she even had anywhere  
16 to go with Ethan.

17 BY MS. ELCANO:

18 Q And Ms. Guerrero never indicated to you that  
19 she was living with the Stalkers?

20 A No. Not until the protective custody  
21 hearing.

22 Q Which was approximately how many days later?

23 A Within 72 hours.

24 Q And you also indicated that you didn't look

1 at the cupboards. Why not?

2 A Because it wasn't a home I did an  
3 investigation on. I don't have the ability to look in  
4 the cupboards or closets.

5 MS. ELCANO: I have no further questions.

6

7 RECROSS-EXAMINATION

8 BY MR. ELKINS:

9 Q VOCA, you said that they would pay the  
10 deposit and fees; correct?

11 A Yes.

12 Q Did you know what Ms. Guerrero's source of  
13 income was as of August of 2014?

14 A She did not have a source of income.

15 However --

16 Q She didn't have any public assistance, did  
17 she?

18 MS. ELCANO: Objection. Could you let her  
19 answer the question?

20 MR. ELKINS: I believe I got an answer,  
21 Judge.

22 MS. ELCANO: Cutting her off doesn't --

23 THE COURT: Okay. Let's finish up here so we  
24 can all go home for the day.

1 BY MR. ELKINS:

2 Q Was she getting any public assistance?

3 A Yes. Section 8 had approved her and was  
4 going to pay for her residence.

5 Q How does Section 8 work; do you know?

6 MS. ELCANO: Your Honor, I would object to  
7 this being outside of the redirect. This was asked on  
8 direct, it was not asked on cross, and it was not  
9 mentioned on redirect.

10 THE COURT: Objection overruled.

11 Go ahead.

12 THE WITNESS: Ms. Guerrero told me that  
13 Section 8 was going to pay the majority portion of her  
14 rent and that Alberto was going to provide the rest of  
15 the money.

16 BY MR. ELKINS:

17 Q Do you know how Section 8 works?

18 A I believe I have an understanding.

19 Q Okay. Are you aware that it required a \$300  
20 deposit?

21 A Yes.

22 Q And a \$75-, I think, -a-month utility fee?

23 A Yes.

24 Q Isn't it also true that as of August of 2014

1 Ms. Guerrero was time limited and had to sit out in her  
2 TANF benefits? Did you know that?

3 MS. ELCANO: Objection. That's way out of  
4 the scope.

5 MR. ELKINS: Judge, she just testified about  
6 her income.

7 THE COURT: Objection overruled. Finish it  
8 up.

9 THE WITNESS: I did know that.

10 BY MR. ELKINS:

11 Q You did know that?

12 A Yes.

13 Q So you knew she did not have any TANF  
14 benefits?

15 A Yes.

16 Q So had she obtained the VOCA residence, how  
17 would you expect her to pay the rent?

18 A It's not a VOCA residence.

19 Q I'm sorry. Let me rephrase that.

20 Had VOCA paid a deposit, right, how would she  
21 have paid the rent?

22 A Majority of the time VOCA will continue to  
23 pay rent for up to three years six months. In addition,  
24 Ms. Guerrero asked -- I talked with Ms. Guerrero multiple

1 times about her finances, how she was going to provide  
2 for basic needs. She told me that Alberto was supporting  
3 her and paying her -- and would pay the assisted rent.

4 Q So you knew that she had no public assistance  
5 and she would have to rely on Alberto, presumably, if  
6 she's going to pay rent for the residence that VOCA got  
7 her; is that correct?

8 A Yes.

9 Q Okay. When you went to that room, your  
10 intention was to drop off the diapers and close the case;  
11 is that right?

12 A Yes.

13 Q Doesn't that mean that up to that point you  
14 had decided that the child was essentially safe in the  
15 care of his mother?

16 A Yes.

17 MR. ELKINS: I don't have any further  
18 questions, Judge. Thank you.

19 THE COURT: Okay.

20 MS. ELCANO: Thank you, Your Honor. I would  
21 request that Ms. Tyre is excused. Again, I'm not certain  
22 if opposing counsel has --

23 THE COURT: Okay. You're excused. The  
24 record should --

1 MR. ELKINS: I'm sorry, Judge. I apologize.  
2 We have no further need for Ms. Tyre. Thank you.

3 THE COURT: So you're free.

4 THE WITNESS: Thank you.

5 THE COURT: Real quickly -- well, actually,  
6 unless there's something more on the record we need  
7 to -- let's let these people leave.

8 How are we doing on time?

9 MS. ELCANO: Your Honor, I think we're doing  
10 relatively well. I am hopeful that the -- Dr. Aberasturi  
11 and Dr. Rogina, their reports have been, I believe,  
12 agreed to be admitted. They've also been identified as  
13 experts, and it's my understanding that there will be no  
14 objection to them being called as experts in their  
15 fields, so I anticipate that their testimony will be  
16 brief in the sense we won't have to go through their  
17 qualifications as well as getting the documents into  
18 evidence.

19 I do anticipate a few more witnesses,  
20 obviously. I'm hopeful that I can conclude by Wednesday  
21 afternoon at the latest. That's my goal. I think that a  
22 lot of the exhibits are in at this point, which tends to  
23 be where I think we're having the biggest hiccup in terms  
24 of objections and whatnot, so I do hope that --

1 THE COURT: Well, I don't know -- I don't  
2 have control over the space that I'm occupying to do  
3 this.

4 How do you feel? If she's done by Wednesday,  
5 are we going to be done by Friday at 5:00?

6 MR. ELKINS: I think so, Judge.

7 THE COURT: Friday at noon?

8 MR. ELKINS: Friday at noon?

9 THE COURT: Because we can -- even though I  
10 have to drive from Carson City, I can start earlier, and  
11 I can -- I don't like to go later, but we could take just  
12 an hour for lunch instead of an hour and a half.

13 I don't know if there's a courtroom available  
14 for me next week if we go over, so --

15 MR. ELKINS: I have to say, Judge, that my  
16 client will testify, and her testimony could take some  
17 time, so obviously we don't want to foreshorten her  
18 testimony because it's very important.

19 THE COURT: No. No.

20 MR. ELKINS: Many of the witnesses on our  
21 list have actually already testified. Ms. Menesini was  
22 on our list, Ms. Kraft, Ms. Tyre. Those witnesses have  
23 already testified.

24 THE COURT: You all think about it tonight

1 and I'll ask you in the morning. We'll start at 9:00  
2 again tomorrow, but if we need to, maybe we can start at  
3 8:30. Is that a problem for you guys?

4 MR. ELKINS: If we can get on Thursday, I  
5 think we'll be fine. I think, as I said, we have someone  
6 from Nevada State Welfare who will testify.

7 THE COURT: Nobody likes to hear this, but  
8 I'm retired now so I have all the time in the world.

9 MR. ELKINS: Every time you say that, Judge,  
10 I get a twinge of jealousy.

11 THE COURT: Well, for 55 years -- I started  
12 when I was 12 and went until I was 67, so --

13 MS. ELCANO: If we are able to start at 9:00,  
14 I think that we got a late start today merely because of  
15 housekeeping issues, so I think that we will have a  
16 better jump on the day.

17 THE COURT: Court's in recess.

18 MS. ELCANO: Thank you, Your Honor.

19 MR. ELKINS: Thank you.

20 (The proceedings adjourned at 5:22 p.m.)  
21  
22  
23  
24

1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

4 I, PEGGY B. HOOGS, Certified Court Reporter  
5 in and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by  
7 me at the time and place therein set forth; that the  
8 proceedings were recorded stenographically by me and  
9 thereafter transcribed via computer under my supervision;  
10 that the foregoing is a full, true and correct  
11 transcription of the proceedings to the best of my  
12 knowledge, skill and ability.

13 I further certify that I am not a relative  
14 nor an employee of any attorney or any of the parties,  
15 nor am I financially or otherwise interested in this  
16 action.

17 I declare under penalty of perjury under the  
18 laws of the State of Nevada that the foregoing statements  
19 are true and correct.

20 Dated this 10th day of September, 2015.

21  
22 Peggy B. Hoogs

23 Peggy B. Hoogs, CCR #160, RDR  
24

## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 22nd day of July 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Tyler Elcano, Deputy District Attorney  
Washoe County District Attorney's Office

I further certify that I served a copy of this document by providing a copy to:

Jacqueline Guerrero.

John Reese Petty  
Washoe County Public Defender's Office

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RENO, NEVADA; MONDAY, AUGUST 31, 2015; 1:21 P.M.

THE COURT: This is Case No. FV14-03897 in the matter of the parental rights as to the Taylor children. There's four of them. The parties are present with their clients.

Ms. Elcano, your witness.

MS. ELCANO: Thank you, Your Honor.

MR. ELKINS: Sorry, Judge. May I be heard briefly --

THE COURT: Yes.

MR. ELKINS: -- since I have an existing objection.

First of all, I want to clarify that there were two discovery submissions. One was in April, one was in July. In the July submission, on pages 2715 to 2755, there were the results or the documents relating to these 2009-2010 unsubstantiated reports. So Ms. Elcano is absolutely correct, she did include that in discovery. I have found it and reviewed it.

THE COURT: I assume everybody tells me the truth unless it's proven otherwise, so that's fine.

1 MR. ELKINS: And I did tell Ms. Elcano. I  
2 just don't know why I didn't find the original.

3 THE COURT: I can't believe you'd miss pages  
4 in 2,000 documents. That was the good thing about -- I  
5 don't know when you started, but we didn't have the  
6 amount of paperwork we have now. I'm kind of glad it's  
7 not too far until I die, and then I don't have to worry  
8 about it anymore.

9 MR. ELKINS: I can remember large tables  
10 covered with books.

11 I would like to be heard further, though,  
12 Judge, on this evidence, if you would.

13 I'd like, first of all, to be able to voir  
14 dire the witness on what an unsubstantiated report means  
15 because I think it goes to its probative value as opposed  
16 to its potential prejudice to my client.

17 THE COURT: I'm not so sure I want to hear  
18 about -- the fact there was one, I guess, but I don't  
19 want to hear much more than that.

20 MR. ELKINS: If that's how you rule, Judge.

21 THE COURT: Because reports that weren't  
22 unsubstantiated, then I don't --

23 MR. ELKINS: If that's your ruling --

24 THE COURT: Out of an abundance of caution,

1 I'm not sure I should be hearing facts that weren't  
2 substantiated. It's fine if they were and, as a result,  
3 you decided that your danger assessment -- it was part of  
4 what caused you to make a danger assessment, that's fine,  
5 but I'm really troubled, even when I was in your  
6 position, Ms. Elcano, as a district attorney, listening  
7 to -- sort of like the DEA agents that were always  
8 telling me that everybody was -- they had informant  
9 information. That's kind of what unsubstantiated reports  
10 are. So unless it's absolutely necessary and you can  
11 give me a good reason for it --

12 MS. ELCANO: Your Honor, I was merely trying  
13 to provide the history briefly associated and just  
14 establish the fact that there had been prior reports,  
15 they were unsubstantiated, and they were here today.

16 THE COURT: And we're not going to go into  
17 what those unsubstantiated reports were --

18 MS. ELCANO: No, I wasn't planning on doing  
19 that.

20 THE COURT: That's fine, Because that goes to  
21 some limited degree into her basis for opinions that she  
22 has, but it's -- you know, just like I used to tell the  
23 DEA agents, if you get more than informant information  
24 about it, then I'll listen to you about this particular

1 person, but until then I'm going to assume he's just as  
2 innocent as everybody else I know. The same thing with  
3 unsubstantiated reports; they're not even worth the paper  
4 they're written on most of the time.

5 So go ahead.

6 BY MS. ELCANO:

7 Q So let me back up a little bit, Ms. Menesini.

8 So at the time you became involved in October  
9 of 2012, were you aware of any history prior with this  
10 family and Social Services here in Washoe County?

11 A Yes.

12 Q And how many reports had there previously  
13 been that you're aware of?

14 A We had received three previous  
15 investigations.

16 Q And were they substantiated?

17 A No.

18 Q And can you briefly tell the Court what  
19 substantiated versus unsubstantiated is in terms of  
20 reports being received by Social Services?

21 A Unsubstantiated means that the allegations of  
22 the report were found to be untrue. Substantiated means  
23 allegations of the report were found to be true.

24 Q Why did you initially become involved with

1       this family in 2012?

2               A       We had received a report that alleged  
3 concerns about lack of housing for the children.

4               Q       And what occurred upon receipt of this report  
5 in terms of your assessment and investigation?

6               A       When I received it, I did my normal  
7 investigation and assessment. We found that the  
8 allegations of the report were found to be  
9 unsubstantiated, which means untrue.

10              Q       And were the children removed?

11              A       No.

12              Q       And why not?

13              A       Because the children were assessed as safe  
14 because of the family finding another housing option for  
15 the children.

16              Q       So can you walk me through your investigation  
17 a little bit? I think you testified that there was an  
18 allegation they didn't have housing, so what happened  
19 once you went out to investigate that?

20              A       When I went out, I typically meet with the  
21 family and meet with the children. At that time they  
22 were being kicked out of a shelter place. However, they  
23 were able to get into another shelter, so we just kind of  
24 monitored it and provided some services as needed.

1           Q     And what services were provided to this  
2 family?

3           A     We provided them with a Section 8 housing  
4 list. We also provided them with some funding in trying  
5 to get into their own apartment, as well as the local  
6 resources that we have here in Reno.

7           Q     And who were the children involved in this,  
8 just to back up a little bit?

9           A     The children that I was involved with in  
10 October was Nathan, Kayleigh, and Roberto.

11          Q     And was Ms. Guerrero a part of this  
12 investigation?

13          A     Yes.

14          Q     And who else? Was there a father present  
15 or --

16          A     Mr. Robert Taylor.

17          Q     Did you complete a NIA?

18          A     Yes.

19          Q     And can you please briefly summarize the  
20 conclusions of your NIA?

21               MR. ELKINS: Objection, Judge. This is an  
22 unsubstantiated report we're talking about.

23               THE WITNESS: That is correct.

24               THE COURT: Well, it must have been. You

1        didn't remove the kids.

2                    THE WITNESS:    That is correct.    We found the  
3        allegations were found to be untrue.

4                    THE COURT:    So that was your NIA?

5                    THE WITNESS:    Yes.    And we found out the kids  
6        were safe.

7                    THE COURT:    See, you almost objected your way  
8        out of --

9                    MR. ELKINS:    Well, Judge, I would object  
10       going into the details is my objection.    We know that  
11       already.

12                   MS. ELCANO:    Your Honor, as the testimony  
13       will show, there are several investigations that  
14       Ms. Menesini was involved in that led eventually to the  
15       removal of the children in this particular case.    I think  
16       that this provides context to the issues the family was  
17       struggling with.    It also provides context to the  
18       decision of Ms. Menesini and her assessment and  
19       conclusions as a part of her assessment.    I think it  
20       shows there was this couple-month period, so --

21                   THE COURT:    That's fine.    Go ahead.

22                   MS. ELCANO:    Thank you.

23        BY MS. ELCANO:

24                   Q        What were the conclusions of your NIA?

1           A       From the NIA from October of 2012, the  
2 children were found to be safe.

3           Q       Okay. And could you please turn to  
4 Exhibit C, as in Charlie, in that binder. Can you please  
5 identify that document?

6           A       It's called the Nevada Initial Assessment.

7           Q       Did you author this document?

8           A       That is correct.

9           Q       Can you review the document and determine  
10 whether it's a true and correct copy of the Nevada  
11 Initial Assessment that you completed in October of 2012?

12          A       That is correct.

13                 MR. ELKINS: Judge, can you just give me a  
14 minute with Ms. Elcano?

15                 (A discussion was held off the record.)

16 BY MS. ELCANO:

17          Q       Ms. Menesini, the date and time that's up in  
18 the right-hand corner, can you please explain what that  
19 is to the Court?

20          A       The date and time is when the document was  
21 printed out.

22                 MR. ELKINS: Thank you.

23 BY MS. ELCANO:

24          Q       So it has no relation to when the document

1 was created; is that correct?

2 A That is correct.

3 Q So when was this document created?

4 A On April 14, 2013.

5 Q And can you explain that to the Court,  
6 because you identified this as your October NIA, so why  
7 is there the discrepancy in those dates?

8 A When doing this assessment of the family,  
9 usually we work with families for about 45 days, give or  
10 take. During this investigation we had three from  
11 October 2012, November 2012, and December of 2012, so we  
12 were working with the family, and then again, due to high  
13 caseloads, we did not create this until April 14, 2013.

14 Q Thank you. Is this a document you create and  
15 maintain in the normal course of business?

16 A Yes.

17 MS. ELCANO: I would request that Exhibit C  
18 is admitted into evidence, Your Honor.

19 MR. ELKINS: Objection to foundation, Judge.

20 THE COURT: This is a report prepared by you;  
21 right?

22 THE WITNESS: That is correct.

23 THE COURT: In regards to the investigation  
24 you made of the family?

1 THE WITNESS: Correct. From October 2013.

2 MR. ELKINS: May I voir dire, Judge?

3 THE COURT: Go ahead.

4

5 VOIR DIRE EXAMINATION

6 BY MR. ELKINS:

7 Q Ms. Menesini, the information contained in  
8 this report includes information or statements that are  
9 not based upon your personal knowledge; is that correct?

10 A My personal knowledge?

11 Q Yes.

12 A This is information gathered throughout my  
13 assessment.

14 Q And it includes statements made by others to  
15 you?

16 A That is correct.

17 Q And many of the others who made statements to  
18 you were not employees of your agency; correct?

19 A That is correct.

20 Q They didn't have any duty to report to you,  
21 did they?

22 A That is correct.

23 Q Also, this report was unsubstantiated; is  
24 that right?

1           A     That's correct.

2           Q     Which means that you found essentially that  
3 the allegations were not true, as you've testified to?

4           A     That's correct.

5           MR. ELKINS: I renew my objection, Judge.

6           MS. ELCANO: Your Honor, pursuant to NRS  
7 51.155, records, reports or statements that are done in a  
8 civil case as factual findings resulting from an  
9 investigation made pursuant to and authority granted by  
10 law are admissible but for hearsay. Additionally,  
11 pursuant to NRS 51.135, memorandum, report, record or  
12 compilation of data in any form for acts, events,  
13 conditions, opinions or diagnosis made at or near the  
14 time or from information transmitted by a person with  
15 knowledge, all in the course of a regularly conducted  
16 activity shown by testimony, are admissible as well.

17           THE COURT: Well, again, things that are  
18 contained in the report that are from her personal  
19 observations I'll admit for the truth of the matter  
20 asserted. Other matters I'll admit because she used it  
21 to generate the report, but it's hearsay and it could be  
22 multiple hearsays. It won't be admitted for the truth of  
23 the matter asserted. It will be admitted simply for the  
24 purpose of the conclusions she drew from the information

1 she gained.

2 MS. ELCANO: Thank you, Your Honor.

3 THE COURT: To that degree it's overruled.  
4 The objection is overruled.

5 And I've got this book full of exhibits. I'm  
6 not going to look at an exhibit until you've moved and  
7 had it admitted, so right now the only ones that I will  
8 look at are the ones I've already admitted. So go ahead.

9 MS. ELCANO: Thank you, Your Honor.

10 And to be clear, I would -- I don't know that  
11 we formally requested that the ones stipulated to by  
12 opposing counsel be admitted, which I think would be A,  
13 alpha; B, boy --

14 THE COURT: I've admitted those already.

15 MS. ELCANO: Perfect. Thank you, Your Honor.  
16 Then I won't go through those.

17

18 DIRECT EXAMINATION

19 (Cont'd)

20 BY MS. ELCANO:

21 Q So when did you become involved with this  
22 family again after October?

23 A After the October 2012 report, we received  
24 another report in November 2012.

1 Q And what was the basis of that report?

2 A Concerns with lack of housing for the  
3 children.

4 Q And what occurred per your report? What  
5 steps did you take?

6 A The same steps: Meeting with the family,  
7 meeting with the children, meeting with collaterals to  
8 gather information, and making an assessment based on  
9 that.

10 Q And what did you find throughout your  
11 assessment?

12 A Throughout the assessment, that the family  
13 still had adequate housing and that the children were  
14 found to be safe.

15 Q Did you offer any additional services to this  
16 family?

17 A Due to the fact that we had an additional  
18 open case with the family from October, we still provided  
19 the same services. They just continued on from October.

20 Q And those services, I think you testified,  
21 were focused on housing and obtaining housing; is that  
22 correct?

23 A That is correct.

24 Q And were there any other concerns that you

1 had during this assessment?

2 A During the November assessment, no, we did  
3 not, except -- well, except for Roberto's schooling.

4 Q And can you provide a little more information  
5 what you mean by "Roberto's schooling"?

6 A When speaking to his school counselor --

7 MR. ELKINS: Objection.

8 THE COURT: I'm going to overrule the  
9 objection on the same basis. I won't consider it hearsay  
10 for truth of the matter asserted. I will assert it -- I  
11 will consider it for what she did as a result of it.

12 Go ahead.

13 THE WITNESS: When speaking with the school  
14 counselor, she just expressed concerns with Roberto's  
15 attendance.

16 BY MS. ELCANO:

17 Q And specifically what were those concerns?

18 A That he missed approximately 45 days.  
19 However, the school did allow him to miss days of school  
20 and pass it because the family they considered to be  
21 transient due to housing.

22 Q Did you complete a Nevada Initial Assessment  
23 for this particular report?

24 A Yes.

1           Q     Could you please turn to Exhibit D, as in  
2 David, in the binder in front of you?

3                     Do you recognize that document?

4           A     Yes.

5           Q     Can you please tell the Court what that  
6 document is?

7           A     It's called a Nevada Initial Assessment.

8           Q     What was the date this was completed?

9           A     It was completed on November 14, 2012. No.  
10 Actually, that was no present danger. I apologize, Your  
11 Honor. It was last modified on April 19, 2013.

12           Q     And, again, the date and time up in the  
13 right-hand corner?

14           A     That is when the document was printed off.

15           Q     And did you author this document?

16           A     Yes.

17           Q     Can you please review it and let me know if  
18 it's a true and accurate copy.

19           A     Yes.

20           Q     And what was the conclusion of this Nevada  
21 Initial Assessment?

22                     MR. ELKINS: Judge, I'm just going to  
23 obviously restate my previous objection as to these, and  
24 I assume the ruling would be the same?

1 THE COURT: It is.

2 MR. ELKINS: However, I would like some  
3 additional voir dire, if you don't mind, Judge.

4 THE COURT: Go ahead.

5 Any objection to him voir-diring?

6 MS. ELCANO: No. I wasn't finished but --

7 THE COURT: Hopefully, what we're going to  
8 end up with here is that this is the first witness, and  
9 this first day we're setting the ground rules, and after  
10 that we're going to be moving along quicker. Even though  
11 I said I don't have anything else to do, I have other  
12 things to do, like painting and putting a roof on my  
13 house, but go ahead.

14 MR. ELKINS: I'm sorry, but if I don't insert  
15 a timely objection --

16 THE COURT: You're right, you're right.

17

18 VOIR DIRE EXAMINATION

19 BY MR. ELKINS:

20 Q Ms. Menesini, you said this document was last  
21 modified on April 19th of 2013; correct?

22 A Correct.

23 Q So does that mean there are entries in this  
24 document that were not made at or about the time of your

1 investigation but made subsequently?

2 A Yes.

3 Q Can you identify which of the entries were  
4 not made in November but were made five months later?

5 MS. ELCANO: If I may back up, Your Honor, I  
6 believe Ms. Menesini explained on the last document that  
7 it was created in April but related to a particular  
8 incident in October. I'm not certain if that's the same  
9 case here. If we could ask her about that first, I think  
10 that answers the question.

11 THE WITNESS: That is correct.

12 MR. ELKINS: I'm not sure I understand the  
13 answer, Judge. I'm sorry.

14

15 DIRECT EXAMINATION

16 (Cont'd)

17 BY MS. ELCANO:

18 Q So, Ms. Menesini, you indicated that the date  
19 this NIA was created was April 14, 2013, and it was last  
20 modified on April 19, 2013. However, the investigation  
21 was done on November 13, 2012.

22 Why is there a discrepancy in those dates?

23 A Like I said previously, due to working with  
24 this family, having a previous case from October 2012,

1 having the open report in November 2012 and having an  
2 additional one after, we were still doing the assessment,  
3 and, again, due to our high caseloads, unfortunately, we  
4 could not get that done within the 45 days per our  
5 policy.

6 MR. ELKINS: Further voir dire, Judge?

7 THE COURT: Okay.

8 MR. ELKINS: Thank you.

9  
10 VOIR DIRE EXAMINATION

11 BY MR. ELKINS:

12 Q So are you saying, Ms. Menesini, that you  
13 actually created this document in April of 2013?

14 A That's correct.

15 Q So this document was created about five  
16 months after the investigation; the October document was  
17 created about six months after the investigation; is that  
18 correct?

19 A That's correct.

20 MR. ELKINS: Judge, I object on the grounds  
21 that these are not contemporaneous entries in a business  
22 record by a person with a duty to make those entries.  
23 Five and six months' delay.

24 THE COURT: In light of the fact that I

1 didn't let them in -- I didn't admit it under the  
2 business records exception, but under the exception that  
3 it's her opinion --

4 How do you keep track of something five, six  
5 months later?

6 THE WITNESS: What we end up doing is we  
7 still have contact with the families. When we had our  
8 investigation in December, we again have about 45 days,  
9 give or take. Once there was no concerns due to the  
10 allegations of being found unsubstantiated, it was just a  
11 matter of having the time to put in our assessments and  
12 create that and complete that.

13 THE COURT: Do you take notes that you refer  
14 back to later on when you make these reports up?

15 THE WITNESS: Yes. We do have case notes  
16 that we also enter into our UNITY program.

17 THE COURT: Your objection is noted. It's  
18 overruled.

19 Go ahead.

20 MS. ELCANO: Based on that, I would request  
21 that Exhibit D is admitted into evidence.

22 THE COURT: I'm not referring to either one.  
23 You have moved to admit C or D or any of the other --

24 MS. ELCANO: I apologize. I thought that I

1 requested to admit C, Your Honor.

2 THE CLERK: You did.

3 MS. ELCANO: I would request C and D.

4 MR. ELKINS: Clarification, Judge?

5 THE COURT: Go ahead.

6 MR. ELKINS: Not other than the ones that  
7 I've already made.

8 So my understanding is that Your Honor is  
9 accepting these documents to the extent they reflect  
10 Ms. Menesini's personal observations and that the balance  
11 of the documents which are not -- as to which she's not a  
12 percipient witness are admitted as the basis for opinion  
13 but not for the truth.

14 THE COURT: Correct.

15 MR. ELKINS: Thank you.

16 THE COURT: And if, subsequent to all of  
17 this, someone else comes in and testifies about their  
18 personal knowledge as something that's hearsay to her,  
19 then I would consider it. So I assume there's other  
20 people who you got information from that are going to  
21 testify in this case? So C and D are admitted --

22 MS. ELCANO: Thank you, Your Honor.

23 THE COURT: -- for those limited purposes.

24 (Petitioner's Exhibits C and D were

1 admitted.)

2 THE COURT: Which one are you referring to  
3 now?

4 MS. ELCANO: I was looking at D, as in David.

5

6 DIRECT EXAMINATION

7 (Cont'd)

8 BY MS. ELCANO:

9 Q What was your conclusion for the Nevada  
10 Initial Assessment for the incident in November of 2012?

11 A That the allegations of the report were found  
12 to be unsubstantiated and that the children were safe.

13 Q And what was the basis of that conclusion?

14 A That the family was able to have adequate  
15 housing.

16 Q And then when did you become involved with  
17 this family again?

18 A When we received a report in December 2012.

19 Q And what was the allegation or the report?

20 A There were allegations that the family did  
21 not have adequate housing for the children.

22 Q And what occurred as a result of that third  
23 report regarding this family?

24 A The third report was found to be

1 unsubstantiated because the family was able to find  
2 adequate housing. Therefore, the children were safe.

3 Q And what steps did you take to investigate  
4 this allegation?

5 A Meet with the family, meet with the children,  
6 speak with collaterals.

7 Q And where was the family living at this time?

8 A With regards to the December 2012, they were  
9 residing in one of our family shel- -- well, one of our  
10 shelters. Due to their funding, the family was not  
11 kicked out, but the doors were closed. The family was  
12 able to stay with a family member. However, there was an  
13 incident where that family no longer wanted the family  
14 there. We were able to put them in a motel for two weeks  
15 until they were able to get into their own apartment,  
16 which we assisted financially.

17 Q Were any additional services offered to this  
18 family at that time?

19 A Due to the family still working with us from  
20 the October report and November report, our services just  
21 continued from those two months.

22 Q And could you turn to Exhibit E as in echo.  
23 Could you please identify that document?

24 A Nevada Initial Assessment.

1           Q     And did you complete this Nevada Initial  
2     Assessment?

3           A     Yes.

4           Q     And what incident was this Nevada Initial  
5     Assessment in reference to?

6           A     With regards to the report received December  
7     2012.

8           Q     And, again, when was this document created?

9           A     It was created April 14, 2013.

10          Q     And you previously testified as to the  
11     difference in dates on a previous NIA. Is that the same  
12     case here?

13          A     Yes.

14          Q     Okay. Did you author this document?

15          A     Yes.

16          Q     Could you please review it to ensure it's a  
17     true and correct copy?

18          A     Yes.

19                 MS. ELCANO: I would request, Your Honor,  
20     that Exhibit E is admitted into evidence.

21                 MR. ELKINS: Subject to the same objections  
22     and limitations, Judge.

23                 THE COURT: E is admitted on the same basis  
24     as C and D.

1 (Petitioner's Exhibit E was admitted.)

2 BY MS. ELCANO:

3 Q And I may have asked this question, so I  
4 apologize if I'm asking you to reiterate, but was  
5 maltreatment found at the conclusion of this NIA?

6 A It was unsubstantiated.

7 Q Thank you. And when did you become involved  
8 in this case for a fourth time?

9 A On April 22, 2013.

10 Q And why did you become involved?

11 A A higher agency received an allegation or a  
12 report alleging that the family did not have adequate  
13 housing, and our emergency response workers went out on  
14 or about April 19, 2013.

15 Q What happened at that juncture?

16 A At that juncture then the children were  
17 removed due to inadequate housing.

18 Q Where were the parents -- what parent or who  
19 was involved, I guess? Let's start there.

20 A It was Ms. Jacqueline Guerrero, the mother;  
21 Mr. Robert Hunt-Taylor, the father; and at that time the  
22 three children was Roberto, Kayleigh, and Nathan.

23 Q And where was the family residing at the time  
24 of this report?

1           A     To be honest with you, I do not know.

2           Q     You indicated that the children were removed  
3 for lack of adequate housing. Do you know -- can you  
4 explain on that?

5           A     When reviewing the previous report from  
6 April 19, 2013, the family was being evicted and had  
7 exhausted all the resources locally with regards to  
8 housing, and therefore the children were removed.

9           Q     Was a shelter a possibility?

10          A     No.

11          Q     And why not?

12               MR. ELKINS: Judge, at this point I'm going  
13 to object because I do not believe this witness  
14 testified -- is testifying from firsthand knowledge.  
15 She's essentially, I believe, restating to the Court what  
16 she learned by reviewing the document which has been  
17 offered in evidence.

18               THE COURT: I'm not sure what the objection  
19 is.

20               MR. ELKINS: I'm sorry, Judge. That she's  
21 not competent to testify to these matters absent the  
22 document itself, which is the evidence.

23               THE COURT: Again, so you're saying that she  
24 didn't --

1 MR. ELKINS: She has no personal knowledge,  
2 Judge. That's my objection.

3 THE COURT: Did you prepare the document --  
4 are you referring to the document?

5 THE WITNESS: What they're referring to is, I  
6 was not the worker who did remove the children. It was  
7 our emergency response workers and it was after hours. I  
8 was assigned the case on the next following business day.

9 THE COURT: Okay.

10 BY MS. ELCANO:

11 Q And did you complete an investigation in this  
12 case?

13 A Yes.

14 Q And who did you meet with to complete this  
15 investigation?

16 A I met with Ms. Jacqueline Guerrero and  
17 Mr. Robert Hunt-Taylor.

18 Q And what did you discuss with Ms. Guerrero?

19 A I spoke with Ms. Guerrero with regards to  
20 housing as well as the allegations and the reasoning why  
21 her children were removed.

22 Q And can you inform the Court specifically  
23 what Ms. Guerrero indicated to you?

24 A Ms. Guerrero indicated that she did have a

1 place where her and Mr. Robert Hunt-Taylor were staying  
2 with friends. However, those friends did not want to  
3 work with our agency.

4 Q Did she indicate anything else regarding the  
5 eviction?

6 A She just indicated that they were evicted due  
7 to nonpayment.

8 MS. ELCANO: I guess to respond to the  
9 objection, Ms. Menesini did an independent investigation  
10 after the case was assigned to her and corroborated the  
11 information that was obtained at the time of the removal  
12 by the Emergency Response Unit workers, so she is able to  
13 testify from personal knowledge.

14 THE COURT: I think she just did.

15 You're the one that decided to remove them?

16 THE WITNESS: No. Our Emergency Response  
17 Unit workers had removed them.

18 THE COURT: But they're just sort of like --  
19 I can't remember what they call that in the  
20 hospital -- they're the emergency room and you're the  
21 room upstairs.

22 THE WITNESS: Yes.

23 THE COURT: So you decided, based on your  
24 discussions with her and your investigation, the kids

1       were going to be -- continue to be removed.

2                   THE WITNESS: That is correct.

3                   THE COURT: Okay. What more do we need to  
4 talk about?

5 BY MS. ELCANO:

6                   Q       Did you discuss anything additionally with  
7 Ms. Guerrero?

8                   A       Just with regards to the reasoning why her  
9 kids were in our care and going to our protective custody  
10 hearing as well as visitation.

11                   Q       What relatives did you contact regarding  
12 possible safety planning?

13                   A       I did not contact any other relatives. I was  
14 not on scene that day. However, when we do remove  
15 children --

16                   MR. ELKINS: Objection, Judge. Unresponsive.

17                   THE COURT: Ask her another question.

18 BY MS. ELCANO:

19                   Q       Why not? Why didn't you contact any  
20 relatives?

21                   A       I did not contact any relatives with regards  
22 to -- can you ask that again?

23                   Q       Let me back up.

24                           During the time of your investigation, did

1       you contact any relatives?

2               A       I did not.

3               Q       And why not?

4               A       When speaking with Ms. Guerrero as well as  
5       Mr. Hunt-Taylor, they had indicated they did not --

6               MR. ELKINS:  Objection as to what  
7       Mr. Hunt-Taylor said, Judge.

8               THE WITNESS:  When speaking with  
9       Ms. Guerrero -- I apologize -- she had indicated she  
10       would not provide us with any other information except  
11       with a previous relative who they were staying with on  
12       the previous report from December 2012.  When speaking  
13       with that relative from December 2012, she had indicated  
14       that she did not want the family nor the children in that  
15       home.

16               The other only individuals we had were where  
17       Ms. Guerrero was staying, who had indicated to  
18       Ms. Guerrero that they did not want to work with our  
19       agency, so we did not look at them as a possible  
20       placement option.

21       BY MS. ELCANO:

22               Q       Did you speak with the children at all during  
23       your investigation?

24               A       I met with them.  Due to the ages of Nathan

1 and Kayleigh, they could not provide a statement because  
2 they were 2-1/2 and 1.

3 Q To your knowledge where was Ms. Guerrero  
4 employed during the time of the removal and throughout  
5 your investigation?

6 MR. ELKINS: Judge, I'm sorry. We object  
7 unless we know the basis of the witness's knowledge.

8 THE COURT: How would you know that?

9 THE WITNESS: By speaking with Ms. Guerrero.

10 THE COURT: Go ahead.

11 MR. ELKINS: I withdraw the objection.

12 THE COURT: Go ahead.

13 THE WITNESS: When speaking with Ms. Guerrero  
14 initially, she did not have employment. However, she was  
15 then seeking employment through a previous employer that  
16 she worked with.

17 BY MS. ELCANO:

18 Q To your knowledge what other sources of  
19 income did Ms. Guerrero have at that time?

20 A When speaking with Ms. Guerrero, she had  
21 indicated that she was receiving assistance through  
22 Nevada State Welfare to include TANF, which is like a  
23 cash assistance, as well as food stamps and Medicaid for  
24 the children.

1 THE COURT: When you say "TANF," is that  
2 State, or who gives that, Washoe County, the State,  
3 federal?

4 THE WITNESS: I believe it is federal. Each  
5 state has it.

6 THE COURT: It's like AFDC?

7 MR. ELKINS: Judge, we will be calling  
8 someone from Nevada State Welfare who could probably  
9 answer that question.

10 THE WITNESS: Thank you.

11 BY MS. ELCANO:

12 Q And do you know -- based on your knowledge,  
13 approximately how much income did this amount to for the  
14 family?

15 A In speaking with Ms. Guerrero, she had  
16 indicated that was approximately around 500.

17 Q \$500?

18 A Dollars.

19 MR. ELKINS: I'm sorry. \$500 how often?

20 THE WITNESS: Per month.

21 MR. ELKINS: Thank you.

22 BY MS. ELCANO:

23 Q I'm sorry. The Court's indulgence.

24 You testified previously that since October

1 you had been offering services to this family in an  
2 attempt to help them secure and maintain housing.

3 What additional services were offered  
4 or -- let me back up. Sorry. I'm sorry. Just strike  
5 that. I'll just move on.

6 What additional concerns or safety concerns  
7 were identified throughout your investigation?

8 A With regards to the April 2013, we were just  
9 concerned with regards to the inadequate housing as well  
10 as Roberto's schooling because he had missed quite a bit  
11 of school.

12 Q When speaking with Ms. Guerrero, was  
13 budgeting at all discussed?

14 A It was with regards to where her income  
15 was -- where her income went when she had received the  
16 cash assistance from the state welfare.

17 Q And what explanation, if any, was provided?

18 A She could not provide me with one.

19 Q What additional steps that we haven't already  
20 discussed were taken to complete your investigation or  
21 assessment in this particular case?

22 A After this assessment was done, we did  
23 transfer the case to a permanency worker for ongoing  
24 services.

1           Q     What additional steps did you personally  
2 take, if we haven't gone over them already?

3           A     I think we went over them.

4           Q     Okay. Thank you.

5                     Did you complete a -- bear with me one  
6 second. Did you complete a safety -- I'm sorry, I'm  
7 turned around -- a Safety Plan Determination in this  
8 particular case?

9           A     Yes.

10          Q     And what were the conclusions of your Safety  
11 Plan Determination?

12          A     That the --

13                     MR. ELKINS: Objection. The objection,  
14 Judge, is that we're referring currently to a document,  
15 and so my objection is essentially best evidence.

16                     THE COURT: Objection overruled.

17                     Go ahead.

18 BY MS. ELCANO:

19          Q     What were the conclusions of your Safety Plan  
20 Determination?

21          A     That we identified impending danger, threats,  
22 with regards to the children and that the children were  
23 unsafe in the care of Ms. Guerrero.

24          Q     And what was that impending danger, threat?

1           A     We identified two of them, which was  
2 inadequate housing as well as the lack of motivation with  
3 regards to Roberto missing several days of school.

4           Q     And could you please turn to Exhibit N, as in  
5 Nancy? Can you please identify that document?

6           A     It's called a Safety Plan Determination.

7           Q     And when was this completed?

8           A     On April 24, 2013.

9           Q     Did you author this document?

10          A     Yes.

11          Q     Could you please review it and let the Court  
12 know if it's a true and correct document or copy of your  
13 Safety Plan Determination.

14          A     Yes.

15                MS. ELCANO: I would request that Exhibit N,  
16 as in Nancy, is entered into evidence, Your Honor.

17                MR. ELKINS: Voir dire, Judge?

18                THE COURT: Pardon me?

19                MR. ELKINS: May I voir dire?

20                THE COURT: Go ahead.

21

22                        VOIR DIRE EXAMINATION

23           BY MR. ELKINS:

24           Q     Ms. Menesini, when did you complete this

1 document?

2 A I completed it on April 24, 2013.

3 Q And what did you do in order to complete the  
4 document?

5 A I completed a NIA, which is the assessment.

6 Q Okay. And did you rely on information from  
7 the NIA in order to complete this document?

8 A That is correct.

9 Q And was some of the information that you  
10 extracted from the NIA to complete this document, did it  
11 include things that were not within your personal  
12 knowledge?

13 A It would be my personal knowledge of  
14 gathering that information through my assessment.

15 Q Let me just back up a minute.

16 You've already testified, have you not, that  
17 in the NIA there are statements that came from other  
18 sources?

19 A That is correct.

20 Q Not based upon your personal observations?

21 A That's correct.

22 Q And those statements then made their way into  
23 the Safety Plan Determination; is that correct?

24 A That is correct.

1 MR. ELKINS: Judge, I have the same objection  
2 as I had before with regard to the NIA. I have no  
3 objection to the extent that the document reflects  
4 statements that the witness may have relied upon to make  
5 an assessment. I do object to those statements being  
6 admitted for the truth if they're not within her personal  
7 knowledge.

8 MS. ELCANO: Your Honor, I would then  
9 resubmit, pursuant to NRS 51.155, it's not hearsay. In a  
10 civil case, factual findings resulting from an  
11 investigation made pursuant to authority granted by law,  
12 social workers are granted by law the authority to make  
13 these investigations and --

14 THE COURT: Their conclusions I can  
15 definitely consider. I can consider those matters of  
16 their own personal knowledge, and the fact that she's  
17 based it on hearsay from other people, I can't consider  
18 their hearsay for the truth of the matter asserted, but I  
19 can certainly consider she's entitled to make a  
20 conclusion from her investigation and discussion with  
21 people.

22 So it's being admitted on the same basis that  
23 the other ones were admitted, which is, as to her  
24 personal knowledge, that's admitted for the truth of the

1 matter asserted. As to matters that are hearsay, she can  
2 use those to reach her conclusions, and her conclusion is  
3 definitely for the truth of the matter asserted. So  
4 that's the basis upon which -- it looks to me a whole  
5 bunch of stuff is going to be admitted here, so it's  
6 admitted.

7 MS. ELCANO: Thank you, Your Honor.

8 THE COURT: Again, what was that?

9 MS. ELCANO: It was N, as in Nancy, Your  
10 Honor.

11 (Petitioner's Exhibit N was admitted.)

12

13 DIRECT EXAMINATION

14 (Cont'd)

15 BY MS. ELCANO:

16 Q Did you complete a Safety Plan in this case?

17 A Yes.

18 Q And what were the conclusions of your Safety  
19 Plan?

20 A That the children were found to be safe with  
21 foster parents.

22 Q And who was the foster parent?

23 A I do not remember.

24 Q Could you please turn to Exhibit L, as in

1 Larry? Can you please identify that document?  
2 A Safety Plan.  
3 Q And did you author this document?  
4 A Yes.  
5 Q When was it created on?  
6 A It was completed on April 30, 2013.  
7 Q And could you please review it and let the  
8 Court know if it's a true and accurate copy.  
9 A Yes.  
10 MS. ELCANO: I would request that Exhibit L,  
11 as in Larry, is entered into evidence, Your Honor.  
12 MR. ELKINS: Judge, same objection, not to  
13 belabor the record.  
14 THE COURT: Same ruling.  
15 MR. ELKINS: Thank you.  
16 (Petitioner's Exhibit L was admitted.)  
17 BY MS. ELCANO:  
18 Q And, Ms. Menesini, you indicated that --  
19 THE COURT: It's admitted.  
20 MS. ELCANO: Sorry. I didn't mean to  
21 overspeak.  
22 THE COURT: I was going to move on, but it's  
23 better for the record that I say it's admitted formally.  
24 Sometimes, with the Supreme Court, you have to be real

1 clear with that. Not to say anything bad about the  
2 Nevada Supreme Court. I would never say that.

3 Go ahead.

4 BY MS. ELCANO:

5 Q Thank you.

6 You testified, in regards to your Safety  
7 Plan, you concluded the children were safe in foster  
8 care.

9 What was the basis for that answer?

10 A The reason they were safe in foster care is  
11 that Ms. Guerrero could not provide adequate housing;  
12 therefore, we had to provide that adequate housing for  
13 them.

14 THE COURT: And they probably got Roberto to  
15 school.

16 THE WITNESS: That is correct.

17 THE COURT: This is starting to take on a  
18 repetitive nature. Go ahead.

19 BY MS. ELCANO:

20 Q What are conditions for return?

21 A Basically a tool we set up to identify what  
22 needs to be done in order for the children to be  
23 reunified with their parents when they're safe.

24 Q Were conditions for -- excuse me.

1                   Were conditions for return identified in this  
2 particular case?

3                   A     Yes.

4                   Q     Could you please turn to Exhibit P, as in  
5 Paul.

6                   THE COURT: Now, this one you had no  
7 objection to being admitted; right?

8                   MS. ELCANO: Was P already admitted?

9                   THE COURT: I think so. That's what I have.

10                  MS. ELCANO: I apologize.

11                  MR. ELKINS: I think that's correct, Judge.

12 BY MS. ELCANO:

13                  Q     Okay. Can you briefly explain to the Court  
14 what the conditions were for return in this particular  
15 case?

16                  A     To have and maintain basically a stable home  
17 where the children can go to.

18                  Q     Thank you.

19                         And then did you complete a NIA for this  
20 fourth investigation?

21                  A     That is correct.

22                  Q     And when did you complete this NIA,  
23 approximately?

24                  A     Within approximately 10 to 15 days after the

1 children were in our care.

2 Q And can you please briefly summarize the  
3 conclusion of the Nevada Initial Assessment?

4 A From the NIA from April 2013, it was assessed  
5 that the children were un- -- were unsafe in the care of  
6 Ms. Guerrero as well as Mr. Hunt-Taylor.

7 Q And the basis?

8 A Was due to inadequate housing.

9 Q Could you please turn to --

10 THE COURT: And they weren't taking Roberto  
11 to school?

12 THE WITNESS: Yes.

13 BY MS. ELCANO:

14 Q Could you please -- sorry.

15 THE COURT: Go ahead.

16 BY MS. ELCANO:

17 Q Could you please turn to Exhibit, I believe,  
18 E, as in echo. Or F, I'm sorry, as in Frank.

19 Can you please identify this document?

20 A A Nevada Initial Assessment.

21 Q Did you author this document?

22 A Yes.

23 Q And could you please review it and let the  
24 Court know if it's a true and correct copy.

1           A     Yes.

2           MS. ELCANO: I would request that Exhibit F,  
3 as in Frank, is admitted into evidence, Your Honor.

4           THE COURT: Any objection?

5           MR. ELKINS: Same objection, Judge.

6           THE COURT: Same ruling.

7           MR. ELKINS: Thank you.

8           (Petitioner's Exhibit F was admitted.)

9 BY MS. ELCANO:

10          Q     And what additional steps which we haven't  
11 already discussed were taken to complete your assessment  
12 in this particular case?

13          THE COURT: For the record, F is admitted.  
14 I'm sorry.

15          MS. ELCANO: Thank you. I apologize.

16          THE WITNESS: We have the same steps as I  
17 indicated before with the previous reports.

18 BY MS. ELCANO:

19          Q     And I think you testified you spoke with the  
20 mom, Roberto, and you investigated those types of things.

21                 Anything else that you did?

22          A     No.

23          Q     Okay. And what happened, seeing as -- did  
24 this conclude your assessment?

1           A     That is correct.

2           Q     And what occurred next?

3           A     The case was transferred to a permanency  
4 worker for ongoing services.

5           Q     Who was that permanency worker it was  
6 transferred to?

7           A     Ms. Rocio.

8           Q     Was a petition filed in a dependency matter  
9 in court?

10          A     That is correct.

11                MS. ELCANO: Your Honor, just to be clear for  
12 the record, Exhibit A contains the Protective Custody  
13 Order Petition and other certified documents associated  
14 with the dependency case, just so you're aware of the  
15 petition that was being referenced in that line of  
16 questioning.

17                I have no additional questions at this  
18 juncture.

19                THE COURT: Exhibit C is a Nevada Initial  
20 Assessment dated 4/14/2014; Exhibit F is April 19, 2013.  
21 So there was one prepared on the 14th and one on the  
22 19th; is that --

23                THE WITNESS: That is correct.

24                /////

1 BY MS. ELCANO:

2 Q Do you want to explain why that occurred?

3 A The one that was prepared on April 19, 2013,  
4 was with regards to the removal from the April 2013  
5 report.

6 MS. ELCANO: And I believe Exhibit F says it  
7 was created on April 24th. April 19, 2013, is the date  
8 the case was assigned to an investigative worker.

9 THE COURT: Well, on your description of  
10 exhibits, you've got April 19th, so --

11 MS. ELCANO: That was an error, Your Honor.

12 THE COURT: That's why I was asking that  
13 question.

14 MS. ELCANO: I apologize. That table of  
15 contents --

16 THE COURT: So F --

17 MS. ELCANO: It was created on April 24,  
18 2013, in regards to the April 19th investigation.

19 THE COURT: Looks like it was completed  
20 April 19th and concluded April 24th. That's fine.

21 MS. ELCANO: There are a lot of dates on  
22 these documents, which make it confusing. If you would  
23 like me to kind of walk through one Nevada Initial  
24 Assessment to clarify the dates before I move on --

1 THE COURT: No. We can do that at the end.  
2 MS. ELCANO: Okay. I'm happy to do so.  
3 THE COURT: Do you pass the witness, then?  
4 MS. ELCANO: Yes. Thank you, Your Honor.  
5 THE COURT: Mr. Elkins.

6

7 CROSS-EXAMINATION

8 BY MR. ELKINS:

9 Q Good afternoon, Ms. Menesini. How are you?

10 A I'm good. How are you?

11 Q Good.

12 By the way, the permanency worker that you  
13 passed the case, is she present?

14 A Yes.

15 Q Can you identify that person?

16 A Ms. Rocio Lopez.

17 Q Let me see if I understand.

18 You had, all together, four investigations  
19 between October of 2012 and April of 2013 of  
20 Ms. Guerrero; is that correct?

21 A That is correct.

22 Q And during those investigations did you have  
23 an opportunity to visit Ms. Guerrero and see her  
24 children?

1           A     That is correct.

2           Q     Do you recall where it was that you saw  
3 Ms. Guerrero in October?

4           A     I met Ms. Guerrero at my office as well as we  
5 were able to get her into a different shelter.

6           Q     So did you ever actually go to the place that  
7 she was living in October?

8           A     She was currently residing at the Prayer  
9 House. I did not because she was kicked out of there.

10           THE COURT: You said October. You mean  
11 October --

12           THE WITNESS: 2012. I apologize.

13           MR. ELKINS: Thank you, Judge. I'll try to  
14 be clear about that.

15           BY MR. ELKINS:

16           Q     All right. In October of 2012.

17                     Did Ms. Guerrero tell you that she had  
18 exhausted her time at the Prayer House?

19           A     When speaking with Ms. Guerrero, that's what  
20 she had indicated.

21           Q     And did she tell you how long she had been  
22 there?

23           A     I do not recall.

24           Q     Four months, does that refresh your

1 recollection?

2 A I do not recall.

3 Q Okay. And then the December 12th report --  
4 withdraw that.

5 After October of '12 there was a subsequent  
6 report; correct?

7 A That is correct.

8 Q So you had one on October 19th.

9 Do you recall the next one?

10 A The next report that we received was  
11 approximately November 14 --

12 Q November 13th, would that refresh --

13 A November 13th. I apologize.

14 Q No, no.

15 And were you able to visit with Ms. Guerrero  
16 at her residence subsequent to the November 13th report?

17 A I was unable to visit with Ms. Guerrero prior  
18 to the November report we received, but I did meet with  
19 Ms. Guerrero at her residence from the November 2012  
20 report.

21 Q Correct. That's my question.

22 And where was she residing at that time?

23 A At one of our local shelters.

24 Q Do you recall what shelter that was?

1           A     It's called the Family Promise.

2           Q     And her residence at that shelter, was it  
3     adequate?

4           A     Yes.

5           Q     Did you see the children?

6           A     Yes.

7           Q     Was there anything that you observed about  
8     the children that caused you any concerns?

9           A     There were no concerns with the children's  
10    safety. We did discuss about Roberto's attendance, but  
11    we were working with Ms. Guerrero on that.

12          Q     Let me just address that for a second.  
13                 How old was Roberto at that time?

14          A     Approximately 5.

15          Q     Okay. And where was he attending, as you  
16    understood it?

17          A     I do not recall what school.

18          Q     Well, do you recall what grade?

19          A     He was in kindergarten.

20          Q     Okay. How long have you been an assessment  
21    worker within the state of Nevada?

22          A     Within the state of Nevada, I've been an  
23    assessment worker since 2005.

24          Q     So for 10 years?

1           A     That's correct, approximately.

2           Q     And during that 10-year period of time, have  
3 you had occasion to assess truancy?

4           A     Yes.

5           Q     And are you familiar with the rules and  
6 regulations regarding school attendance?

7           A     I am familiar with it, yes.

8           Q     And at what age is a child required to attend  
9 school in the state of Nevada?

10          A     Six.

11          Q     So, in fact, Roberto was not actually  
12 required to attend school, being five; correct?

13          A     Per law, but also he had an Individual  
14 Education Plan in place.

15          Q     Was he required to attend school?

16          A     By law, no.

17          Q     Thank you.

18                Also, with regard to his not going to school,  
19 to kindergarten, did that in any way make him unsafe?

20          A     No, it did not.

21          Q     Thank you.

22                And then there's a report of December of  
23 2012?

24          A     That is correct.

1 Q Do you remember the date of that one?

2 A I believe it was December 12, 2012.

3 Q And did you have an opportunity to visit with  
4 Ms. Guerrero in her place of residence at that time?

5 A Yes.

6 Q And where was she residing?

7 A She was residing at Family Promise. However,  
8 they had shut down due to lack of funding, and then her  
9 and the children moved with her mother, and unfortunately  
10 she didn't want to, so we put her up in a motel for two  
11 weeks just to get her into her own apartment.

12 Q Were you instrumental in getting her into the  
13 motel and then into her apartment?

14 A That is correct.

15 Q What assistance did you provide, for example,  
16 to get her into the motel?

17 A The funding.

18 Q And do you recall what motel it was?

19 A I do not.

20 Q Okay. And the family was there for, you  
21 said, two weeks?

22 A For approximately two weeks, until they could  
23 get into their own apartment.

24 Q So the family found an apartment?

1 A Correct.

2 Q Did you visit the apartment?

3 A I had a previous worker do a home visit just  
4 to provide, and I had met with them as well.

5 Q And who was that; do you know?

6 A Her name was Tanya Defehr.

7 Q So you personally did not see the apartment?

8 A Correct.

9 Q Did you have a conversation with Ms. Guerrero  
10 about the apartment?

11 A I did speak with her, yes.

12 Q And did she tell you how it was being paid  
13 for?

14 A She -- well, she had indicated she moved in  
15 because we were able to help with the funding.

16 Q And can you tell me specifically what  
17 assistance you provided to enable the family to move into  
18 the apartment?

19 A We have a program called the LITFH funding,  
20 which basically helps individuals move into an apartment  
21 or pay power bills or whatever it is, so we are able to  
22 assist.

23 Q And do you know the amount?

24 A I do not.

1 THE COURT: How do you spell what you just  
2 said?

3 THE WITNESS: LITFH. It's L-I-T-H --

4 MR. ELKINS: It's L-I-T-F-H, Judge.

5 THE WITNESS: Thank you.

6 THE COURT: What's that an acronym for; do  
7 you know?

8 THE WITNESS: I do not, Your Honor. It's my  
9 understanding it's just a funding.

10 THE COURT: Mr. Elkins?

11 MR. ELKINS: Sorry, Judge. Family Housing I  
12 would guess would be the last two. I don't know what the  
13 L-I-T stands for.

14 MS. ELCANO: I believe it's Low-Income  
15 something -- Family Housing something.

16 THE COURT: All it means is LITFH.

17 MR. LOPEZ: Low-Income Temporary Housing  
18 Fund.

19 MR. ELKINS: That sounds absolutely correct.

20 BY MR. ELKINS:

21 Q Do you know, Ms. Menesini, how much the rent  
22 was on that apartment?

23 A I do not.

24 Q You had testified that it was your -- that

1 Ms. Guerrero told you that her income at that point in  
2 time was provided by TANF?

3 A That is correct.

4 Q In the amount of approximately \$500 per  
5 month?

6 A That's correct.

7 Q Did the agency determine whether or not this  
8 apartment was sustainable based upon the TANF grant?

9 A It was also that Ms. Guerrero was employed,  
10 had a previous job that she went back to, so between that  
11 and the funding, they were able to sustain it.

12 Q So that's what Ms. Guerrero told you, that  
13 she was employed?

14 A Yeah. That she was able to get her job back.

15 Q Do you recall where?

16 A I believe it was Harrah's.

17 Q Which is a casino?

18 A That is correct.

19 Q Okay. So at the time she moved with her  
20 family into the apartment that you assisted to obtain,  
21 your understanding was she was employed, and you gave her  
22 family some money to get into the apartment; correct?

23 A Correct.

24 Q There came a time in April of 2013 where,

1 once again, you were called to investigate the family;  
2 correct?

3 A Correct.

4 Q And, once again, the issue was housing,  
5 inadequate housing; correct?

6 A Correct.

7 Q But you didn't actually participate in that  
8 investigation? In other words, you weren't present at  
9 the time of removal; is that right?

10 A I was not present during the time of removal.

11 Q So you didn't actually see the residence?

12 A I did not.

13 Q Okay. Am I correct in understanding that  
14 shortly after the removal you spoke to the mother,  
15 Ms. Guerrero, about the circumstances?

16 A That is correct.

17 Q And did she tell you that the property owner  
18 had demanded a sum of money?

19 A That is correct.

20 Q Do you recall how much?

21 A I do not.

22 Q Does the number \$200, would that refresh your  
23 recollection?

24 MS. ELCANO: Objection. I don't think you

1 can refresh recollection by testifying on the record. I  
2 think you need an actual document to do it accurately.

3 MR. ELKINS: Judge, I can do that. I'm just  
4 trying to save time.

5 THE COURT: I mean, if you made some reports,  
6 would it be in your reports?

7 THE WITNESS: That's correct.

8 THE COURT: Do you have those reports there?

9 THE WITNESS: I have them right here.

10 THE COURT: Just ask her to look at the  
11 reports, and she can come up with an amount.

12 MR. ELKINS: I understand, Judge. Let me see  
13 if it's --

14 THE COURT: While you're doing this, this  
15 TANF, again, is that -- I guess you said you're going to  
16 call somebody and ask this question. Is that state,  
17 federal?

18 THE WITNESS: It's federal. All 50 states  
19 have it.

20 THE COURT: And a lot of these reports that  
21 you're doing, are those ones required by the federal  
22 government because of grants they get from the federal  
23 government?

24 THE WITNESS: To be honest with you, I do not

1 know what we get grants for. I believe it's just within  
2 our own agency that came up with this tool.

3 THE COURT: But this NIA, that's statewide?

4 THE WITNESS: Yes. The State, in our rural  
5 areas as well as Washoe County, we've adopted this as a  
6 tool.

7 MS. ELCANO: I believe Ms. Lopez has a little  
8 additional information on the TANF, Your Honor, if you'd  
9 like. I don't want to speak --

10 MR. ELKINS: Judge, if you don't mind --

11 THE COURT: I can wait. That's fine. I'm  
12 just trying to --

13 MS. ELCANO: I'm sorry.

14 THE COURT: -- to relate this to my time as a  
15 welfare hearings officer. So, again, it was 40-some-odd  
16 years ago. I used to fly all around the state of  
17 California and hear appeals from denials of claims for  
18 assistance there, so --

19 BY MR. ELKINS:

20 Q I'm going to show you a document --

21 Judge, how would you like me to handle  
22 documents used to refresh recollection? Do you want them  
23 marked or --

24 THE COURT: We probably should have -- be

1       sure to refer to the -- has it already been admitted?

2               MR. ELKINS: No, Judge. These are not in  
3 evidence. These are documents that were provided to me  
4 in discovery, which have not been offered.

5               THE COURT: Mark them for purposes of  
6 identification now, and then if they're later  
7 admitted -- mark them for purposes of identification now.

8               MR. ELKINS: Shall we call this  
9 Respondent's A for purposes of identification?

10              THE COURT: That's fine.

11              THE CLERK: It needs to be next in order. It  
12 will be Respondent's Exhibit 7.

13              MR. ELKINS: Respondent's 7 for  
14 identification.

15              THE COURT: And at this time for purposes of  
16 identification --

17              MR. ELKINS: This is a two-page document,  
18 Judge. Obviously I'm not going to read from it. It  
19 would be page 13 and 14 of 206 UNITY notes dated  
20 April 23rd of 2013. The author I will establish.

21              MS. ELCANO: Your Honor, I think we have to  
22 establish that actually reviewing the UNITY notes would  
23 refresh her recollection. I mean, there's a procedural  
24 way of refreshing recollection that's not being followed

1 here.

2 THE WITNESS: I can tell you, Your Honor, it  
3 is in my NIA. I was refreshed.

4 MR. ELKINS: There you go.

5 THE WITNESS: I'll save you all the trouble.

6 THE COURT: Do you need 7?

7 MR. ELKINS: We do, Judge. I may refer to  
8 it.

9 THE COURT: Mark it for purposes of  
10 identification.

11 MR. ELKINS: Thank you.

12 (Respondent's Exhibit 7 was marked.)

13 BY MR. ELKINS:

14 Q Can you tell me, Ms. Menesini, whether the  
15 mother mentioned an amount of money that was in dispute?

16 A Approximately \$200.

17 Q I'm sorry?

18 A \$200.

19 Q \$200, okay.

20 Did she tell you what efforts she had made to  
21 come up with the money?

22 A She explained it to our previous workers on  
23 scene that night.

24 Q When you had that conversation with her, did

1 she explain to you what she had done?

2 A Yes.

3 Q What was that?

4 A That she would go and give plasma to get  
5 money.

6 Q And what did you understand that to mean?

7 A That she voluntarily went to go give plasma  
8 to get a certain amount of money to help towards --

9 Q What is plasma?

10 A I wish I actually knew. No. Plasma is just  
11 like donating blood.

12 Q And did she indicate how much, if any, money  
13 she raised by doing that?

14 A Seventy dollars.

15 Q And did she tell you when she did that?

16 A I don't recall when she told me, but  
17 apparently she informed --

18 Q No. Sauce for the goose is sauce for the  
19 gander.

20 THE COURT: Well, if she doesn't object, then  
21 there's no --

22 MS. ELCANO: Your Honor, I'd like to request  
23 that the document is closed, and that being the notes  
24 that were given to Ms. Menesini are taken back.

1 THE COURT: That's fine.

2 BY MR. ELKINS:

3 Q Thank you.

4 So my understanding is she told you, despite  
5 giving blood, they weren't able to pay the motel bill; is  
6 that correct?

7 A That's correct.

8 Q In your previous visits with Ms. Guerrero and  
9 her children and their father, did you ever see the  
10 parents with the children?

11 MS. ELCANO: Objection. Vague. "Previous  
12 visits"?

13 BY MR. ELKINS:

14 Q During your investigations from October of  
15 2012 through April of 2013, did you ever have occasion to  
16 see Ms. Guerrero, the father and the children together?

17 A Yes.

18 Q On how many occasions would you say?

19 A I do not recall.

20 Q Can you give me an estimation?

21 A I can give you an estimation.

22 Q Was it -- I'm sorry.

23 A At least, approximately, ten plus.

24 Q More than ten times?

1           A     Yes.

2           Q     On those ten occasions did you observe the  
3 parents caring for the children?

4           A     Yes.

5           Q     And can you describe your observations?

6           A     I had no concerns with how they were around  
7 the children with the previous reports.

8           Q     Did they seem to meet the children's needs  
9 appropriately?

10          A     As far as the housing and the food, yes.

11          Q     Did you ever see any inappropriate  
12 interaction?

13          A     No.

14          Q     Did they seem to be attached to their  
15 children?

16          A     Yes.

17          Q     On the occasions that you saw the children,  
18 did they seem healthy?

19          A     Yes.

20          Q     Were their clothes clean?

21          A     Yes.

22          Q     Did the children -- well, withdraw.  
23                During your investigation, aside from  
24 contacting Roberto's school, was there any other child in

1 the home of school age?

2 A Kayleigh was in what's called a Child Find at  
3 one of the elementary schools because she qualified for  
4 the service.

5 Q And did you have an opportunity to contact  
6 that Child Find school?

7 A I don't recall if I did or not.

8 Q Do you recall whether you recorded anywhere  
9 or whether you would have recorded anywhere a contact of  
10 that kind during your investigation?

11 A I do have it documented in the NIA section  
12 about Kayleigh and why she qualified for this service  
13 through Child Find at the elementary school.

14 Q Would you have documented anywhere any  
15 contact with Kayleigh's Child Find school?

16 A I do not recall.

17 Q Do you recall whether, in the course of your  
18 investigation -- let me ask you this: In the course of  
19 your investigation did you keep notes?

20 A Yes.

21 Q What kind of notes did you keep?

22 A They're called case notes that document my  
23 interaction with the family or who I spoke to.

24 Q And where would you enter those notes?

1           A     Into our computer system called UNITY.

2           Q     Okay. So if you had had contact with the  
3 Child Find program, would that have been entered in  
4 UNITY?

5           A     It would be entered in UNITY if I had contact  
6 with the school.

7           MR. ELKINS: Sorry, Judge.

8           THE COURT: I'm surprised with 3,000 pages  
9 you can't find it quicker.

10          MR. ELKINS: I'm almost there.

11          THE COURT: That's what we have Bates stamps  
12 for.

13          MR. ELKINS: Judge, the public defender's  
14 litigation support is not adequate.

15          THE COURT: Do you want to take a break?

16          THE WITNESS: No. Just looking at the time.

17          MR. ELKINS: I would like to show the witness  
18 a document which we can deem marked Petitioner's 8 --  
19 Respondent's 8.

20          MS. ELCANO: Objection. What's the purpose  
21 of this?

22          MR. ELKINS: The purpose would be to refresh  
23 her recollection as to whether or not she had contact  
24 with the early --

1 MS. ELCANO: She's never testified that  
2 review of the UNITY notes would refresh her recollection.

3 MR. ELKINS: I guess that's what we'll have  
4 to find out, Judge.

5 THE COURT: We'll go about another 15  
6 minutes, and then we'll take a break for everybody's  
7 benefit.

8 MR. ELKINS: May I?

9 THE COURT: Only for purposes of  
10 identification.

11 MR. ELKINS: Correct.

12 (Respondent's Exhibit 8 was marked.)

13 MS. ELCANO: I object to it being provided to  
14 the witness. She hasn't testified that review of her  
15 UNITY notes would refresh her recollection. There's a  
16 process to refresh recollection which is consistently not  
17 being followed here.

18 MR. ELKINS: Judge, if a witness knew in  
19 advance that her recollection would be refreshed, it  
20 seems to me she wouldn't need to have her recollection  
21 refreshed because she'd know it existed.

22 THE COURT: Did you write down in your notes  
23 if you went to the school?

24 THE WITNESS: I do not recall if I did or

1 not. However, I did write in a NIA that she attended a  
2 program at the school through Child Find because she  
3 qualified for services.

4 THE COURT: Ask her if those are her notes, I  
5 guess.

6 BY MR. ELKINS:

7 Q I'll show you what's been marked as  
8 Respondent's 8 for examination.

9 Can you tell me if you recognize that  
10 document?

11 A Yes. This is a maltreatment answer for the  
12 NIA.

13 Q And did you write that note?

14 A It's authored by myself. It's a transfer  
15 summary, yes.

16 Q So the answer is yes?

17 A Yes.

18 Q Can you look at that and see whether that  
19 refreshes your recollection regarding --

20 MS. ELCANO: Objection. You're not supposed  
21 to review a document to determine if it refreshes your  
22 recollection. The way it goes is, "Would review of your  
23 UNITY notes refresh your recollection? If so, here's a  
24 copy." You don't get to review it and then determine

1 whether or not it refreshes your recollection.

2 THE WITNESS: It's a copy of the NIA.

3 THE COURT: Do you have the name of the  
4 school?

5 THE WITNESS: With regards to Kayleigh?

6 THE COURT: Kayleigh, yes.

7 MS. ELCANO: I would request that the witness  
8 does not read the note, Your Honor.

9 BY MR. ELKINS:

10 Q Do you recall the name of the school?

11 A With regards to Kayleigh, no.

12 THE COURT: Did you write it down somewhere?

13 THE WITNESS: I do not recall if I did or  
14 not.

15 BY MR. ELKINS:

16 Q Let me ask you this: Have you indicated that  
17 in the NIA there's a statement regarding Kayleigh's Child  
18 Find placement?

19 A There is a statement in the NIA indicating  
20 that she attended the program.

21 Q So if you looked at the NIA, that would  
22 presumably refresh your recollection as to whether you  
23 had contact with the Child Find program?

24 A I don't know if it's -- I would have

1 recollection or not. It's just indicating that she was a  
2 part of this program.

3 Q But you made an entry in there regarding the  
4 program and Kayleigh; correct?

5 A Correct.

6 MR. ELKINS: Judge, I would ask, then, if  
7 Ms. Elcano is objecting to the UNITY note, that the  
8 witness be allowed to look at the NIA.

9 THE COURT: Which NIA? Where is she looking  
10 at that refreshes her recollection? Do we know for the  
11 record what it is she's looking at?

12 BY MR. ELKINS:

13 Q Would that be the NIA from April of 2013?

14 A That is correct.

15 MS. ELCANO: They're all from April 2013.

16 MR. ELKINS: The one that was in regard to  
17 the April 2013 investigation.

18 THE WITNESS: Yes.

19 THE COURT: So what exhibit number?

20 THE WITNESS: Can I look?

21 THE COURT: Sure.

22 MR. ELKINS: Yes.

23 MS. ELCANO: No. Wait.

24 THE COURT: If you took that exhibit back --

1 MR. ELKINS: Here, Judge. I'll just leave it  
2 with the clerk.

3 THE COURT: Because the clerk's --

4 MR. ELKINS: I don't want them to get lost.

5 THE COURT: And you're a lot better than I  
6 am.

7 So show her and give us an exhibit number.

8 BY MR. ELKINS:

9 Q Would you look at Exhibit F.

10 THE COURT: What do you call that, something  
11 Find?

12 THE WITNESS: It's called a Nevada -- oh, the  
13 program is called Child Find.

14 THE COURT: Find, F-i-n-d?

15 MR. ELKINS: That's correct.

16 THE COURT: Is that all one word, Childfind?

17 THE WITNESS: Two words.

18 BY MR. ELKINS:

19 Q Let me direct your attention to page 4 of  
20 Exhibit F in evidence.

21 THE CLERK: I'm sorry?

22 MR. ELKINS: Page 4 of Exhibit F, as in  
23 Frank.

24 THE COURT: This has already been admitted, I

1 believe.

2 MR. ELKINS: That's correct.

3 BY MR. ELKINS:

4 Q Ms. Menesini, looking at that, does that  
5 refresh your recollection regarding whether or not you  
6 spoke to anyone from the Childfind program regarding  
7 Kayleigh?

8 A Yes.

9 Q Did you?

10 A I spoke with her teacher.

11 Q Based upon that conversation, did you have  
12 any concerns regarding Kayleigh's education?

13 A No. The teacher expressed no concerns.

14 Q Or her attendance?

15 A No concerns.

16 Q Thank you.

17 A Can I close this?

18 Q Yes.

19 MS. ELCANO: Your Honor, I just would object  
20 to those as to hearsay. I believe that they're already  
21 taken into evidence in the sense of the document being  
22 admitted. However, because they are her statements, they  
23 can be used in the way that they've already been  
24 admitted. However, Ms. Menesini was providing hearsay.

1 THE COURT: Well, the ultimate question is,  
2 did you have a concern about her education? The answer  
3 is no, so let's move on.

4 MR. ELKINS: I have no further questions,  
5 Judge.

6 THE COURT: Pass the witness?

7 MR. ELKINS: Yes.

8 THE COURT: Redirect.

9 MS. ELCANO: Thank you, Your Honor.

10

11 REDIRECT EXAMINATION

12 BY MS. ELCANO:

13 Q Ms. Menesini, what is Child Find?

14 A It is a program that assesses a child's  
15 developmental needs and to help provide services to get  
16 them back on target.

17 Q Back on what? I'm sorry.

18 A Milestones. Back developmentally on target.

19 Q Target. Thank you. I couldn't hear that.

20 Approximately how old is a child when they  
21 can qualify for Child Find, the Child Find program?

22 A Two to five.

23 Q And why was Kayleigh involved in Child Find?

24 MR. ELKINS: Objection. Calls for hearsay.

1 THE COURT: I didn't hear -- what?

2 MR. ELKINS: Hearsay, Judge. She doesn't  
3 have personal knowledge of why the child was in Child  
4 Find, Judge.

5 THE COURT: Objection sustained.

6 BY MS. ELCANO:

7 Q Based on your knowledge, did you ever discuss  
8 with Ms. Guerrero why Kayleigh was in Child Find?

9 A They had -- Ms. Guerrero put her in Child  
10 Find to just assess and get her the services, extra  
11 services, as needed.

12 Q And why was Kayleigh put in Child Find, based  
13 on the information you received from Ms. Guerrero?

14 A Just some concerns with her developmental  
15 target, where she was at. It was assessed she was 25  
16 percent delayed, but Ms. Guerrero was able to get her  
17 into a program to work on that.

18 Q You indicated that Roberto had missed a  
19 considerable number of school days. I believe you  
20 testified 45 or more.

21 Why was it concerning that Roberto was not  
22 attending school?

23 A When speaking with the school, they had  
24 indicated that due to the absence --

1 MR. ELKINS: Objection. I'm sorry. Are we  
2 asking why the witness was concerned or are we asking for  
3 the truth of the statements that are being provided to  
4 her?

5 MS. ELCANO: I was asking why the witness was  
6 concerned, based upon her investigation, that Roberto was  
7 not in school.

8 THE WITNESS: His attendance was --

9 MS. ELCANO: We have to let the judge rule.

10 THE WITNESS: Sorry.

11 THE COURT: That new question rephrased the  
12 question, so go ahead and answer.

13 THE WITNESS: His attendance was affecting  
14 him academically.

15 BY MS. ELCANO:

16 Q In what way?

17 A He was behind in his speech and language.

18 Q And I kind of just wanted to back up a little  
19 bit.

20 You began or you were first involved with the  
21 Guerrero-Hunt-Taylor family in October of 2012 up through  
22 April of 2013; correct?

23 A That is correct.

24 Q When you first became involved with this

1 family in October of 2012, where was the family living?

2 A They were residing in one of our shelters.

3 Q And which shelter was that?

4 A The Prayer House.

5 Q And were they continuing to reside there when

6 you got involved in October?

7 A No, they were not.

8 Q And why not?

9 MR. ELKINS: Objection. Hearsay.

10 MS. ELCANO: This is based on her

11 investigation and our fact finding. I don't think --

12 THE COURT: The problem is, her knowledge is

13 based on what somebody else told her.

14 BY MS. ELCANO:

15 Q Did you speak to Ms. Guerrero regarding why

16 they were no longer residing at her house?

17 A Yes.

18 Q And what did she indicate to you?

19 A Indicated that they had their own -- a

20 certain amount of time that they could be in there and

21 that they were already done.

22 Q And from Prayer House, where did this family

23 move?

24 A To the Family Promise.

1           Q     And in speaking with Ms. Guerrero,  
2 approximately when were they no longer residing at Family  
3 Promise?

4           A     It was approximately around December 2014.  
5 Not because they were being kicked out, but because  
6 Family Promise no longer had funding so they had to close  
7 their doors.

8           Q     So from Family Promise, where did this family  
9 next move?

10          A     They were going to reside with the maternal  
11 grandmother. Unfortunately, that was not an option. We  
12 then put them in a motel for approximately two weeks  
13 until they could get into their own apartment.

14          Q     And when, approximately, did they move into  
15 their own apartment?

16          A     Approximately in January.

17               THE COURT: Of what year?

18               THE WITNESS: 2013.

19 BY MS. ELCANO:

20          Q     Thank you.

21               And when did this family no longer reside in  
22 that apartment?

23          A     I do not know.

24          Q     In April of 2013 where was the family

1       residing?

2               A       In a motel.

3               Q       So it's accurate to say that the family went  
4       from the Prayer House to the Family Promise, to a motel,  
5       to an apartment, to a motel --

6               A       That is correct.

7               Q       -- over the course of your investigation?

8                       So is it accurate to say there were five  
9       separate residences from October of 2012 through April of  
10      2013 that you are aware of?

11              A       That is correct.

12                      MS. ELCANO: I have no further questions,  
13      Your Honor.

14                      THE COURT: Recross?

15                      MR. ELKINS: No. Thank you.

16                      THE COURT: The way I work this, you get two  
17      shots and that's it.'

18                      MR. ELKINS: Judge, if I don't use my shot  
19      this time, can I save it for another witness?

20                      THE COURT: No.

21                      MR. ELKINS: I have no further questions.

22                      THE WITNESS: Thank you, Your Honor.

23                      MS. ELCANO: Your Honor, I would request that  
24      Ms. Menesini is released from her subpoena.

1 MR. ELKINS: Yes. We did subpoena her, but I  
2 don't have any further questions.

3 THE COURT: But you can stay and watch now  
4 that you're released.

5 MS. ELCANO: To be clear, she's also released  
6 from the opposing counsel's subpoena as well?

7 MR. ELKINS: Yes, Judge. I just said that.

8 MS. ELCANO: The next witness, I would call  
9 Alicia Kraft.

10 THE COURT: Let's go ahead and take our  
11 15-minute break here.

12 (A recess was taken.)

13 THE COURT: This is Case No. FV14-03897 in  
14 the matter of the parental rights as to the Taylor  
15 children. There's four of them. The parties are present  
16 with their clients.

17 Ms. Elcano, go ahead.

18 MS. ELCANO: Thank you, Your Honor. I would  
19 call Alicia Kraft.

20 THE COURT: We'll probably take a real short  
21 recess in about an hour just to stretch our legs.

22 /////

23 /////

24 /////

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ALICIA KRAFT,  
having been first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ELCANO:

Q Good afternoon. Can you please state your  
name and spell your name for the Court?

A Alicia Kraft, A-l-i-c-i-a K-r-a-f-t.

Q Who is your present employer, Ms. Kraft?

A Washoe County Department of Social Services.

Q In what capacity are you presently employed  
there?

A I am an assessment worker.

Q How long have you been employed by Washoe  
County Department of Social Services?

A Four years.

Q And how long have you been employed as an  
assessment worker?

A Four years.

Q Where were you employed prior to Social  
Services?

A I was employed with Washoe County Juvenile  
Services.

1           Q     What were your job responsibilities while  
2 employed there?

3           A     I was classified as a tracker, and I helped  
4 manage probation caseloads.

5           Q     Please describe your educational background.

6           A     I have a bachelor's degree in social work and  
7 a minor in substance abuse from University of Nevada,  
8 Reno.

9           Q     Are you a licensed social worker?

10          A     Yes.

11          Q     Could you please briefly describe your job  
12 duties and responsibilities as an assessment worker?

13          A     As an assessment worker, I am assigned cases  
14 or investigations of child abuse and neglect. I meet  
15 with families and determine whether abuse or neglect has  
16 occurred.

17          Q     And, generally, what is the purpose of  
18 completing an assessment or investigation?

19          A     To determine whether a child is safe or  
20 unsafe in their current living conditions and whether or  
21 not they are to remain in the home.

22          Q     Were you employed by Washoe County Department  
23 of Social Services on January 2nd of 2014?

24          A     Yes.

1 Q And in what capacity were you employed?  
2 A As an assessment worker.  
3 Q Were you involved in a case involving Ethan  
4 Hunt-Taylor?  
5 A Yes.  
6 Q And why did you become involved in this case?  
7 A I was assigned to the investigation on  
8 January 2nd regarding allegations of inadequate housing  
9 as well as possible substance exposure to the infant.  
10 Q What was the report coded as?  
11 A A P-2, to my knowledge.  
12 Q Which means you have how long to respond?  
13 A Twenty-four hours.  
14 Q And who was Ethan's mother or who is Ethan's  
15 mother?  
16 A Jacqueline Guerrero.  
17 Q Do you see Jacqueline Guerrero present here  
18 in the courtroom today?  
19 A I do.  
20 Q Could you please point to her?  
21 A She's sitting at the table (indicating).  
22 MS. ELCANO: I would request --  
23 MR. ELKINS: Indicating the respondent.  
24 THE COURT: We don't need to identify her

1       anymore.    Just use her name.

2                   MS. ELCANO:   Thank you, Your Honor.

3       BY MS. ELCANO:

4               Q       Who is Ethan's father?

5               A       Robert Hunt-Taylor.

6               Q       And how was that determined?

7               A       It was reported that they were living  
8       together at the time of conception, and they both  
9       reported that he was the father.

10              Q       And does Ethan have any siblings?

11              A       To my knowledge, he has three.

12              Q       Who are they?

13              A       I do not recall their names.

14              Q       And where were Ethan's siblings placed at the  
15       time of this investigation?

16              A       To my knowledge, they were in family foster  
17       care with Washoe County Department of Social Services.

18              Q       What role, if any, did the fact that three  
19       other children were in the care and custody of Social  
20       Services play in your investigation?

21              A       It is taken into consideration when I do  
22       review any family history or historical history we may  
23       have with the family.  It is -- we are required to do a  
24       brand new assessment on any new child and any new

1       allegations.

2               Q       And can you please describe to the Court what  
3       you did first once you received this report?

4               A       Upon receiving the report, I first called  
5       Renown Medical Center to find out a discharge date for  
6       Ethan. I then called the apartment manager and I asked  
7       about the parents' current living situation.

8               Q       What did you do next?

9               A       I then went and met with Ms. Guerrero and  
10       Mr. Hunt-Taylor at Renown hospital, as well as Ethan.

11              Q       And in regards to your conversation with  
12       Ms. Guerrero, what was discussed?

13              A       It was discussed that they had been locked  
14       out of their apartment --

15              Q       I'm sorry. Who is "they"?

16              A       Ms. Guerrero and Mr. Hunt-Taylor.

17                      MR. ELKINS: Judge, I'm sorry to interrupt.  
18       The witness can be instructed simply to state what the  
19       mother said.

20                      MS. ELCANO: I asked in regards to the  
21       conversation as to Ms. Guerrero, what was disclosed. I  
22       think that was limited in my questioning.

23                      MR. ELKINS: I agree. I just want to make  
24       sure the witness understands it.

1 MS. ELCANO: That's what I asked.

2 BY MS. ELCANO:

3 Q I'm sorry. You just testified that  
4 Ms. Guerrero and Mr. Hunt-Taylor were locked out of their  
5 apartment?

6 A Correct.

7 Q And what else did Ms. Guerrero state to you?

8 A She had reported that she had not made any  
9 alternative arrangements for shelter for herself or  
10 Ethan. She did provide me with a number for a friend of  
11 hers that -- possibly that her and the baby could stay  
12 with them.

13 Q And what did you do next?

14 A I then staffed the case in regards -- for a  
15 warrant due to the inability to meet basic needs because  
16 they had no plan.

17 Q And when you say you staffed a case, what  
18 does that mean?

19 A I reviewed the case with my supervisor and  
20 other administration.

21 Q Okay. And did you obtain a warrant?

22 A I did.

23 MS. ELCANO: Your Honor, I would request that  
24 the Court -- this has already been admitted as Exhibit B.

1 There's two different Exhibits A and B. These children  
2 are under the same case. They break them down into  
3 juvenile dependency by A, B, C, and D. Because Ethan  
4 came into care at a different time, there are different  
5 pleadings, so they're under B as to Ethan and A as to the  
6 older three children because they were removed at the  
7 same time. And B was already admitted into evidence. It  
8 is certified copies of the documents as related to Ethan  
9 only.

10 MR. ELKINS: No objection.

11 THE COURT: Wouldn't those already be  
12 documents before this Court?

13 MR. ELKINS: Yes.

14 THE COURT: So they're already part of the  
15 court file, I would assume. So go ahead.

16 BY MS. ELCANO:

17 Q When was Ethan born?

18 A To my knowledge, January 1st of 2014.

19 Q And when was this investigation occurring?

20 A January 2nd.

21 Q And you indicated Ethan was at Renown. He  
22 was obviously just born there?

23 A Correct.

24 Q So -- I'm sorry -- you obtained a warrant; is

1       that correct?

2               A       I did.

3               Q       And what occurred after you obtained that  
4       warrant?

5               A       I had placed a call to Ms. Guerrero and  
6       discussed that we would be placing Ethan into protective  
7       custody due to the inability to meet basic needs and no  
8       stable income at that point.

9               Q       What was Ms. Guerrero's reaction?

10              A       She became very upset, crying. I then  
11       received a call from her about 15 minutes later.

12              Q       And what was disclosed at that juncture?

13              A       Stating that she had reached out to her  
14       father, Francisco Guerrero, and he was willing to have  
15       her and the child move in with him with no end date  
16       discussed and was willing to help her financially provide  
17       for the child as well as provide the housing.

18              Q       And what occurred next given you received  
19       that information?

20              A       Again, I staffed that with my supervisor as  
21       well as other administration, and it was determined at  
22       that point that Ms. Guerrero had the basic needs for her  
23       child. I did a home visit to the family residence,  
24       Mr. Guerrero's home, and I also provided a Pack 'n Play

1 for Ms. Guerrero. She did have all the other supplies  
2 needed at that time.

3 Q Was Ms. Guerrero employed --

4 THE COURT: You provided what, a Pack 'n  
5 Play?

6 THE WITNESS: A Pack 'n Play, a crib for the  
7 baby. It's a portable crib.

8 THE COURT: How do you spell that?

9 THE WITNESS: P-a-k apostrophe-n P-l-a-y  
10 [sic], I believe.

11 MS. ELCANO: It's kind of like a playpen, but  
12 they break down really easily so you can put them on your  
13 shoulder and carry them and then put them back up.

14 THE COURT: I have a little five-year-old  
15 granddaughter, but I don't have to worry about stuff like  
16 that with her. I just give her back to the parents when  
17 I get tired of her. I don't even know if they had them  
18 when I had my daughter 35 years ago.

19 Go ahead.

20 BY MS. ELCANO:

21 Q Was Ms. Guerrero employed at the time of your  
22 investigation?

23 A No.

24 Q And what were the safety concerns identified

1 as a basis for your warrant?

2 A The inability to meet the basic needs in  
3 regards to the housing and a stable source of income.

4 Q So was Ethan removed?

5 A No, he was not.

6 Q And why not?

7 A There was -- Jacqueline -- Mr. Guerrero had  
8 helped rectify the present danger at that point by  
9 providing a house for Jacqueline and the baby as well as  
10 financial support to her.

11 Q Did you complete a Nevada Initial Assessment?

12 A Yes.

13 Q And do you know approximately when?

14 A I believe it was on or about July -- excuse  
15 me -- January 29th.

16 Q Could you please turn to Exhibit G, as in  
17 Gregory?

18 A Uh-huh.

19 Q What is that document?

20 A A Nevada Initial Assessment.

21 Q Did you author that document?

22 A I did.

23 Q And can you review it and let the Court know  
24 if it's a true and accurate copy.

1           A     Yes.

2           MS. ELCANO: I would request that Exhibit G,  
3 as in Greg, is admitted into evidence, Your Honor.

4           MR. ELKINS: Same objection as to the other  
5 documents, Judge.

6           THE COURT: Same ruling. G is admitted.

7           (Petitioner's Exhibit G was admitted.)

8 BY MS. ELCANO:

9           Q     Ms. Kraft, what was your conclusion in the  
10 NIA?

11          A     My conclusion determined that Ethan was safe  
12 at this time -- at that time due to Jacqueline having  
13 housing for him as well as all the necessary supplies at  
14 that time.

15          Q     And where was Jacqueline or Ms. Guerrero --  
16 pardon me -- residing prior to moving in with her father,  
17 to your knowledge?

18          A     To my knowledge, they were in the Linden  
19 Street apartments. I do not recall the exact address.

20          Q     Do you know or did you discuss with  
21 Ms. Guerrero why they were no longer living at the Linden  
22 apartments?

23          A     I did.

24          Q     And what information did Ms. Guerrero provide

1 to you?

2 A She had not paid rent, and they had  
3 approximately \$1400 in back charges that needed to be  
4 paid.

5 Q So she was being evicted?

6 A Yes.

7 MS. ELCANO: I have no further questions at  
8 this time, Your Honor. Thank you.

9 THE COURT: Pass the witness?

10 MS. ELCANO: Yes, Your Honor.

11 MR. ELKINS: Thank you.

12

13 CROSS-EXAMINATION

14 BY MR. ELKINS:

15 Q Good afternoon, Ms. Kraft.

16 A Good afternoon.

17 Q Did you visit Ms. Guerrero and her baby in  
18 the hospital?

19 A I did.

20 Q Did you see Ms. Guerrero interact with the  
21 baby?

22 A I did.

23 Q Did you have any concerns about the way she  
24 interacted with the baby?

1           A     I did not.

2           Q     Do you recall if she was breast-feeding?

3           A     I believe, to my knowledge, she reported she  
4 was breast-feeding as well as supplementing with formula.

5           Q     And when you sought the warrant, in your  
6 warrant application -- was it you who filled out the  
7 warrant application?

8           A     I did not personally fill it out, the court  
9 document.

10          Q     Redirect your attention to Exhibit G in  
11 evidence, page 2.

12                 Is it fair to say that oftentimes information  
13 that gets into these documents is not altogether  
14 accurate?

15          A     I would say no. We try to provide everything  
16 accurate.

17          Q     I'm sure you do, but isn't it a fact that you  
18 get information from other sources which may or may not  
19 be accurate?

20          A     Yes, that is true.

21          Q     For example, if you look at the top of page  
22 2, it says "Jacqueline and Robert have a history of drug  
23 use."

24                 Do you have any idea where the statement

1 "Jacqueline has a history of drug use" came from?

2 A To my knowledge, I don't recall.

3 Q Did you have any information that Jacqueline  
4 was using drugs?

5 A At that time I did not.

6 Q Do you have any idea how that statement made  
7 its way into the document?

8 MS. ELCANO: Your Honor, I think this is  
9 based on a confidential reporting party, so I just want  
10 to be clear that the source of this information cannot be  
11 revealed.

12 THE COURT: Is that true?

13 THE WITNESS: Our reporting parties are  
14 confidential, yes.

15 THE COURT: But do you have any knowledge  
16 that Jacqueline has a history of drug use?

17 THE WITNESS: I believe that was reported to  
18 me, but I did not put it in there and I don't recall who  
19 reported that.

20 BY MR. ELKINS:

21 Q Do you know the source of the information?

22 A I don't recall.

23 Q Yes or no?

24 A No.

1           Q     Okay. Is there anything --

2           THE COURT: Let me make this observation. If  
3 I'm reading this, if I haven't heard any evidence of  
4 that, this is the kind of stuff that -- it's like I used  
5 to tell the DEA; if you have direct evidence of something  
6 like this, then -- you know, I don't -- informants might  
7 cause them to act, it's not going to cause me to believe  
8 anything unless someone comes into this courtroom and  
9 says they have information that she's used drugs. So  
10 that's what I was trying to explain before. So if I read  
11 that and I haven't heard any evidence, I'm going to  
12 ignore that.

13           MR. ELKINS: I'm just trying to emphasize,  
14 Judge, that --

15           THE COURT: That's fine. I just want to make  
16 it clear, I'm not going to -- because I'm letting stuff  
17 come in, and if she had knowledge and said it, then  
18 that's evidence, but because it shows up on a report --  
19 and I don't care what source it is -- unless the source  
20 comes into court and says it, I'm not going to base  
21 anything on that.

22           MR. ELKINS: I just wanted to clarify, Judge,  
23 that she was not the source of this information, that we  
24 obviously don't know who the source of that information

1 was nor do we have any reason to believe it's reliable.  
2 Point being that there's stuff in here that's just that,  
3 stuff.

4 In any event --

5 THE COURT: I haven't read anything in the  
6 trial statements or anything else I've read to indicate  
7 that Ms. Guerrero has a problem with drugs.

8 MR. ELKINS: Correct. It makes one wonder  
9 how that would get into the report.

10 THE COURT: It's the same thing with -- I  
11 keep using the DEA as an example, but it happens all the  
12 time, which is why, unless I have someone that comes in  
13 here and testifies to personal knowledge of  
14 something -- and it's not carelessness or anything else  
15 like that, it just ends up in these things -- and that's  
16 why I'm saying, unless I've got testimony from someone  
17 who has personal knowledge, things like this that show up  
18 in reports don't mean anything to me at all.

19 MR. ELKINS: Thank you, Judge.

20 THE COURT: Go ahead.

21 BY MR. ELKINS:

22 Q Just to put this to rest, did the hospital  
23 indicate to you any information that would lead you to be  
24 concerned that Ms. Guerrero was using drugs?

1 MS. ELCANO: Objection. Hearsay.

2 MR. ELKINS: No, Judge. Her conclusions in  
3 terms of safety.

4 MS. ELCANO: I think it could be asked -- the  
5 question could be rephrased to encompass that.

6 MR. ELKINS: Let me rephrase the question.

7 BY MR. ELKINS:

8 Q Based upon your investigation, did you have  
9 any concerns about drug use by Ms. Guerrero?

10 A No.

11 Q Thank you.

12 Did there come a time, Ms. Kraft, when you  
13 visited Ms. Guerrero and the baby, Ethan, at her father's  
14 residence?

15 A Yes.

16 Q And can you just tell me what your  
17 observations were about the environment, the child,  
18 etcetera?

19 A I made a home visit to the paternal -- the  
20 maternal grandfather's home. Jacqueline was present. I  
21 believe Robert was present that day as well. The home  
22 had no health or safety hazards. Jacqueline had her own  
23 room set up with appropriate sleeping arrangements for  
24 Ethan in that Pack 'n Play, she had appropriate supplies

1 at that time, and we just discussed her working her  
2 current case plan.

3 Q Do you recall the room?

4 MS. ELCANO: Objection. Vague. What room?

5 BY MR. ELKINS:

6 Q Do you recall the mother's room?

7 A Yes.

8 Q Can you just describe it for the judge?

9 A You walked in, there was a bed for herself  
10 and a small area for the Pack 'n Play, there was clothes  
11 in the closet, and she had appropriate diapers and  
12 supplies for Ethan at that time.

13 Q Was it clean?

14 A Uh-huh, yes.

15 Q Was it organized?

16 A Yes.

17 Q Did the baby appear healthy?

18 A Yes, sir.

19 Q And did you see Ms. Guerrero interact with  
20 the baby?

21 A The baby -- excuse me. Ethan was sleeping at  
22 that time. Sorry.

23 Q And you said this was a trailer?

24 A It was a -- yes. It was a trailer park, yes,

1 a mobile home.

2 Q Was that the only time that you visited  
3 Ms. Guerrero in her home with the baby?

4 A I visited on January 3rd and then again, I  
5 believe, on or about the 23rd of January.

6 Q And were your observations the same on both  
7 occasions?

8 A Yes.

9 Q So within that three-week period, the room  
10 was still clean, organized?

11 A Yes.

12 Q Baby seemed healthy?

13 A Yes.

14 Q And on both occasions he was sleeping?

15 A The day he came home he was sleeping, and the  
16 day I went he was sleeping.

17 Q Okay. Based upon your investigation, did you  
18 have any concerns about Ms. Guerrero's -- your  
19 investigation -- any concerns about Ms. Guerrero's  
20 parental capacity?

21 MS. ELCANO: Objection. "Parental capacity,"  
22 I think that's really vague. I think it also calls for a  
23 medical --

24 MR. ELKINS: Judge, I believe we've already

1 had a witness testify about the term "parental capacity."

2 MS. ELCANO: We have not had a witness --

3 THE COURT: Well, did you have any concerns  
4 about her as a parent?

5 THE WITNESS: At that time during my  
6 investigation, she was acting appropriate with Ethan. We  
7 did discuss her current open case and how she needed to  
8 address her case plan, but at that time I did not have  
9 concerns with her and Ethan.

10 MR. ELKINS: Okay. No further questions,  
11 Judge.

12 THE COURT: A petition was filed with a  
13 warrant; is that right?

14 THE WITNESS: A warrant was obtained and it  
15 was not executed. It was --

16 THE COURT: I don't know your guys'  
17 procedure. Do you usually file a petition before you --

18 MS. ELCANO: Your Honor, we attempt to get  
19 warrants in the event that we can. If --

20 THE COURT: What process do you get --

21 MS. ELCANO: So the way -- legally, the way  
22 it would work is you try to get a warrant if you can.  
23 From there you go to a protective custody hearing, which  
24 is an emergency hearing that has to --

1                   THE COURT:  What documents do you file to get  
2   a warrant?

3                   MS. ELCANO:  You go in front of the judge and  
4   fill out an order that gets signed, so the only document  
5   you're going to get from a warrant is a signed warrant.

6                   THE COURT:  You don't have to submit an  
7   affidavit or --

8                   MS. ELCANO:  No.  The social worker comes and  
9   testifies with an attorney.

10                  THE COURT:  This is the juvenile master?

11                  MS. ELCANO:  Warrants are not in front of the  
12   masters, they're only in front of judges, so we typically  
13   go in front of Judge Walker, if he's available, or other  
14   family court judges.  And if a warrant is obtained and a  
15   child is removed from care, a protective custody hearing  
16   is held.

17                  THE COURT:  In front of a judge or in front  
18   of a master?

19                  MS. ELCANO:  It can be in front of either.

20                  And from the protective custody hearing,  
21   if -- that's the period on which the NIA is being  
22   completed, and if it's determined that a child is unsafe  
23   if returned to their parents or needs to remain in the  
24   care and custody of Social Services, at that juncture a

1 petition is filed, and it's usually over about a 12- to  
2 14-day period.

3 MR. ELKINS: Pass the witness, Judge.

4

5 REDIRECT EXAMINATION

6 BY MS. ELCANO:

7 Q So I just wanted to clarify a few things.

8 You testified that at the time you received  
9 the report there were allegations of drug use or --

10 A Correct.

11 Q What specifically were the allegations  
12 related to substances?

13 MR. ELKINS: Objection.

14 MS. ELCANO: Basis?

15 MR. ELKINS: Hearsay.

16 THE COURT: I don't --

17 MS. ELCANO: I think she's already testified  
18 as to she received a report with concerns regarding the  
19 mother's ability to provide a home as well as substance  
20 abuse.

21 THE COURT: Is that what you testified?

22 THE WITNESS: Yes.

23 BY MS. ELCANO:

24 Q When you receive a report as an assessment

1 worker, do you have an obligation to investigate that  
2 report?

3 A Yes.

4 Q And are there times when you find that that  
5 report may not be valid?

6 A Yes.

7 Q And in this particular case, in regards to  
8 the allegations of substance abuse, did you find any  
9 basis for those?

10 A No.

11 Q Did you find any basis for Ms. Guerrero's  
12 inability to provide a stable home for her child  
13 initially?

14 A Yes, initially.

15 Q And you talked briefly about the fact that  
16 you did discuss with Ms. Guerrero her case plan and  
17 service agreement associated with her other children in  
18 care; correct?

19 A Correct.

20 Q And what specifically did you discuss with  
21 Ms. Guerrero?

22 A That it was coming up, you know, on a year  
23 and to ensure that she's following through with her  
24 permanency worker and following through with her case

1 plan.

2 Q And to your knowledge was she doing so?

3 MR. ELKINS: Objection, Judge. This is --

4 MS. ELCANO: Can we have a basis for  
5 objections so I can respond appropriately?

6 MR. ELKINS: Yes. My objection is that the  
7 witness does not have personal knowledge of these matters  
8 which, as she's already said, cover the period of a year.

9 MS. ELCANO: She's testifying as to the  
10 conversation with Ms. Guerrero she had.

11 THE COURT: She testified as to conversations  
12 she's had with Ms. Guerrero. Go ahead.

13 THE WITNESS: And Ms. Guerrero just expressed  
14 frustration in regards to her Children's Cabinet worker,  
15 who was not providing things she felt that she needed.

16 THE COURT: What's a cabinet worker?

17 THE WITNESS: Children's Cabinet is an agency  
18 that is contracted with our agency, and they provide  
19 different services to the families.

20 THE COURT: Okay. And I want to apologize to  
21 the parties. I'm not familiar with the programs in  
22 Washoe County as compared to I am familiar with Carson  
23 City, I'm familiar with Storey County, and there are a  
24 lot fewer programs. We have a Children's Cabinet in

1 Carson City -- maybe not -- maybe that's a museum, I  
2 don't know, but -- so some of these, I have to have some  
3 more description of what we're talking about because I  
4 think sometimes you all are used to talking about  
5 Children's Cabinet, and then you don't explain it, and  
6 unless I ask, I wouldn't know.

7 So it's just an agency that's just for  
8 children, helps families with children?

9 THE WITNESS: Correct. They have a lot of  
10 resources. They can provide parenting classes --

11 THE COURT: Is that something people get  
12 referred to or is it something that people can go and  
13 avail themselves of?

14 THE WITNESS: Both.

15 MS. ELCANO: Your Honor, I will be calling a  
16 Children's Cabinet worker, and I think perhaps some of  
17 the permanency cases involved in this case can shed a  
18 little light. This was a SAFE-FC case, which you'll hear  
19 about, which in turn enables the family to access  
20 Children's Cabinet, so hopefully that will get cleared up  
21 as we progress.

22 BY MS. ELCANO:

23 Q Did you discuss anything additionally with  
24 Ms. Guerrero regarding her case plan and her open case?

1           A     Not that I can recall.

2           MS. ELCANO: I have no further questions.

3     Thank you.

4           THE COURT: Mr. Elkins.

5

6                         RE CROSS-EXAMINATION

7     BY MR. ELKINS:

8           Q     Do you recall when she said she was evicted?

9           A     I do not.

10          Q     The date of the eviction?

11          A     Yes. Actually, it was that day that I made

12     contact with her.

13          Q     So the day after she gave birth?

14          A     That would be correct.

15          MR. ELKINS: No further questions, Judge.

16     Thank you.

17          THE COURT: You can step down.

18          Is this witness excused?

19          MS. ELCANO: I would request that she is.

20     However, I do believe she obtained a subpoena from

21     opposing counsel, and I'm not certain --

22          MR. ELKINS: She's relieved from the

23     subpoena, Judge. Thank you.

24          THE COURT: So you're released and completed.

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL  
RIGHTS AS TO: R.T., K.G-T., N.H-T., AND  
E.H-T.,  
MINOR CHILDREN,

No. 70210

Electronically Filed  
Aug 01 2016 11:16 a.m.  
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JACQUELINE GUERRERO,  
Appellant,  
vs.  
WASHOE COUNTY DEPARTMENT OF  
SOCIAL SERVICES,  
Respondent.

---

Appeal from an Order Terminating Parental Rights in FV14-03897  
The Second Judicial District Court of the State of Nevada  
Honorable William A. Maddox, Senior District Judge, Family Division

---

JOINT APPENDIX VOLUME TWO

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7 Court Reporter

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
9  
10 IN AND FOR THE COUNTY OF WASHOE  
11  
12 THE HONORABLE WILLIAM A. MADDOX, SENIOR DISTRICT JUDGE  
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14 TERM: R. TAYLOR, K. GUERRERO- Case No. FV14-03897  
15 TAYLOR, N. HUNT-TAYLOR,  
16 E. HUNT-TAYLOR, Dept. No. 2

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18 TRANSCRIPT OF PROCEEDINGS  
19  
20 TRIAL  
21  
22 DAY 1  
23  
24 Monday, August 31, 2015

25 Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

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MALIA SERONIO  
8 ROCIO LOPEZ  
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RENO, NEVADA; MONDAY, AUGUST 31, 2015; 9:07 A.M.

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THE COURT: This is Case No. FV14-03897 in the matter of the parental rights as to Roberto Taylor, Kayleigh Guerrero-Taylor, Nathan Hunt-Taylor, and Ethan Hunt-Taylor, minor children.

Can the parties identify themselves and who they represent? And we'll start with, I guess, the district attorney's office.

MS. ELCANO: Good morning, Your Honor. Tyler Elcano, Deputy District Attorney, on behalf of Washoe County Department of Social Services. With me from the department today are Rocio Lopez and Malia Seronio, and I can spell the names.

THE COURT: Why don't you go ahead and do that.

MS. ELCANO: Rocio is R-o-c-i-o, Lopez, L-o-p-e-z.

THE COURT: I'm older, so it takes -- you've got to be a little slower. R-o- --

MS. ELCANO: -- -c-i-o.

THE COURT: -- -i-o.

1 MS. ELCANO: And Lopez is L-o-p-e-z.  
2 THE COURT: Okay.  
3 MS. ELCANO: And Malia --  
4 THE COURT: And yours is Elcano, E-l-c-a-n-o?  
5 MS. ELCANO: Correct.  
6 And then Malia is M-a-l-i-a S-e-r-o-n-i-o.  
7 THE COURT: I'll just call you Ms. Rocio and  
8 Ms. Lopez. How does that sound?  
9 MR. ELKINS: Good morning, Judge. My name is  
10 Lee Elkins. I'm with the Washoe County Public Defender's  
11 office, and I represent the mother in this case,  
12 Jackie Guerrero, who is present and seated to my right.  
13 THE COURT: Okay. Are the parties -- I think  
14 we have one pending matter before the Court, a motion to  
15 dismiss and/or continue; is that correct?  
16 MR. ELKINS: That's correct, Judge.  
17 We filed that motion, I think, August --  
18 THE COURT: August 21st.  
19 MR. ELKINS: -- 21st, 10 days before trial,  
20 not including the -- well, including weekends.  
21 The reason we think it's appropriate, Judge,  
22 is simply because it's what's required by statute. It's  
23 also, by the way, required by local rules.  
24 There was an amended petition filed in this

1 case on the 17th of July. There had been a bench bar  
2 with Judge Walker where this was pointed out, so the  
3 amended petition, having been filed after that, it seems  
4 to me there's really no reason why the pleading doesn't  
5 conform to the statute which says that, if it doesn't, a  
6 continuance is appropriate.

7 The reason for it, of course, Judge, is  
8 jurisdictionally, where a child has been in foster care  
9 in another place, it is possible that there's a home  
10 state problem under the UCCJEA. We, as the respondent,  
11 obviously don't have access to those records. We have no  
12 way of determining whether there was a court order. We  
13 don't have access to child protection records in other  
14 jurisdictions.

15 We know that the oldest child was born in  
16 California, Long Beach. We know that -- I think -- it  
17 was only one of the children was born in Arizona, I  
18 think, but they are children born in other jurisdictions,  
19 and all we're asking for is that the pleadings conform to  
20 the statutory requirements so we know there are no  
21 impediments to jurisdiction. So that's the reason we  
22 filed the motion.

23 THE COURT: Ms. Elcano.

24 MS. ELCANO: Thank you, Your Honor.

1 I would like to point out, first of all, Your  
2 Honor, that this motion was not timely filed. It was  
3 filed on the 21st. However, in accordance with NRCP 10  
4 as well as the Washoe District Court Rules 12(2), I have  
5 10 days to file an opposition, not including weekends  
6 and/or holidays. It was filed on Friday. My opposition  
7 would be due this coming Friday, which is why one has not  
8 been filed.

9 Additionally, the parties did agree that all  
10 pretrial motions would be filed on the 17th of this  
11 month, and the motion to dismiss is being filed today.

12 Additionally, a motion and order shortening  
13 time could have been requested in this particular case.  
14 That was not done, so it's not quite certain why the  
15 delay in filing this was done. The motion -- pardon  
16 me -- the original petition was filed in 2014. It was  
17 amended. However, the petition was amended back on  
18 July 17, 2015, and here, over a month later, we are  
19 receiving this motion to dismiss. It appears that this  
20 motion was not filed in good faith and was filed to delay  
21 the proceedings here today.

22 Additionally, nothing -- I was not contacted  
23 in an effort to resolve this issue to see if it could be  
24 done without motion practice.

1           Opposing counsel was appointed to represent  
2 Ms. Guerrero on January 22, 2015. Additionally, you  
3 know, this is being filed almost eight months after that  
4 time. We have fully complied with the UCCJEA. Pursuant  
5 to NRS 125A.385, each party -- not just us, but each  
6 party has an obligation in its first pleading or in an  
7 attached affidavit to provide information that is  
8 reasonably ascertainable under oath as to the child's  
9 present address or whereabouts and where the child has  
10 lived during the last five years.

11           Washoe County Department of Social Services  
12 has stated in its petition to terminate parental rights,  
13 in the amended petition, personal knowledge as to where  
14 the children resided at the time of their removal and  
15 subsequently thereto. Washoe County Department of Social  
16 Services has no personal knowledge as to where these  
17 children resided prior to that. They are required to  
18 sign an affidavit under oath under penalty of perjury as  
19 to personal knowledge. While they do have some  
20 information that was provided by Ms. Guerrero in this  
21 particular case, they do not have actual knowledge of the  
22 addresses where Ms. Guerrero resided or the time frame by  
23 which -- where they resided.

24           In fact, the most appropriate person and as

1 also contemplated under the law to provide this  
2 information would be Ms. Guerrero. Ms. Guerrero equally  
3 has that responsibility to provide this information when  
4 filing a pleading.

5 In this case so far, there has been an  
6 answer, a denial in this particular case entered in  
7 court, there has been a settlement conference statement,  
8 there has been a trial statement, there has been a motion  
9 filed, and to date Ms. Guerrero has not provided this  
10 information to the Court, and she is the individual who  
11 has this personal knowledge. She can also get copies of  
12 the Child Protective Services records if she were to  
13 request them. In fact, it would be easier, probably, for  
14 her to get them than our agency.

15 Therefore, I would argue that Washoe County  
16 Department of Social Services has provided in the  
17 pleadings the information it had as to the whereabouts of  
18 the children, where they were living while Social  
19 Services has been involved in this case.

20 I would also make the argument that opposing  
21 counsel does not come with clean hands and that laches  
22 would attach in this case.

23 Additionally, Your Honor, the purpose of the  
24 UCCJEA is to ensure that this Court has jurisdiction over

1 these children and that competing custody orders are not  
2 ordered. There's nothing to indicate that a previous  
3 custody order was entered in this particular case or that  
4 an issuance of a termination order would compete with  
5 that custody order.

6 The Court clearly has jurisdiction in this  
7 matter. The children have been residing here in Washoe  
8 County in excess -- or since, I believe, 2011 or  
9 sooner -- pardon me -- later. Additionally, Ethan was  
10 born here, he's only resided in this area, and I believe  
11 the home state requirement would be met.

12 Finally, I do not believe that dismissal is  
13 appropriate or warranted at this particular time. I've  
14 already touched on the untimeliness of the motion as it  
15 was filed. Additionally, if there is a deficiency, I  
16 think it could be cleared up by the statements being made  
17 on the record and we can proceed as to trial today.

18 If the Court would like, I'm happy to file  
19 anything additionally to clear up what my agency has  
20 personal knowledge of in this particular case. There's  
21 absolutely no prejudice here. The information that  
22 opposing counsel is saying that we should have provided  
23 was known by his client. It could have been easily  
24 ascertained by his client and provided to the Court.

1     Additionally, there is absolutely no argument that  
2     jurisdiction is inappropriate in this particular court.

3             If the case were dismissed today, Washoe  
4     County Department of Social Services would be forced to  
5     merely refile the petition that's already filed and move  
6     forward with trial and reset again. I don't think that  
7     would be the most judicially or the most economical for  
8     the judicial time already allotted to this case, as well  
9     as the agencies already involved.

10            THE COURT: Mr. Elkins, do you have a  
11     response?

12            MR. ELKINS: Yes, Judge. Thank you.

13            First of all, we were given about, say, 750  
14     pages of UNITY notes which we had to go through. In the  
15     process of going through the UNITY notes, we discovered  
16     statements that my client, when she was 17 and pregnant  
17     with the oldest child, had been in foster care. My  
18     client has no way of knowing, at the age of 17 and being  
19     subject to a dependency case, what orders were entered,  
20     whether it was a petition filed by CPS in Long Beach,  
21     California, and to say that she could obtain those  
22     records with a release or signature I don't think is  
23     correct because they are confidential records.

24            I also believe, Judge, that in the UNITY

1 notes there is a reference to the Washoe County CPS  
2 having communications with the State of California  
3 regarding records, so that's clearly something that's  
4 more easily accessible to them.

5 As far as the statute goes, it says in the  
6 first pleading -- we didn't actually move to dismiss the  
7 original pleading following the bench bar conference I  
8 talked about. When the new pleading was filed in July,  
9 we thought the motion was appropriate.

10 We actually haven't technically filed a  
11 pleading here, but even if you consider a trial statement  
12 or a settlement statement a pleading, which I don't think  
13 is correct, my client just doesn't have access to that  
14 information. She was 17 years old, and, I mean, the  
15 legislature enacts these requirements, obviously, for  
16 substantive reasons, to make sure there are no  
17 jurisdictional barriers. It seems to me the burden is on  
18 the petitioner to do that.

19 So I've basically spelled it out as best I  
20 can, what we have access to, what we don't have access  
21 to. It seems to me, Judge, it's not unduly burdensome to  
22 file an affidavit of what the agency knows about prior  
23 proceedings, and as far as the timeliness of the motion  
24 or a request to foreshorten the time, we actually did

1 file that. It's actually -- I think it was filed today,  
2 only because we didn't have a response, and there  
3 actually is no -- when you're talking about --

4 THE COURT: What did you file today?

5 MR. ELKINS: A request to expedite the  
6 answer. And I say -- in the paper, Judge, I say, you  
7 know, we're going to trial today; this is an issue that  
8 needs to be resolved before we commence, and, therefore,  
9 I think that that would be a reason to get an answer.  
10 So, yes, we filed it actually -- it was docketed today,  
11 and we filed it, I think, on Friday.

12 But in any event, it's a pleading  
13 requirement, Judge, and the statute clearly says that the  
14 Court may grant a continuance or they may file affidavits  
15 stating what they know about prior proceedings. There is  
16 a factual basis for it, which we've laid out, and as I  
17 said, in 750, I think, pages of UNITY notes, we discover  
18 this when she's 17 years old.

19 So I deny it's in bad faith. That's the  
20 reason why it was filed when it was filed, and had the  
21 district attorney's office wanted to answer or even just  
22 file a supplemental affidavit from the agency  
23 caseworkers, saying, "This is what we know," that would  
24 conform to the UCCJEA. I don't think that's so

1 burdensome, frankly, Judge. So thank you.

2 THE COURT: Well, I'll start out by making an  
3 observation about my judicial philosophy as a district  
4 court judge, and that is, that my job is to make a record  
5 and as reasoned a decision as I can, and then after that  
6 the Supremes can do whatever they want to. I've been  
7 upheld and I've been reversed, and that's pretty much it.  
8 I don't like having cases remanded back to me to hear for  
9 a second time, so that's why I always try to make a very  
10 good effort.

11 In this case I do agree -- I read the  
12 stipulation that you guys signed that all dispositive  
13 motions be filed by the 17th, so this motion is untimely.  
14 However, I am not going to base my decision on that.

15 I don't think we need to dismiss and/or  
16 continue this matter. What we can do is at some point  
17 you can, over the course of this proceeding -- or we can  
18 leave the record open once we've concluded, before I make  
19 my decision, and potentially reschedule this for a later  
20 time, but if there's any information you haven't provided  
21 to Mr. Elkins that you should have or, arguably, someone  
22 could find that you should have, then give it to him.  
23 But, again, it's not -- it's not grounds for dismissal  
24 and I'm not going to continue this matter. There isn't

1 any reason why we can't proceed today.

2 And, again, I'll leave -- I'll give you an  
3 opportunity, Mr. Elkins -- and, again, in line with what  
4 I just said about my philosophy -- throughout the course  
5 of this proceeding, any time you want to make a record,  
6 then -- because this is not a jury trial and you don't  
7 have to worry about stopping or whatever other problem  
8 you might have -- so you make a note to bring this back  
9 up after we've heard all of the evidence if it's going to  
10 make any difference. Based on what I've read, I'm almost  
11 99.9 percent certain that I have jurisdiction over this  
12 matter, so it's not really a jurisdictional issue.

13 So for the record, the motion to continue is  
14 denied, the motion to dismiss is denied, but we can  
15 revisit it.

16 MR. ELKINS: Thank you. And the only thing I  
17 would say is we would be satisfied with an affidavit  
18 conforming to the statute.

19 THE COURT: That's fine.

20 MR. ELKINS: Thank you.

21 THE COURT: And, Ms. Elcano, again, in line  
22 with the idea that -- and I'm certain, just because it  
23 seems to always happen, the Nevada Supreme Court is going  
24 to be looking at this, so if you want to file a written

1 response, like you said, you have until this Friday, I  
2 suppose, so that's fine. Just for you to make your  
3 record.

4 MS. ELCANO: Thank you.

5 THE COURT: Even though I think probably  
6 you've made it already anyway, but the safest course of  
7 conduct would be to file a written one. My suspicion is  
8 the purpose of that is to ensure discovery and so that  
9 you're aware of -- plus, as you already brought up, to  
10 ensure the Court has jurisdiction.

11 Anything else pre- -- okay.

12 I've read your trial statements. I don't  
13 know if -- if you want to make opening statements, you  
14 can. If you want to waive those and just proceed to the  
15 evidence, that's fine, too.

16 What do you want to do, Ms. Elcano?

17 MS. ELCANO: I would like to make an opening  
18 statement, Your Honor, and I would also like to invoke  
19 the rule of exclusion at this juncture.

20 THE COURT: Is there anybody here that's a  
21 witness?

22 MS. ELCANO: I have two possible potential  
23 witnesses I'm going to ask to leave.

24 MR. ELKINS: Judge, we would also invoke the

1 rule of exclusion, and the two women sitting at the table  
2 with Ms. Elcano are witnesses. This is an agency that  
3 has -- I don't know -- 150 employees.

4 THE COURT: Is there an exception for the --

5 MS. ELCANO: Your Honor, they are parties to  
6 these proceedings. Ms. Lopez is a social worker for the  
7 three older children. Ms. Seronio is the social worker  
8 for Ethan, the youngest child. They will be called as  
9 witnesses, as will Ms. Guerrero, according to opposing  
10 counsel. I have a right to have a representative present  
11 for me. They are the two social workers assigned to this  
12 case.

13 MR. ELKINS: Judge, this is -- the party in  
14 interest is the agency, not the individual social  
15 workers, and the agency obviously has many employees and  
16 should be represented by someone who doesn't actually  
17 have -- is not a percipient witness and isn't going to be  
18 testifying. Just like with any organization, for a  
19 corporation, they would have a representative here who is  
20 not going to be called as a witness, and the Washoe  
21 County Department of Social Services shouldn't be treated  
22 any differently. It's, frankly, prejudicial to my client  
23 to have the principal witnesses be able to sit and listen  
24 to each other's testimony.

1 I'm not suggesting they would act in bad  
2 faith, but it's hard not to be influenced by what you've  
3 heard, and since there are other representatives of the  
4 agency who are not percipient witnesses who will not be  
5 called to testify, we would ask that someone else be  
6 present to represent the agency.

7 MS. ELCANO: Your Honor, the practice has  
8 always been to have a person or persons present who are  
9 knowledgeable with the particular case. That's typically  
10 the social worker assigned to the particular case. If  
11 this were going to be an issue, it was never brought to  
12 my attention. No arrangements were made for an  
13 additional person from Social Services to be present here  
14 today. That has not been the practice ever. This is my  
15 representative.

16 THE COURT: You know, it's been a while. If  
17 I could figure out a way to get --

18 I got a number for this computer to get on,  
19 but I don't know how to use it and -- can I get on the  
20 Internet with this one here?

21 THE CLERK: Yes.

22 THE COURT: You know, if I knew how to do it,  
23 it would be fine, but I don't.

24 What is that statute?

1 Do either of you know the statute?

2 MR. ELKINS: Judge, I'm looking it up.

3 MS. ELCANO: I believe it's 50, Your Honor.

4 MS. ELCANO: .155.

5 THE COURT: 50.155, okay.

6 MS. ELCANO: Specifically, subsection 2(b)  
7 does not authorize the exclusion of an officer or  
8 employee of a party which is not a natural person  
9 designated as its representative by its attorney.

10 THE COURT: Mr. Elkins, do you have any  
11 response to that?

12 MR. ELKINS: Yes, Judge. That's not our  
13 argument. The argument is that there are other  
14 representatives who are not witnesses who could be  
15 present, so I don't think that section specifically  
16 addresses our objection.

17 I mean, we don't have any objection to an  
18 officer or employee of the Washoe County Department of  
19 Social Services being present, obviously. It is just  
20 that we object to the presence of witnesses.

21 MS. ELCANO: And, specifically, that section  
22 says that the exclusionary rule does not apply to an  
23 individual who has been designated as a representative of  
24 the agency by their attorney, which was just done so

1 here.

2 THE COURT: Okay. Well, I'm going to --  
3 again, if the Supreme Court decides I'm wrong, then  
4 you're going to have to do this case all over again, but  
5 I'm going to overrule the objection.

6 I think the exception in this case to the  
7 rule of exclusion is they're both officers and employees  
8 of a party, which is not a natural person designated as  
9 its representative by its attorney. I also suspect that  
10 they're persons whose presence, because they are the  
11 workers themselves, who are essential to the presentation  
12 of Washoe County --

13 MR. ELKINS: -- Department of Social  
14 Services.

15 THE COURT: I'm used to CPS, so this is --

16 MS. ELCANO: That works for us.

17 THE COURT: Years and years and years ago I  
18 did a child abuse case for Mills Lane across the hall  
19 when there used to be a courtroom over there, in front of  
20 Judge Torvinen. It was a child abuse and neglect case,  
21 and I think you had Washoe Social Services then, too. So  
22 that would have been 1983, so when Mills first got to be  
23 elected D.A.

24 So for both reasons I'm going to overrule the

1 objection. I'll allow those people to stay.

2 MR. ELKINS: Judge, then I have another  
3 request. My concern, of course, is having one witness  
4 hear the other testify.

5 THE COURT: I can see that -- maybe what we  
6 can do is exclude -- when each of them are testifying,  
7 exclude the other one.

8 Do you have any objection to that?

9 MS. ELCANO: That would be fine, Your Honor.

10 MR. ELKINS: Thank you, Judge.

11 THE COURT: And, you know, the purpose of the  
12 rule, like you say, is to ensure that witnesses aren't  
13 listening to each other and conforming their testimony to  
14 each other's testimony. So I would think that by doing  
15 that, it would accomplish that. Otherwise they're here  
16 and they can assist her in the presentation of the  
17 witnesses otherwise.

18 So I will grant your objection to that  
19 degree. When each of the parties are testifying, the  
20 other one will be excluded.

21 Anything other pretrial?

22 MS. ELCANO: Nothing from us, Your Honor.

23 MR. ELKINS: Well, actually, Judge, just to  
24 move things along, there are certain exhibits. I had a

1 chance to look at them, and I think I got them on  
2 Thursday, and we're prepared to stipulate to the  
3 admissibility of some of these exhibits just to save  
4 time, if Your Honor wants me to do that now or I can do  
5 that later. It's up to you.

6 THE COURT: Okay. You can do that.

7 We have State's Exhibits what, five pages of  
8 them?

9 MR. ELKINS: Something like that, yeah.

10 THE COURT: A through --

11 MR. ELKINS: EE, Judge, or maybe more.

12 THE COURT: EE. Double GG because they added  
13 a couple.

14 MR. ELKINS: Correct. We are prepared to  
15 stipulate to the admissibility of P, Q --

16 THE COURT: Just a second. Again, keep in  
17 mind I'm not as quick as I used to be.

18 So let's move along like -- I don't know if I  
19 like the term "senior." I like "experienced." P --

20 MR. ELKINS: P and Q we have no objection to.  
21 Also, T through Y, the case plans. We also have no  
22 objection to BB or CC.

23 THE COURT: BB as in boy?

24 MR. ELKINS: Correct. And CC as in child.

1                   We have no objection to DD and we have no  
2                   objection to EE. Let me back up a little, Judge. Sorry.

3                   I have no objection to A and I have no  
4                   objection to B.

5                   THE COURT: B as in boy?

6                   MR. ELKINS: Correct. So to the extent that  
7                   that saves time.

8                   THE COURT: Okay. So, then, for the record,  
9                   based on the representations by Mr. Elkins on behalf of  
10                  his client, A, B -- B as in boy -- P as in people, Q, T,  
11                  U, V, W, X, Y, BB, CC, DD, EE are admitted.

12                  (Petitioner's Exhibits A, B, P, Q, T, U, V,  
13                  W, X, Y, BB, CC, DD, and EE were admitted.)

14                  MR. ELKINS: And finally, Judge, we were just  
15                  given, on Friday, photographs of the children which are  
16                  being offered as -- I'm not sure -- maybe GG.

17                  THE COURT: FF and GG.

18                  MR. ELKINS: I don't know about FF, Judge.  
19                  Let me just look at this and see if it's on here.

20                  GG, Judge.

21                  MS. ELCANO: GG is photographs of the  
22                  children.

23                  MR. ELKINS: GG. I have no objection to GG  
24                  either.

1 THE COURT: So FF and GG?

2 MR. ELKINS: No, not FF. Just GG, Judge.

3 THE COURT: So it's admitted also.

4 (Petitioner's Exhibit GG was marked.)

5 MR. ELKINS: Thank you. And my suggestion  
6 would be, Ms. Elcano, move for admission of them  
7 regardless just so you don't get confused.

8 MS. ELCANO: I would at this point, Your  
9 Honor. I know we haven't really started, but I can wait  
10 also.

11 THE COURT: Another preliminary matter, I  
12 suppose. We have a father in this case. Do I need to  
13 canvass him or anything?

14 MS. ELCANO: Your Honor, we reached an  
15 agreement with Mr. Hunt-Taylor in this particular case.  
16 He has agreed to relinquish his parental rights in the  
17 event that Ms. Guerrero's parental rights are terminated  
18 through these proceedings or, alternatively, if a  
19 relinquishment is obtained.

20 THE COURT: Do I need to canvass him or  
21 anything?

22 MS. ELCANO: He already was appointed  
23 counsel, Your Honor. That agreement was reached with  
24 Jenna Garcia of the alternate public defender's office.

1 We did request the trial be vacated as to him. I believe  
2 an order was entered on Thursday or Friday to that  
3 effect. Unfortunately, it had gotten filed incorrectly  
4 initially, and so that got corrected, and so it was  
5 vacated as to him only.

6 THE COURT: I see. But there was a Petition  
7 to Produce Prisoner, so he's going to be called as a  
8 witness?

9 MR. ELKINS: Judge, we may call  
10 Mr. Hunt-Taylor. Yes, we asked for his production. I  
11 believe it's Thursday.

12 THE COURT: Has that order been entered,  
13 then?

14 MR. ELKINS: It has, Judge.

15 THE COURT: You've been in contact with the  
16 jail? Do you need me to do anything else in that regard?

17 MR. ELKINS: I'm glad you brought that up.

18 My concern is I don't know if there are any  
19 detention facilities in this area.

20 THE BAILIFF: Like a holding cell; is that  
21 what you're asking?

22 MR. ELKINS: There are, okay. That's was my  
23 only concern.

24 THE BAILIFF: Yes.

1                   MR. ELKINS: They do have the order, Judge,  
2                   so he should be produced.

3                   THE COURT: And if you've asked that he be  
4                   produced Thursday, then let's make sure that we think  
5                   about it Wednesday.

6                   MR. ELKINS: I believe it was for Thursday.  
7                   I can double-check. It might have been Wednesday, Judge.  
8                   I want him to be produced, obviously, timely without  
9                   delaying the proceedings, and therefore, if necessary, he  
10                  can be continued. So I may have made it for Wednesday in  
11                  anticipation of Thursday, but I'm sorry I don't have the  
12                  order with me.

13                  THE COURT: I just went through this down in  
14                  Pahrump on a trial I did down there. We ended up having  
15                  to let the jury sit there for two or three hours over the  
16                  course of two days because the prison and the jail  
17                  couldn't get it together. So I don't -- to the  
18                  degree -- and then again, you know, I'll make one  
19                  observation. I'm a senior judge, so I can take all the  
20                  time I want doing this because I get paid by the hour, so  
21                  if -- not that I'm encouraging you to extend the period  
22                  of time because I've got other things to do, but --

23                  MR. ELKINS: Judge, I actually thought that  
24                  maybe you had the heat turned up in here to make things

1 go a lot more quickly.

2 THE COURT: You say that. And if somebody  
3 knows how -- you know, I'm pretty impervious within about  
4 10 degrees on either side, so if someone's hot or it's  
5 uncomfortable, bring it to my attention.

6 The other thing is -- the only reason we do  
7 the "All rise" is to bring everybody to attention. I'm  
8 relatively informal. We need some of the court  
9 formalities because that's what moves this along, but if  
10 you want to stand up, stand up, if your back's hurting or  
11 something, and I might do that. I quit smoking in  
12 2000 after I had a heart attack, and I'm still chewing  
13 the Nicorette Gum. So if anybody wants to chew gum, you  
14 can chew gum too. And I drink coffee all the way  
15 through. If you've got coffee, that's okay with me. I  
16 don't like shorts in my courtroom, but other than that,  
17 I'm pretty easygoing, and especially, you know, the more  
18 we can -- the more informality can lend to the speedy  
19 processing of this proceeding, I'm all for it.

20 So anything else?

21 MR. ELKINS: Judge, could I ask the clerk to  
22 check on the date of the order? I'm sorry.

23 THE CLERK: That's okay. The Order to  
24 Produce Prisoner indicates September 3rd at 9 a.m. to

1       testify, which is Thursday.

2               MR. ELKINS: That's Thursday morning. So  
3       hopefully the timing will be --

4               THE COURT: That's fine.

5               That's another thing. If you've got a notice  
6       that you've got some expert witnesses that you're going  
7       to call, so if you need to -- if you have just lay  
8       witnesses that are relatively accessible and you have a  
9       specific time wanted to put an expert on, I'm not the  
10      brightest person in the world, but I can interrupt one  
11      witness and you can -- because I know sometimes your  
12      expert's time is a little more valuable than other  
13      people's time. So if that's the situation, just let me  
14      know.

15              MS. ELCANO: We may have a few of those as  
16      well as we have a translator set for Wednesday afternoon  
17      for the prospective adoptive mother in this particular  
18      case.

19              MR. ELKINS: We have a supervisor from Nevada  
20      State Welfare scheduled to testify, and so we would like  
21      to get her on when she's available, seeing how it goes.

22              THE COURT: As long as you guys agree on it,  
23      there's no objection to it, then let me know so I don't  
24      get too confused.

1 MR. ELKINS: Thank you. It will certainly be  
2 on our case, so...

3 THE COURT: As long as that's the case and  
4 you guys do what's convenient for you without  
5 inconveniencing the court reporter or the clerk too much.

6 MR. ELKINS: I'm sorry, Judge. We have  
7 permission to bring coffee into the courtroom?

8 THE COURT: Yeah, yeah. That's what keeps me  
9 awake, and water. No alcohol. I think that would be  
10 inappropriate. I say that. Some of those old judges I  
11 practiced in front of when I first started I'm pretty  
12 sure took a lot on at lunch and in the morning.

13 In any event, are we ready?

14 MS. ELCANO: Yes, Your Honor.

15 THE COURT: Ms. Elcano, go ahead.

16 MS. ELCANO: Thank you.

17 Good morning, Your Honor. We are here today  
18 seeking the parental rights of Jacqueline Guerrero, the  
19 biological mother of four children -- Roberto Taylor,  
20 Kayleigh Guerrero-Taylor, Nathan Hunt-Taylor, and Ethan  
21 Hunt-Taylor -- because Ms. Guerrero has consistently  
22 shown, for the past two years, an intentional and  
23 conscious failure to follow through with addressing any  
24 of the reasons which have brought these children into the

1 care and custody of Washoe County Department of Social  
2 Services.

3 At the beginning of this case and still  
4 today, Ms. Guerrero has failed to effectively address her  
5 lack of income, her lack of stable housing, her lack of  
6 protective capacities, and her outstanding mental health  
7 issues.

8 Based on Ms. Guerrero's failure to follow  
9 through with the required actions to address these  
10 reunification barriers, Washoe County Department of  
11 Social Services is seeking the termination of her  
12 parental rights to ensure the best interests of Roberto,  
13 Kayleigh, Nathan, and Ethan are met by freeing them for  
14 adoption by Sandra Matute and allowing Ms. Matute to  
15 continue to provide a safe, stable, loving, and permanent  
16 home to these four children.

17 THE COURT: Real quickly. Do I care where  
18 the kids go if I terminate the parental rights?

19 MS. ELCANO: I do think it's something that  
20 needs to be considered, Your Honor. Based on the  
21 statutes that I will go through, because these children  
22 have been out of care and placed in an adoptive home for  
23 so long, pursuant to NRS 128. --

24 THE COURT: It's the section that talks about

1       it being a presumption?

2               MS. ELCANO:  It's not a presumption, Your  
3       Honor, but if a child has been placed in a foster home  
4       with the ultimate goal of having the child's foster  
5       parent adopt the child, the Court shall consider certain  
6       aspects, and I believe it's --

7               THE COURT:  That's fine.

8               MS. ELCANO:  -- 128- -- I'm sorry.  For  
9       whatever reason I don't have it cited here.

10              THE COURT:  It's likely I'm going to ask for  
11       posttrial briefs in this case, so if you don't have it at  
12       your beck and call, it's not a big deal.

13              Go ahead.

14              MS. ELCANO:  Thank you, Your Honor.

15              Although parental rights are fundamentally  
16       protected, the State has a compelling interest in  
17       assuring abused and neglected children achieve safe,  
18       stable, and permanent home environments with which to be  
19       reared, and that's Vincent L. G. vs. the State of Nevada  
20       Division of Child and Family Services, 120 Nev. 422.

21              The paramount consideration of the Adoption  
22       and Safe Families Act, or ASFA, and Nevada law is the  
23       safety of a child.  The standard of proof in termination  
24       trials is clear and convincing evidence.  The standard of

1 proof is categorized as a medium standard. It is higher  
2 than preponderance of the evidence but less than the  
3 rigorous standard of beyond a reasonable doubt. Clear  
4 and convincing evidence is characterized as substantially  
5 more likely than not that it is true.

6 Pursuant to NRS 128.105, to terminate a  
7 parent's parental rights, it must be shown, by clear and  
8 convincing evidence, two things. The first is that it's  
9 in the best interest of the children that the parental  
10 rights are terminated. The second is parental fault.  
11 Parental fault is demonstrated if the conduct of the  
12 parent rises to the level of at least -- at least, just  
13 one parental fault ground -- of the following:  
14 Abandonment; neglect; unfitness of the parent; failure of  
15 parental adjustment; risk of serious physical, mental or  
16 emotional injury to the child if the child were returned  
17 to or remains in the home of his parents; token efforts  
18 by the parents to reunify, to support or communicate with  
19 the child; to prevent the neglect of the child; to avoid  
20 being an unfit parent; or to eliminate the risk of  
21 serious physical, mental or emotional injury to the  
22 child.

23 Pursuant to NRS 128.190, two rebuttable  
24 presumptions apply if a child has been placed outside of

1 his or her home in excess of 14 of any consecutive -- of  
2 any 20 consecutive months. If a child has been placed  
3 outside of his home for this duration of time, pursuant  
4 to NRS 128.109(1)(a), it must be presumed by the Court  
5 that a parent has demonstrated only token efforts to care  
6 for the child under NRS 128.105(f)(2). Thus, absent the  
7 provision of evidence to overcome this presumption, the  
8 second prong required to terminate parental rights is  
9 met.

10 Pursuant to NRS 128.190, it must also be  
11 presumed by the Court that the best interests of the  
12 child must be served by the termination of parental  
13 rights. Again, absent the provision of evidence to  
14 overcome this presumption, the first prong required to  
15 terminate parental rights is met.

16 So in other words, it is presumed that there  
17 was parental fault and that it's in the best interest of  
18 a child to terminate parental rights if the child has  
19 been in care 14 out of the last 20 months.

20 Neither the best interest nor the  
21 token-effort presumption -- so neither of these  
22 presumptions -- may be overcome or affected by evidence  
23 or argument of failure of the State to provide services  
24 to the family. Additionally, pursuant to NRS 128.109, if

1 a parent fails to comply substantially with the terms and  
2 conditions of a plan to reunite the family, within six  
3 months after the date on which the child was placed or  
4 the plan was commenced, whichever occurs later, that  
5 failure to comply is evidence of failure of parental  
6 adjustment as set forth in NRS 128.105(2)(d) and meets  
7 the second prong of parental fault in order to terminate  
8 parental rights.

9 NRS 128.014 defines a neglected child as a  
10 child who lacks the proper parental care by reason of the  
11 fault or habits of his parent; whose parents neglect or  
12 refuse to provide proper or necessary subsistence,  
13 education, medical or surgical care, or other care  
14 necessary for the child's health, morals or well-being;  
15 and whose parents neglect or refuse to provide the  
16 special care made necessary by the child's physical or  
17 mental condition; or a parent who engages in a situation  
18 dangerous to the life or limb, or injurious to health or  
19 morals of the child or others. It must be emphasized  
20 that a parent's neglect need not be willful.

21 In accordance with NRS 128.018, an unfit  
22 parent is a parent who, by reason of the parent's faults  
23 or habits or conduct towards the child, fails to provide  
24 a child with the proper care, guidance and support.

1           When determining if a parent neglected a  
2 child or is an unfit parent to the child -- and this is  
3 pursuant to NRS 128.106 -- the Court shall consider,  
4 without limitation, emotional illness, mental illness or  
5 mental deficiency of the parent which renders the parent  
6 consistently unable to care for the immediate and  
7 continuing physical or psychological needs of a child for  
8 an extended period of time; repeated or continuous  
9 failure by the parent, although physically and  
10 financially able, to provide for the child with adequate  
11 food, clothing, shelter, education or other care and  
12 control necessary for the child's physical, mental and  
13 emotional health and development; an inability of  
14 appropriate public or private agencies to reunite the  
15 family despite reasonable efforts on the part of the  
16 agencies.

17           If the child is not in the physical custody  
18 of a parent, the court, in determining whether parental  
19 rights should be terminated, shall consider the services  
20 provided or offered to the parent or his parents to  
21 facilitate reunification of the child; the physical,  
22 mental or emotional condition or needs of the child; the  
23 effort the parent has made to adjust their circumstances,  
24 conduct or conditions to make it in the child's best

1 interests to return the child to his parent's home; and  
2 whether additional services would be likely to bring  
3 about lasting parental adjustment, enabling a return of  
4 the child to the parents within a predictable period.

5 Finally, Your Honor, if a child is placed in  
6 a foster home with the ultimate goal of having the  
7 child's foster parent adopt the child, as we discussed a  
8 moment ago, the court shall consider whether the child  
9 has become integrated into the foster family to the  
10 extent that the child's familial identity is with that  
11 family and whether the foster family is able and willing  
12 to treat the child as a member of the family permanently.

13 Additionally, the Court shall consider the  
14 love, affection and other emotional ties existing between  
15 the child and the parents and the child's ties with that  
16 foster family; the capacity and disposition of the  
17 child's parents from whom the child was removed compared  
18 to that of the foster family to give the child love,  
19 affection and guidance, and to continue the education of  
20 the child. The capacity and disposition of the parents  
21 from whom the child was removed as compared with that of  
22 the foster family to provide the child with food,  
23 clothing and medical care and to meet other physical,  
24 mental and emotional needs of the child; the length of

1 time the child has resided with the foster family in a  
2 stable, satisfactory home; the permanence as a family  
3 unit of the foster family; the moral fitness, physical  
4 and mental health of the parents from whom the child was  
5 removed as compared to the foster family; the experiences  
6 of the child in the home, school and community, both with  
7 the parents from whom the child was removed and the  
8 foster family; and any other relevant factors.

9 In the present case, Roberto, Kayleigh, and  
10 Nathan were removed from the care and custody of  
11 Ms. Guerrero on April 19th of 2013. You will hear  
12 testimony that Roberto, Kayleigh, and Nathan were removed  
13 because Ms. Guerrero could not provide for the basic  
14 needs of her children, including stable housing and  
15 income. In fact, despite having governmental benefits,  
16 Ms. Guerrero was unable to sufficiently explain where the  
17 income had gone or appropriately budget to meet the basic  
18 needs of her children.

19 In addition, Washoe County Department of  
20 Social Services was informed the family had exhausted all  
21 public housing resources, including shelters, due to  
22 theft allegations as well as failure to comply with  
23 policies of the shelters.

24 Finally, Washoe County Department of Social

1 Services learned Roberto had missed in excess of 45 days  
2 in school and was suffering from speech and language  
3 delays. These circumstances resulted in a finding that,  
4 pursuant to NRS 432B.330(2)(b), Ms. Guerrero, a person  
5 responsible for the welfare of these children, failed,  
6 although financially able to do so or having been offered  
7 services to do so, to provide for the basic needs of her  
8 children. Additionally, Washoe County Department of  
9 Social Services substantiated Ms. Guerrero for the  
10 neglect of Roberto, Kayleigh, and Nathan.

11 This removal and the disclosures made at the  
12 time clearly identified the safety barriers to the  
13 placement of the children home with Ms. Guerrero and the  
14 issues that Ms. Guerrero had to address to safely reunify  
15 with her children. You will hear testimony that will  
16 identify these, including obtaining and maintaining  
17 stable and appropriate housing, obtaining and maintaining  
18 employment or some sort of governmental benefits by which  
19 to have stable income to meet the children's needs,  
20 budgeting appropriately to ensure the children's needs  
21 are met, prioritizing the children to ensure that they  
22 attend appointments and go to school.

23 As the case progressed, three additional  
24 safety barriers became very apparent, and you will also

1 hear testimony regarding Ms. Guerrero's unaddressed  
2 mental health issues, Ms. Guerrero's inability to  
3 demonstrate appropriate protective capacities in regards  
4 to the romantic relationships that she enters into, which  
5 include domestic violence, demonstrating a consistent  
6 ability to follow through with actions to address and  
7 remedy these issues.

8 On or about January 1, 2014, Ms. Guerrero  
9 gave birth to her fourth child, Ethan Hunt-Taylor. Ethan  
10 was not initially removed from the care of his mother.  
11 Washoe County Department of Social Services attempted to  
12 work with Ms. Guerrero to see if she could effectively  
13 provide for the basic needs of her child and care for  
14 him. However, you will hear testimony that it became  
15 apparent that Ms. Guerrero could not do so.  
16 Consequently, on or about September 11, 2014, Ethan was  
17 removed from Ms. Guerrero's care because of an unsanitary  
18 home and Ms. Guerrero's inability to provide safe, stable  
19 housing and for the basic needs of Ethan.

20 You will hear testimony that despite being  
21 offered countless services to address these safety  
22 barriers and significant parenting needs, Ms. Guerrero  
23 has consistently failed to demonstrate any progress  
24 towards resolving these barriers. Moreover, you will

1 hear testimony that Ms. Guerrero has not consistently or  
2 substantially engaged in services and has failed to  
3 demonstrate any behavioral changes indicating an ability  
4 to safely and appropriately care for these four children.

5 You will hear testimony that throughout the  
6 life of this case Ms. Guerrero has not lived in one place  
7 for more than a month or two. In fact, at the time of  
8 the removal of the three older children, Ms. Guerrero had  
9 exhausted all public housing options.

10 You will hear testimony that Ms. Guerrero did  
11 obtain residences throughout the last two years of her  
12 cases. However, she was unable to maintain these  
13 residences because she could not pay utility bills or  
14 rent. You will hear testimony that Ms. Guerrero failed  
15 to follow through on obtaining Section 8 housing even  
16 after being given a voucher and approval to do so. You  
17 will also hear testimony that Ms. Guerrero believed an  
18 unsanitary residence with animal feces and choking  
19 hazards was appropriate, not only for herself, but that  
20 of a vulnerable six-month-old infant.

21 You will hear testimony finally that  
22 Ms. Guerrero is presently without a residence, let alone  
23 a stable one.

24 The evidence will show that Ms. Guerrero was

1     unable to maintain a job throughout the life of this case  
2     for more than several weeks. Ms. Guerrero never had  
3     stable employment in the last two years, and you will  
4     hear testimony that while Ms. Guerrero was able to get  
5     jobs, she would eventually quit them or not be able to  
6     maintain them.

7             Testimony will be presented demonstrating  
8     that Ms. Guerrero was unable to obtain the necessary  
9     benefits to provide for her children. In fact,  
10    Ms. Guerrero is not eligible for food stamps based on  
11    allegations of fraud. Additionally, Ms. Guerrero failed  
12    to take the necessary steps to follow through with  
13    required actions to maintain welfare benefits. Today  
14    Ms. Guerrero, again, is not employed and cannot provide  
15    for the basic needs of her children financially.

16            You will hear testimony that Ms. Guerrero has  
17    unaddressed mental health needs. Ms. Guerrero had three  
18    evaluations done throughout the life of the case. The  
19    first was with Brianna Carter, which was a psychosocial  
20    evaluation which recommended individual therapy.  
21    Ms. Guerrero also completed -- did not fully complete but  
22    attended one session for a psychological evaluation with  
23    Dr. Rogina. Dr. Rogina, again, recommended individual  
24    therapy as well as possible medication.

1 Ms. Guerrero did complete a psycho- -- pardon  
2 me -- a psychological/neuropsychological evaluation with  
3 Dr. Aberasturi. Again, Dr. Aberasturi recommended  
4 one-on-one counseling as well as medication evaluation.

5 Ms. Guerrero was diagnosed with anxiety  
6 disorder and several other things throughout the life of  
7 this case. Despite these diagnoses, Ms. Guerrero has  
8 failed to effectively engage in any one-on-one  
9 counseling. Ms. Guerrero attempted to start counseling  
10 with Brianna Carter, Dr. -- pardon me -- Ms. Buttacavoli,  
11 Mr. Gossett, and Ms. Orlich, and failed to consistently  
12 attend appointments and was eventually discharged from  
13 treatment with any of these providers because she would  
14 not consistently follow through and engage in services  
15 with them. Today Ms. Guerrero's mental health issues  
16 remain unaddressed.

17 Finally, you will hear testimony that  
18 Ms. Guerrero has failed to demonstrate appropriate  
19 protective capacities in regards to her children and the  
20 men she is romantically involved in. The father of these  
21 children, Mr. Robert Hunt-Taylor, was arrested at one  
22 point throughout this case for domestic violence.  
23 Ms. Guerrero was identified as the victim of this. While  
24 Ms. Guerrero did initially get a temporary protection

1 order, she, after that order was extended, began to  
2 engage in a relationship again with Mr. Hunt-Taylor and  
3 even requested that she could visit with her children and  
4 Mr. Hunt-Taylor at Social Services. Social Services had  
5 to inform Ms. Guerrero that this was not appropriate  
6 because there was an extended protection order in place.

7 Mr. Hunt-Taylor is currently incarcerated on  
8 battery, unrelated charges to that.

9 THE COURT: So that's not domestic battery;  
10 it's something else?

11 MS. ELCANO: He is incarcerated on a separate  
12 charge of battery at this time, yes.

13 MR. ELKINS: May I, Judge? Having nothing to  
14 do with my client.

15 MS. ELCANO: Currently Ms. Guerrero has  
16 indicated that she's engaged in a relationship with  
17 Alberto Vazquez. You will hear testimony that  
18 Ms. Guerrero has identified Mr. Vazquez as verbally  
19 abusive and is aware of his criminal history.  
20 Additionally, Mr. Vazquez was arrested at one point  
21 throughout this case for engaging in battery with  
22 Mr. Hunt-Taylor. Thus, Ms. Guerrero has failed to  
23 demonstrate an ability to protect her children and put  
24 their safety over her own dating choices.

1                   You will hear testimony that Roberto,  
2                   Kayleigh, and Nathan have been placed outside of  
3                   Ms. Guerrero's home for 28 of the last 28 consecutive  
4                   months. Given that, the presumption pursuant to  
5                   NRS 128.109 applies, and it is presumed that Ms. Guerrero  
6                   has only demonstrated token efforts to care for Roberto,  
7                   Kayleigh, and Nathan, which meets the prong of parental  
8                   fault in this particular case.

9                   In addition to the presumption, there is more  
10                  than sufficient evidence as just summarized to find  
11                  beyond clear and convincing evidence that Ms. Guerrero  
12                  neglected Roberto, Kayleigh, Nathan, and Ethan. As  
13                  Ms. Guerrero is an unfit parent, she's failed to make any  
14                  parental adjustments, there is risk of serious mental,  
15                  physical and emotional injury to the children if they  
16                  were returned to her care, and Ms. Guerrero has made only  
17                  token efforts to reunify with her children. Therefore,  
18                  you will hear sufficient evidence to meet the first prong  
19                  of parental fault.

20                  In regards to the best interests element as  
21                  to the children, you will hear testimony that the  
22                  termination and adoption of these children is in their  
23                  best interests. You will hear testimony that the  
24                  children require a safe, loving, and, most importantly, a

1     stable home where their needs are met. You will hear  
2     testimony that the children require a caregiver who can  
3     ensure their emotional, psychological, educational, and  
4     special needs are consistently addressed. You will hear  
5     testimony that Roberto, Kayleigh, Nathan and Ethan are  
6     very bonded with their prospective adoptive family,  
7     including Ms. Matute and her two sons. You will hear  
8     testimony that the children refer to Ms. Matute as "Mama"  
9     and that the four children and Ms. Matute's sons interact  
10    as if they were all siblings.

11                You will hear testimony that Ethan has been  
12    placed in the care of Ms. Matute for more than half of  
13    his life and recognizes Ms. Matute as his mother. You  
14    will hear testimony from Sandra Matute, the prospective  
15    adoptive mother, that she loves Roberto, Kayleigh,  
16    Nathan, and Ethan and wants to be their forever home.

17                I would request that there are no sighs done  
18    by Ms. Guerrero.

19                MR. ELKINS: I don't think -- whatever moans  
20    my client might have been making, Judge, were not loud  
21    enough to interrupt the district attorney. I'll ask her  
22    to try to refrain.

23                THE COURT: Yeah. I don't want to hear -- if  
24    I hear it, then it's too loud.

1 MR. ELKINS: Right.

2 MS. GUERRERO: I apologize.

3 THE COURT: It's inappropriate to respond to  
4 what's going on in the courtroom.

5 MR. ELKINS: Some things are just reflexive.  
6 I don't think it's intentional.

7 THE COURT: Well, she needs to unreflex,  
8 then, if she's going to make observations loud enough for  
9 somebody to hear about what's going on.

10 MS. ELCANO: Ms. Matute will testify about  
11 the children's involvement in her family, their  
12 involvement in daily activities, and how the children are  
13 thriving in her home. You will hear testimony how  
14 Ms. Matute gets all of the children ready in the morning.  
15 So this is six children that she has. Three go to one  
16 school and two go to another school, and how she manages  
17 to get her biological sons to school as well as Kayleigh,  
18 Roberto, and Nathan to school all in a timely manner.

19 You will hear testimony of what steps  
20 Ms. Matute takes to ensure all of the developmental needs  
21 of the children are met while ensuring the children make  
22 it to after-school activities.

23 Finally, Ms. Matute will testify that  
24 finances are not a concern and that these four children

1 will be able to grow up in a loving, healthy, and stable  
2 home where their needs are met.

3           You will hear testimony that Ms. Guerrero  
4 does visit with her children twice a week currently and  
5 she consistently attends those visits. However, those  
6 visits are required to be on the property of Washoe  
7 County Department of Social Services to ensure that  
8 Ms. Guerrero does not allow the children to be around  
9 inappropriate individuals, including Mr. Vazquez, her  
10 boyfriend.

11           Additionally, you will hear testimony that  
12 Ms. Guerrero, on numerous occasions, has been warned  
13 about inappropriate comments being made to her children  
14 regarding the foster home as well as Ms. Matute. The  
15 evidence will show that after visits the children have  
16 difficulty dealing with these inappropriate comments and  
17 that Washoe County Department of Social Services does not  
18 believe that it's in the best interests of the children  
19 to continue to have contact with Ms. Guerrero.

20           As previously stated, Roberto, Kayleigh, and  
21 Nathan have been placed in foster care for 28 of the last  
22 28 consecutive months. Consequently, the presumptions  
23 pursuant to NRS 128.109(2) also apply to show that it is  
24 in the best interests of these three children that

1 Ms. Guerrero's parental rights are terminated.

2 Even if this presumption were overcome, there  
3 is more than ample testimony you will hear, as above  
4 stated, demonstrating that there is clear and convincing  
5 evidence that it is in the best interests of these four  
6 children that the parental rights are terminated.

7 Likewise, while the presumption does not  
8 apply to Ethan, given that he has been in the care of  
9 Ms. Matute in excess of half of his life and recognizes  
10 Ms. Matute as his mother, there is clear and convincing  
11 evidence demonstrating termination is in his best  
12 interest.

13 In conclusion, Washoe County Department of  
14 Social Services is requesting this Court terminate the  
15 parental rights of Jacqueline Guerrero pursuant to  
16 NRS 128. The testimony and evidence presented will show  
17 beyond clear and convincing evidence that not only is  
18 there parental fault by Ms. Guerrero, but also that it is  
19 in the best interests of these children that  
20 Ms. Guerrero's parental rights are terminated and that  
21 they be free for adoption by Ms. Matute.

22 Thank you.

23 THE COURT: Real quick, can I consider the  
24 children separately? Because in this case it appears

1 that we have three children that were taken out, when, in  
2 April of 2013, but this Ethan wasn't taken out until  
3 what, September of 2014?

4 MS. ELCANO: Your Honor, the distinction I  
5 would make is the fact that Ethan -- the presumptions  
6 don't apply to Ethan because he has only been in foster  
7 care, I think, for almost 12 months, so the presumption  
8 would not apply to Ethan in particular.

9 THE COURT: So it would be a lawful result in  
10 this case if I terminated the three older children and  
11 not the youngest?

12 MS. ELCANO: I think that the presumptions  
13 apply to the three oldest children, so I think those  
14 presumptions need to be overcome. However, it is our  
15 position that there is clear and convincing evidence,  
16 regardless of the presumptions, that all four of these  
17 children should be free for adoption based on  
18 Ms. Guerrero's failure to address these issues and that  
19 it is in the best interests of all four of these children  
20 to maintain a home together, to continue to be together  
21 and grow up as a family.

22 THE COURT: Well, Ethan is what? He was  
23 born --

24 MS. ELCANO: January 1, 2014.

1 THE COURT: And then wasn't taken out for  
2 nine months?

3 MR. ELKINS: That's correct, Your Honor.

4 THE COURT: And he's been in --

5 MS. GUERRERO: -- care for 11 months.

6 MR. ELKINS: Don't speak, please.

7 THE COURT: So I really do have -- I mean,  
8 there's really kind of two cases here to a certain  
9 degree.

10 MS. ELCANO: In the sense of the presumptions  
11 applying, yes, Your Honor, there is.

12 THE COURT: So we need to address that as we  
13 go along.

14 We can take our break now or we can take it  
15 after your statement, whichever you want.

16 MR. ELKINS: Well, Judge, I tend to be  
17 long-winded. You know, this is --

18 THE COURT: That's bad news.

19 MR. ELKINS: I know. I'm sorry, Judge, to  
20 inform you of that. At least I got it out there.

21 This is a termination of parental rights  
22 case, Judge, and you know what the Supreme Court of  
23 Nevada has said basically about that. I do have quite a  
24 bit to say as an opening. I'd also like a few minutes to

1 speak to my client before we open, so if you want to take  
2 a recess --

3 THE COURT: Just so you all know, I typically  
4 take a recess at 10:30 and recess from noon to 1:30, and  
5 then we come back at 1:30, and depending on what's going  
6 on -- because this is a bench trial, we'll try to take a  
7 couple breaks in the afternoon.

8 MR. ELKINS: I guarantee you that I cannot  
9 open in ten minutes, so it's up to you, Judge.

10 THE COURT: We'll take a break now.

11 Any time I say "typically," there's no -- we  
12 can work it to where it works for us, so we'll be in  
13 recess for 15 minutes, until 10:30.

14 (A recess was taken.)

15 THE COURT: This is Case No. FV14-03897 in  
16 the matter of the parental rights as to the Taylor minor  
17 children. The parties are present with their attorneys.

18 Mr. Elkins, your opening statement.

19 MR. ELKINS: Thank you, Judge.

20 May it please the Court, counsel, you know,  
21 the law presumes, actually, that children should be  
22 raised by their parents. That's why we're here, because  
23 the State has the burden of proving by clear and  
24 convincing evidence there are reasons to separate this

1 mother from her natural children, and we suggest, Judge,  
2 that poverty should not be the reason for that.

3 I submit to you that this is a -- is going to  
4 be -- prove to be a difficult decision because you have a  
5 parent who has lived in poverty throughout the life of  
6 these children, who has struggled to get out of poverty  
7 unsuccessfully, and I think that you will find that,  
8 largely, the causes of her children being in care and not  
9 being able to be released to her were due to those  
10 circumstances, and so, frankly, Judge, I don't envy you  
11 in having to make this decision.

12 Obviously whatever presumptions the  
13 legislature has imposed here cannot be conclusive because  
14 that would be unconstitutional, so whatever presumption  
15 there may be with regard to the older children, we would  
16 argue, first of all, that it will be rebutted, but,  
17 secondly, obviously it's a presumption that Your Honor  
18 does not have to apply because it's a permissive  
19 inference. Otherwise, as I've said, it wouldn't pass  
20 constitutional muster.

21 There were statements in the opening  
22 statement by the district attorney which I think you will  
23 find will not be supported by the evidence, but I will  
24 reserve those for summation.

1 Jackie Guerrero is 30 years old, and when she  
2 was 17 she gave birth to her oldest child, Roberto, in  
3 Long Beach, California, and the two of them were in  
4 foster care briefly. She had to quit 11th grade to help  
5 take care of her four younger siblings, and unfortunately  
6 she lived in a home with an abusive mother.

7 Mr. Hunt-Taylor is the father of all of her  
8 children, and he was 19 at the time they lived in  
9 Long Beach. His uncle asked him to go to Havasu, Arizona  
10 to help care for his grandmother, and so he and Jackie  
11 went there with their oldest, Roberto, and lived there  
12 for two and a half years, and during that time Kayleigh  
13 and Ethan [sic] were born, and they had jobs, the  
14 children had adequate medical care, they had a stable  
15 place to live, and all of the necessary capacity that a  
16 parent requires.

17 Unfortunately, the grandmother passed away,  
18 and they made the decision to move to Reno where Jackie's  
19 mother, Maureen, resided. And so when they came here in  
20 2012 they initially lived with Maureen and her children.

21 Her difficulties really began there because  
22 when she relocated from Arizona she had a SNAP case, and  
23 someone apparently used her SNAP benefits. The case  
24 wasn't closed. She opened a SNAP case here in Nevada.

1 THE COURT: What's SNAP?

2 MR. ELKINS: That's food stamps.

3 And, therefore, she got sanctioned. She  
4 could have either paid back apparently the food stamp  
5 benefits that were used or she had to sit out from food  
6 stamps for ten years. So immediately she acquired this  
7 debt, which was only one of a number of debts.

8 They had to leave Maureen's home because of  
9 conflicts. They believe that it was actually her mother  
10 who called CPS initially, saying that they didn't have  
11 any place to live.

12 In fact, they went to a family shelter,  
13 Family Promise -- actually, they went to more than one  
14 shelter, but you will hear, I think, testimony that they  
15 were required to leave the shelter because of rule  
16 violations. Rule violations, as I understand it, Judge,  
17 were that they were time limited and they didn't get  
18 work, so they couldn't stay in the family shelter.

19 So after they were time limited from the  
20 family shelter, they went to, I think, Family Promise and  
21 they went to other shelters, but shelters don't keep  
22 families indefinitely, of course.

23 There was a situation where they were in a  
24 shelter where a cell phone went missing. Apparently

1 Mr. Hunt-Taylor was found in possession of the cell  
2 phone, which Ms. Guerrero was not aware of, and she was  
3 permitted to stay with her children. Mr. Hunt-Taylor had  
4 to leave. So she wasn't evicted with her children.

5 The last shelter they stayed in, Judge, they  
6 stayed, literally, to the last day when the shelter  
7 itself closed for lack of funding, so they had no choice.  
8 They did, however, receive a donation of furniture from  
9 that shelter, and they found an apartment, and I think --  
10 with the assistance, actually, of CPS, I think there was  
11 a deposit made on that apartment.

12 At the time Ms. Guerrero was working at  
13 Harrah's doing housekeeping. Mr. Hunt-Taylor was working  
14 as well. There's a worker from CPS, Ms. Menesini, who  
15 was making home visits, finding the home appropriate.  
16 The children were left in that home. The case was on the  
17 verge of closing, actually, and she had unsubstantiated  
18 several reports regarding the inability of the parents to  
19 meet the children's basic needs just prior to April 19th  
20 of the year 2013.

21 What happened in the interim, Judge, is  
22 Ms. Guerrero lost her job, literally, on Christmas Eve at  
23 Harrah's in 2012. Shortly thereafter Mr. Hunt-Taylor  
24 lost his job, though he did get another job waving a sign

1 for Liberty Tax, and, of course, that ended at the end of  
2 tax season in 2015, actually in March, I think.

3 So unable to pay the rent, they lost that  
4 apartment because they lost their jobs. They then moved  
5 to a hotel after briefly staying with the mother, again,  
6 the grandmother, and that's where this case began.  
7 That's where the removal occurred, from the hotel on  
8 April 19th.

9 My client states that the manager of the  
10 hotel told them they would charge \$175 a week. Their  
11 TANF cash benefits were \$513. So if you do the math,  
12 they're in the hole already. Then apparently he tells  
13 them it's actually \$200, and I think they had been there  
14 since mid-March.

15 And what they do, Judge, is that they sell  
16 their blood for \$70 to try to make up the difference.  
17 They not only do it then, they do it throughout the life  
18 of the case. You will hear testimony that the Children's  
19 Cabinet worker advises them to sell plasma to make up the  
20 difference of the shortfall in their income.

21 In any event, on April 19th the emergency  
22 workers from children's services show up, they look at  
23 the motel, they don't find anything wrong with the room,  
24 nothing wrong with the kids, but the parents say -- you

1 know, they say, "Well, are you going to be able to pay?"  
2 and they say, "We don't have the \$200." So since the  
3 agency determines that they don't -- they aren't able to  
4 meet their children's needs for shelter, they were  
5 removed, the three kids, though you will hear from my  
6 client that her father, who lives in Reno, would have  
7 been willing to take her and the children in.  
8 Unfortunately, that didn't occur and the children have  
9 been in foster care ever since.

10 So children's services tells the parents the  
11 children are being removed because they don't have any  
12 shelter. So by May 1st, Judge, within two weeks, the  
13 parents find an apartment. They manage to put down, I  
14 think, a \$300 deposit, and I think the rent is something  
15 in the neighborhood of \$450, but now they have -- having  
16 lost their previous apartment, they have in storage  
17 children's clothes, bunk beds, toys, and so they're  
18 paying for the storage, they're trying to pay for this  
19 apartment, and they're not getting work, and, again, the  
20 cash benefit at this point is 500 and, I think, 13  
21 dollars a month.

22 So the agency's response essentially through  
23 Children's Cabinet, even though I have to say that they  
24 were generous, they donated furniture to the parents,

1 they visited the home, and for the most part, for the  
2 seven months that the parents had this apartment -- well,  
3 actually not quite seven -- well, yeah, seven, from May  
4 of 2013 through the end of the year they had this  
5 apartment, and for the most part, particularly in the  
6 early stages of their lease, people would go to the home,  
7 they would find that there was no problem with it, and,  
8 in fact, by July they were having weekend overnight  
9 visits in that home.

10 Children's Cabinet was also generous in the  
11 sense that when Ms. Guerrero had a job interview, they  
12 would give her a \$50 voucher to get clothes for her  
13 interview. So the Children's Cabinet was very supportive  
14 in many ways. Unfortunately, they also would sit down  
15 with Ms. Guerrero and say, "Okay. Let's work out a  
16 budget." And of course, Judge, you can only divide \$513  
17 so many ways, and it's not going to ever become more than  
18 that.

19 They did have food stamps, Hunt-Taylor and  
20 their kids in particular -- Hunt-Taylor, not the kids  
21 because they weren't in the home -- but, still, it was  
22 clear to the Children's Cabinet worker -- for example, in  
23 one month, Judge, they had \$16 left over after paying  
24 their rent. So they attempted as best they could to hold

1 onto this apartment. Mr. Hunt-Taylor was on call for  
2 SK Foods, they were getting TANF, they were selling  
3 plasma, and, as I said, they managed to keep the  
4 apartment for about seven months. They fell behind in  
5 their utility payments and their power was cut off.

6           Once the power was cut off, the children  
7 could no longer visit in the home, and for a while they  
8 were able to visit in the community, but they didn't  
9 really have any funds to do anything, and ultimately, in  
10 a dispute over whether they were timely for visits, the  
11 foster mother and the agency decided to bring the visits  
12 back to the agency.

13           And so as time went on, they lost their  
14 ability to spend time with their kids, their access to  
15 the children became more and more restricted, and it  
16 became harder and harder for them to maintain this  
17 apartment which they had obtained because the agency had  
18 taken their children because they didn't have any place  
19 to live.

20           After the children had been in care for six  
21 months, the food stamp benefits were cut to almost  
22 nothing. So they're living in this apartment with no  
23 power, so they have no hot water. They have no way to  
24 really effectively do dishes. It's very difficult to

1 shower. At one point, I think, ironically, Judge,  
2 they're offered a vacuum cleaner, presumably not a  
3 battery-operated vacuum cleaner. It doesn't do much good  
4 without power.

5 Eventually Robert Hunt-Taylor is not able to  
6 sell his plasma anymore because he got sick, so he can't  
7 get money by doing that. Jackie is pregnant. She goes  
8 to job interviews, and at least on one occasion she  
9 thinks she has the job, but they say, "We'll have to talk  
10 to our supervisor because you're pregnant." Ultimately  
11 she wasn't able to find employment until Nathan was born,  
12 and that was on January 1st of 2014. It just so happens  
13 that as she was giving birth, they were being evicted,  
14 literally.

15 So after she gives birth to Nathan, they have  
16 no place to live. The agency actually got a warrant to  
17 take Nathan in custody, but fortunately Jackie was able  
18 to stay with her father and his wife and kids in a  
19 trailer on Fourth Street, which, actually, Judge, she  
20 probably could have done in April of 2013 had she been  
21 given the opportunity.

22 Nathan -- I'm sorry -- Ethan -- excuse me --  
23 the youngest child, Ethan, remains in her care for seven  
24 months. So Ethan stays in his mother's care until

1 September 11th of 2014 with the help of her father, her  
2 stepmother, because when she's living with her father and  
3 stepmother, she has childcare. And so they're in this  
4 trailer on Fourth Street, her father's having his own  
5 financial problems contributing \$200 a month to their  
6 rent. Ultimately Mr. Hunt-Taylor decides that it's a  
7 better idea to buy a dilapidated trailer, to spend -- the  
8 trailer cost a thousand dollars -- to pay \$500 down and  
9 to rent the lot for \$450 in the same park where the  
10 maternal grandfather was living, and they move in there  
11 with Nathan.

12 CPS comes out, they see the trailer, they  
13 decide that the family can stay there despite it having  
14 some plumbing issues, having no working stove, because  
15 it's an infant and there are no -- the situation in the  
16 trailer does not present environmental hazards.

17 They get a roommate by the name of Albert to  
18 help them with expenses, and Mr. Hunt-Taylor becomes  
19 jealous of Albert. They get into a conflict, and in late  
20 July of last year, Mr. Hunt-Taylor engages in an argument  
21 with Jackie and he punches her in the eye, gets arrested.  
22 Ultimately he's convicted, and I think he spends two  
23 months in jail.

24 The upshot of that, Judge, is that the

1 trailer was in Mr. Hunt-Taylor's name, and therefore she  
2 loses the trailer, and at that point her father is not in  
3 a position to assist, and so she has to find a place to  
4 live.

5 At the same time -- this is, as I said, late  
6 July of 2014. In Nevada, as you may know, there's a rule  
7 that you can receive TANF benefits for 24 months, and  
8 after that you have to sit out for 12 months. Virtually  
9 at the same time she's assaulted by Mr. Hunt-Taylor and  
10 she gets her TPO, etcetera, he goes to jail, she loses  
11 her residence, she gets sanctioned, she has a sit-out  
12 period from TANF. Now she's got no home and literally no  
13 income, no cash benefits, though she does have Ethan in  
14 her care, so she has a little money there. I think, if  
15 I'm not mistaken, it might be \$170 a month or something.

16 So she does manage to find a residence with  
17 Maribel and Troy Stalker. First she stays in a room in a  
18 trailer in the vicinity of where her father lived. She  
19 also had a dog. And the trailer, I think, was occupied  
20 by an elderly woman, an elderly Spanish-speaking woman.  
21 She leaves that, goes to stay with the Stalkers, leaves  
22 the dog there.

23 Children's services is -- wants to come and  
24 see her, Denise Tyre. She's actually about to close

1 Ethan's case. I'm sorry, Judge. If I confused Ethan and  
2 Nathan, I apologize. Yes, it's Ethan's case, the  
3 youngest. She's about to close the case. She goes to  
4 this trailer where the dog is left, and it's a mess, it's  
5 a disaster, the room is a disaster, but my client is  
6 staying with the Stalkers.

7 So they find her at the Stalkers. The  
8 Stalkers' home is perfectly fine. The child has a place  
9 to sleep there, a Pack 'n Play as it was. The Stalkers  
10 tell CPS, "She can stay with us. It's okay."

11 Now, Ms. Tyre has obtained a warrant based  
12 upon her observations in this room, and you'll see  
13 photographs, and, yes, it wasn't appropriate, but that's  
14 not where she's living. So the Stalkers tell CPS, "She  
15 can stay with us with the baby. It's not a problem."

16 They remove the baby, and they get an order  
17 placing the baby in care, and that baby has remained in  
18 care ever since.

19 So now she's got no benefits. The child's in  
20 care. On September 11, 2014, she actually goes to Renown  
21 for depression as a result of this. The father's in  
22 jail. So she's really bereft, Judge. She's left with  
23 nothing.

24 Also, during the course of the case, early

1 on, in the first meeting with children's services,  
2 Ms. Guerrero tells them, "You know, when I was a kid I  
3 was on medication briefly and suffered from depression."  
4 And the workers would see her in meetings and she would  
5 just cry, she would cry, and she would tell them that she  
6 was depressed.

7 So the issue became, really, is it a  
8 situational depression, which wouldn't be surprising? Is  
9 it a medical condition? So despite knowing these things,  
10 the agency doesn't actually -- well, they send her to an  
11 MFT intern at one point who says she suffers from  
12 anxiety.

13 They don't actually get a credentialed  
14 evaluation until December of 2014 by Dr. Rogina, and he  
15 says, you know, she suffers from anxiety, depression, she  
16 needs medication. Then in January -- he also suggests  
17 that maybe they should do a neuropsych.

18 So in January she goes to Dr. Aberasturi,  
19 gets a neuropsych. Dr. Aberasturi says she suffers from  
20 major anxiety, she needs medication, she should have DBT,  
21 dialectical behavioral therapy, but not until she gets  
22 medication. She needs medication.

23 No referral is made. She has Amerigroup  
24 Insurance. Very difficult to find a psychiatrist that

1 will pay -- will take Amerigroup. She does -- she never,  
2 never gets a referral from the agency for medication,  
3 ever.

4 THE COURT: I read that in the pretrial  
5 memorandums. This Amerigroup, is that ObamaCare  
6 insurance or is that --

7 MR. ELKINS: Judge, I'm out of my --

8 THE COURT: -- or a state --

9 MR. ELKINS: I think it's a state insurance  
10 plan.

11 THE COURT: Is it the -- is that anything  
12 that Social Services provides?

13 MR. LOPEZ: Your Honor, Medicaid has  
14 different kinds of insurance, Medicaid. We have a fee  
15 for service, Amerigroup. There's several others. It's  
16 Medicaid. That's what it is. They're different kinds.

17 MR. ELKINS: So the short answer to your  
18 question is, it's not provided by Social Services.

19 THE COURT: Years and years and years ago I  
20 was a welfare hearings officer for the State of  
21 California. I worked for the Department of Benefit  
22 Payments, but this was over -- almost, what, 40 years ago  
23 now, and so some of the -- some of the concepts have  
24 changed some. But TANF, is that the same as AFDC?

1 MR. ELKINS: Yes, it used to be AFDC.

2 THE COURT: Aid to Families with Dependent  
3 Children.

4 MR. ELKINS: So you're well-versed, then, in  
5 this narrative.

6 THE COURT: Except for the terms you all use.  
7 And I think the provision of services has changed some,  
8 too, since --

9 MR. ELKINS: Well, I think the timing --

10 THE COURT: -- 1976.

11 MR. ELKINS: And the time limitations, it's  
12 an innovation.

13 In any event, so they filed the termination  
14 on the oldest kids in January before they even get the  
15 recommendation, I think, from Dr. Aberasturi or, if  
16 they've gotten it, they certainly haven't implemented it.  
17 So this termination petition initially is filed before  
18 these services are even identified, much less provided,  
19 despite the fact they had more than sufficient reason to  
20 make those referrals.

21 Now, they'll argue, well, reasonable efforts  
22 doesn't matter. It's -- you know, the statute says that  
23 even if they don't make reasonable efforts, we can still  
24 terminate. That's the legislature's decision. That's

1 true, they could or you could, but the statute also says  
2 that if it appears that there are services that could be  
3 provided that would assist the parent to be able to meet  
4 the children's needs, that's a compelling factor that you  
5 have to consider.

6 So we would argue, while that may be true,  
7 that strict reasonable efforts analysis at least on some  
8 grounds, not all grounds, may not be necessary, it's also  
9 true that if there are services that would permit the  
10 family to remain intact, the Court has to take that into  
11 account.

12 In any event, as it so happens, and one of  
13 the reasons I think that you'll find that Dr. Aberasturi  
14 made this diagnosis, in October of 2014 Ms. Guerrero  
15 finds work at Motel 6 -- this is after she's been time  
16 limited in her welfare benefits -- and she finds work as  
17 a desk clerk, and she's working there for a month.  
18 Alberto comes around, and he's causing trouble for her,  
19 so her anxiety is elevated. And then one day her till  
20 comes up short because a customer gets the wrong change  
21 apparently, and she panics. She panics and she doesn't  
22 go back to work.

23 And now the agency, I think, takes that as  
24 meaning, well, you know, she just didn't want to work,

1 but Dr. Aberasturi says no, there's another reason that's  
2 fundamental, which is that she's overwhelmed by her  
3 anxiety, and unless she has this medical support, that's  
4 going to happen. So they certainly know that by January,  
5 Judge, when they get that evaluation.

6 So Ms. Seronio, who is actually a newly hired  
7 social worker, we submit simply wasn't able to find  
8 competent medical assistance for Ms. Guerrero. They  
9 referred her to various places, Judge, but none of them  
10 was adequate to meet her needs. They referred her to  
11 MFTs or, you know, therapists, but Dr. Aberasturi very  
12 clearly states that none of that's going to work without  
13 medication.

14 Ultimately, in May of 2014, Judge, about  
15 three months ago, she gets in with a DBT specialist, but  
16 even then she doesn't have the medication. Nonetheless,  
17 in June Ms. Guerrero will tell you that she went to her  
18 ob-gyn and she said, "You know, they tell me I need this  
19 medication. Can you help me out?" And he does provide  
20 her with antianxiety medication.

21 And in June of 2015, Judge, through her  
22 ob-gyn, without CPS assistance, she gets herself into  
23 CAAW, which is the Committee to Aid Abused Women, she  
24 goes to her DBT, she finds another job as a hotel maid

1 despite the fact that she's pregnant, and during that  
2 period of time she's highly functioning, she's doing  
3 great.

4 As it turns out, she's exposed to chemicals  
5 as a maid which give her an adverse reaction, and so she  
6 says to them, "You know, I can't do this. I'm pregnant."  
7 And they say, "Well, we'll give you another job," but  
8 they don't, and so she's not reassigned.

9 And once again she's at CAAW, which is the  
10 Committee to Aid Abused Women. They have a time limit.  
11 She has to leave. So she has to leave CAAW, again, she's  
12 unemployed, she's still in her sit-out period, so she's  
13 got no income, and there it is.

14 So we submit that what the evidence will show  
15 is you have a woman in dire poverty who has issues that  
16 are identified to the agency that are not addressed.  
17 Instead, they talk to her about budgeting money she  
18 doesn't have. You know, they're concerned about whether  
19 her apartment is clean, which is fair, but it's certainly  
20 not a safety issue.

21 As far as employment goes, I mean, we know  
22 that she's disabled and can't work or gets a job and it's  
23 hard to hold onto it without the necessary support  
24 services. Then to say, "Well, you can't keep a job," it

1 seems to me, Judge, is only to address part of the  
2 issues.

3 As far as the children's best interest goes,  
4 Judge, it's not surprising, of course, that young  
5 children who have been with their foster parent for some  
6 time are attached to her. We would want them to be  
7 attached to her, obviously, but it seems to me that while  
8 the best interests of the children is obviously an  
9 important factor and has to be up front, it's clear here,  
10 I think you'll find, that the oldest child is depressed  
11 about the prospect of never seeing his mother again, to  
12 the point where the social worker recommends he go to  
13 counseling, and he's really the only one able to  
14 articulate how he feels.

15 This mother has consistently visited these  
16 children. Her parenting skills were observed at various  
17 times by various people to be competent, she's attached  
18 to her children, and with the necessary supportive  
19 services, she can be a perfectly adequate mother to them,  
20 but she needs the support of a good counselor, as  
21 Dr. Aberasturi says, medication, and then, of course,  
22 financial support.

23 So we submit to you, Judge, that it would not  
24 be in these children's best interests for you to exercise

1 your discretion in the manner you're being asked, that  
2 with the necessary support, Ms. Guerrero will be able to  
3 care for her children, and this is not a case in good  
4 conscience where this mother's parental rights should be  
5 terminated.

6 Thank you very much.

7 THE COURT: You referred to somebody named  
8 Albert?

9 MR. ELKINS: Aberasturi. She's the  
10 neuropsychologist doctor.

11 MS. ELCANO: Mr. Vazquez. I think Alberto is  
12 referencing Alberto Vazquez.

13 THE COURT: Who is the boyfriend?

14 MS. ELCANO: Who is the current boyfriend,  
15 yes.

16 MR. ELKINS: Well, we deny that, Judge, but,  
17 yes, he was the roommate. Remember I said they had to  
18 get a roommate to hold onto the trailer?

19 THE COURT: Robert Hunt-Taylor is the father?

20 MS. ELCANO: The legal father.

21 THE COURT: Okay.

22 MR. ELKINS: Thank you for your time, Judge.

23 THE COURT: Are you prepared to proceed with  
24 your first witness?

1 MS. ELCANO: I am, Your Honor. I would call  
2 Andrea Menesini, please.

3 THE COURT: Just so you all know, I'm not  
4 ignoring you when I'm doing this with my computer up  
5 here. That's how I take notes even though my fingers are  
6 too big for this laptop.

7 Go ahead and be sworn, please.

8  
9 ANDREA MENESINI,  
10 having been first duly sworn,  
11 was examined and testified as follows:

12  
13 DIRECT EXAMINATION

14 BY MS. ELCANO:

15 Q Good morning. Could you please state and  
16 spell your name for the Court?

17 A Andrea Menesini, A-n-d-r-e-a, last name is  
18 M-e-n-e-s-i-n-i.

19 Q And who is your present employer,  
20 Ms. Menesini?

21 A Washoe County Department of Social Services.

22 Q In what capacity are you presently employed  
23 by Washoe County Department of Social Services?

24 A I'm considered an assessment worker.

1 Q And how long have you been employed there?  
2 I'm sorry. At Washoe County.  
3 A I've been employed this go-round since August  
4 2010.  
5 Q And how long have you been employed as an  
6 assessment worker specifically since August of 2010?  
7 A Since August 2010.  
8 Q Where were you employed prior to Washoe  
9 County Department of Social Services?  
10 A The Division of Child and Family Services in  
11 Fallon, Nevada.  
12 Q And what is that?  
13 A It's the same thing as Washoe County  
14 Department of Social Services except for the rural areas  
15 of Nevada.  
16 Q And what were your duties while employed in  
17 Fallon DCFS?  
18 A I was an assessment worker.  
19 Q Can you please briefly provide your  
20 educational background?  
21 A I have a bachelor's degree in social work.  
22 Q Are you a licensed social worker?  
23 A That is correct.  
24 Q What special training, if anything, have you

1       undergone while employed at Washoe County Department of  
2       Social Services?

3               A       I'm required to have, I believe, 32 credits  
4       of social work every two years for my license. I've been  
5       trained in anything from child abuse to sexual abuse, law  
6       enforcement, a bunch of stuff.

7               Q       And you said you're an assessment worker with  
8       Social Services. What exactly is an assessment worker?

9               A       An assessment worker is where we assess  
10      allegations of child abuse and neglect and assess the  
11      safety of a child.

12              Q       So what are your job responsibilities as an  
13      assessment worker?

14              A       To assess the child to make sure the child is  
15      safe, provide resources for families, and that's about  
16      it.

17              Q       And once your assessment is complete, what  
18      type of a worker is the case assigned to at that  
19      juncture?

20              A       That depends.

21              Q       Okay. If the child is taken into care and  
22      your assessment is completed, what type of a worker?

23              A       The case will then transfer to what's called  
24      a permanency worker.

1           Q     So approximately how long are you assigned to  
2 a case in the event that a child is removed?

3           A     Per policy, if a child is removed, the case  
4 is likely transferred within 10 to 15 days.

5           Q     Can you please briefly describe to the Court  
6 what steps are taken to complete an investigation or an  
7 assessment from start to finish?

8           A     Initially, when we receive a report, we will  
9 review the allegations of that report, we will look up a  
10 history, if there's any history of that family, we will  
11 staff with a supervisor if needed. We will then meet  
12 with the child based on the age, do an interview with  
13 that child, interview with parents, interview with  
14 collaterals, such as daycare providers, teachers,  
15 neighbors, families, to gather information to have an  
16 assessment of that family.

17          Q     Do you typically go to the family's home?

18          A     Yes.

19          Q     And I want to back up.

20                 You talked about a report. Who initially  
21 reports or where can reports come from?

22          A     Reports can be from anyone, from mandated  
23 reporters to individuals who just wanted to call who have  
24 concerns with the family.

1           Q     And when a report comes in, who takes that  
2     report?

3           A     The initial intake workers will take the  
4     information, and then it will go to an intake supervisor  
5     and coded.

6           Q     So when you talk about codes, what do you  
7     mean by that?

8           A     We base it on a Priority 1, which is  
9     immediate response, an emergency, up to three hours; we  
10    have a Priority 2, which is where we go and have 24 hours  
11    to meet with the family; or a Priority 3, which we have  
12    up to 72 hours to start our investigation of that family.

13          Q     And you also previously testified that you  
14    look at history.

15                Can you explain to the Court what you mean by  
16    "history"?

17          A     If there's any history that has been received  
18    by our agency in the past, if we've had any previous  
19    investigations or previous information-only reports, just  
20    concerns of the family that have been reported to us  
21    before.

22          Q     So, then, what is the general purpose of  
23    completing this assessment or investigation?

24          A     The purpose of it is to assess the child's

1 safety, if the child is safe in that home or not.

2 Q And what factors, generally, do you consider  
3 or take into consideration to determine if a child is  
4 unsafe in the custody of his or her parents?

5 A Depends on the child's vulnerability, the  
6 child's age, the developmental status of them, whether or  
7 not the family is able to provide the basic needs, the  
8 family is able to provide for the safety of that child.

9 Q And what is the Emergency Response Unit or  
10 the ER Unit?

11 A Our Emergency Response Unit is a unit that  
12 goes out and responds to immediate emergencies that  
13 occur. They also work different shifts, which they work  
14 from noon till 10 o'clock p.m. Our ERU also receives  
15 different referrals to meet with families after 5 o'clock  
16 from the assessment worker who is unable to meet with  
17 that family.

18 Q So when typically does an emergency response  
19 worker get involved in a case?

20 A If they get a report and they have to have an  
21 immediate response, they're the ones who are out there  
22 assessing them.

23 Q So is it fair to say they also are involved  
24 if it's after hours or the agency is unable to respond at

1       that particular time?

2               A       That is correct. As well as weekends.

3               Q       Okay. If an emergency response unit  
4 worker -- pardon me -- initially responds to a case, how  
5 do you ever get involved in that case as an assessment  
6 worker?

7               A       It will be reassigned the following business  
8 day by the intake supervisor.

9               Q       So who would be responsible for completing  
10 the investigation or assessment if the ER Unit was  
11 initially involved in the case?

12              A       The assessment worker who was assigned.

13              Q       As an assessment worker, would you  
14 complete -- pardon me. You just said the assessment  
15 worker is assigned. I'm sorry.

16                      You talked about a case transferring from an  
17 assessment worker to a permanency worker. What generally  
18 are the responsibilities of a permanency worker?

19              A       To provide ongoing services for that family  
20 and to work on their reunification if possible.

21              Q       What written reports are prepared when you  
22 complete an investigation?

23              A       The written reports would be case notes, a  
24 NIA, we provide case plans, we provide safety plan

1       determinations.

2               Q       And as an assessment worker, would you be  
3       responsible for drafting all of those written reports?

4               A       We are responsible for all those except for  
5       one section of the case plan. We are only responsible  
6       for the well-being of the child.

7               Q       You talk about case notes. So what service  
8       are case notes entered into?

9               A       It's called -- our program is called UNITY,  
10       which is a statewide computer system that each division  
11       of child and family services have access to.

12              Q       What is the Present Danger Assessment?

13              A       It's assessing the safety of the child in the  
14       immediate present, the here and now of that child.

15              Q       And who typically drafts that?

16              A       Depends. It's either the assessment worker  
17       who's out on scene or, if it's our Emergency Response  
18       Unit workers, if they're out there, then they will go  
19       ahead and provide that.

20              Q       And what determinations are made from a  
21       Present Danger Assessment?

22              A       Whether or not that child is safe at that  
23       present moment.

24              Q       What is a present danger plan?

1           A     Present danger plan is a tool that assessment  
2 workers or ER workers use. It's a written form where we  
3 come up with a safety plan of a child in or out of home  
4 placement.

5           Q     So what do you mean by "enter"? If you can  
6 kind of clarify what an in-home placement might be and an  
7 out-of-home placement might be.

8           A     An in-home placement would be, for example, a  
9 neighbor, a family friend or a family member who can come  
10 into the home and be that safety provider; and if it's  
11 out-of-home, we are then looking at removing a child from  
12 that home, placing them with a family member, a friend, a  
13 neighbor or even a foster home.

14          Q     And you referenced a NIA or a Nevada Initial  
15 Assessment. What is a Nevada Initial Assessment?

16          A     It's an assessment over the entire family of  
17 information we gather through our investigation.

18          Q     And what are the different areas evaluated in  
19 a Nevada Initial Assessment or a NIA?

20          A     We have several components. First one is  
21 what we consider maltreatment, which is just basically an  
22 allegation from the report that we receive. The second  
23 component is what we consider the nature portion, which  
24 is basically having different interviews with the family,

1 the children, any collaterals that we speak with in  
2 gathering information of the reasons why the allegation  
3 in the report was received.

4 We do have a section on child functioning,  
5 which is basically an overview of the child, any concerns  
6 developmental-wise, schoolwise, medical-wise.

7 We have a section about adult functioning,  
8 which is usually a summary of an adult, if they're in a  
9 relationship, for how long, any domestic violence. We  
10 talk about if they have a job, able to provide the basic  
11 needs, just a brief summary of that. They also talk  
12 about discipline, how they discipline or the different  
13 discipline techniques that they use for that child, as  
14 well as their parenting in general, just basically how  
15 they view themselves as a parent, how they view their  
16 child as a parent.

17 And the last section is just whether or not  
18 that child is considered safe or not.

19 Q So what determinations are made from a Nevada  
20 Initial Assessment?

21 A Whether or not that child is considered safe  
22 in the home. If we've identified any what we call  
23 impending danger threats, which is ongoing risks within  
24 the family, we identify those throughout our assessment.

1           Q     How long do you typically have to complete a  
2     NIA or a Nevada Initial Assessment? Pardon me.

3           A     That depends. Per county or per policy, it's  
4     within 45 days. Due to high caseloads, sometimes it's a  
5     little after 45 days. If it is with regards to a child  
6     being taken into our care, as I previously said, we  
7     usually transfer that case within 10 to 15 days per  
8     county policy.

9           Q     And how long, just to kind of go back, do you  
10    have to complete a Present Danger Assessment?

11          A     Assessment is completed right then and there  
12    with the child.

13          Q     What occurs if impending danger is found?

14          A     When impending danger threats are identified,  
15    we do -- it depends. If at that moment the child is  
16    currently in our physical care and impending danger  
17    threats have been identified, it will then be staffed  
18    with a permanency worker, so the case will then be  
19    transferred to a permanency worker for ongoing services.

20          Q     What is the difference between present and  
21    impending dangers?

22          A     Present danger is the here and the now. We  
23    have an immediate emergency danger of that child.  
24    Impending danger threats is ongoing risks of that family

1       that poses safety to that child.

2               Q       What is a Safety Plan Determination?

3               A       A Safety Plan Determination is basically a  
4       tool that we use to identify the impending danger threats  
5       and how we are going to mitigate those impending danger  
6       threats with the family.

7               Q       And what is a Safety Plan?

8               A       A Safety Plan is basically where we sit down  
9       and it's a written tool that we use depending on where  
10      that child is placed. Either with a foster home or if it  
11      were placed with relatives, we come up and use those  
12      individuals who are then going to say, "Yes, I can care  
13      for the child. I can provide the basic needs and provide  
14      that safety for that kid."

15              Q       Were you involved in a case involving  
16      Roberto, Kayleigh, and Nathan?

17              A       Yes.

18              Q       And when did you first become involved in  
19      this case?

20              A       I first became involved with the removal of  
21      this case on or about April 22, 2013, with regards to  
22      their removal.

23              Q       And had you been previously involved with  
24      this family?

1           A     Yes.

2           Q     But the children had never been removed from  
3 the care and custody of Ms. Guerrero; is that correct?

4           A     That is correct.

5           Q     And approximately how old was Roberto at the  
6 time of the removal?

7           A     Approximately 5-1/2.

8           Q     And how old was Kayleigh?

9           A     Kayleigh was 2.

10          Q     And Nathan?

11          A     Approximately 1, 1-1/2.

12          Q     And who is the natural mother of these  
13 children?

14          A     Ms. Jacqueline Guerrero.

15          Q     And do you see her present here today?

16          A     Yes.

17          Q     And could you please identify her?

18          A     She's sitting right there (indicating).

19                THE COURT: Let the record reflect that she's  
20 identified the mother of the children in this case.

21                MS. ELCANO: Thank you, Your Honor.

22                BY MS. ELCANO:

23           Q     And who is the father of the children?

24           A     Mr. Robert Hunt-Taylor.

1           Q     How is paternity established as to Mr. Robert  
2 Hunt-Taylor?

3           A     Through an affidavit of paternity that he  
4 signed as well as being on the birth certificate.

5           Q     I believe you said you first became involved  
6 in October of 2012; is that correct?

7           A     Prior to the removal, yes.

8           Q     And in October of 2012 was there any prior  
9 history with the County regarding this family?

10          A     Yes.

11          Q     And can you please provide what that history  
12 was, briefly?

13               MR. ELKINS:  Objection, Judge.  Hearsay.

14               MS. ELCANO:  Your Honor, she has knowledge of  
15 the history as it was provided to her as a basis of her  
16 investigation.

17               THE COURT:  Is she going to testify as an  
18 expert?

19               MS. ELCANO:  No.

20               THE COURT:  Are there other people who are  
21 going to come in and testify as to this first  
22 involvement?

23               MS. ELCANO:  No.

24               THE COURT:  What would be the exception,

1       then?

2                   MS. ELCANO: Your Honor, I believe the  
3 information is documented in -- well, I can get it in  
4 other ways. I'll go ahead and move on.

5 BY MS. ELCANO:

6           Q       Was there any -- pardon me.

7                   What role does prior history play in an  
8 investigation?

9           A       It does provide us with information of the  
10 family dynamics beforehand. However, just based on prior  
11 history, we still have to do another assessment when we  
12 receive a new report.

13                   THE COURT: You know, I'll let her go into  
14 the prior history because that is a basis for some of the  
15 actions that I assume she takes.

16                   MR. ELKINS: Judge, I assume it's not being  
17 admitted for the truth?

18                   THE COURT: That's what I was going to say.  
19 It's not being admitted for the truth of the matter  
20 asserted. It is to form a foundation for acts she takes  
21 later on, I assume.

22                   So I would assume this prior stuff is, at  
23 least in some part, used by you to take actions that you  
24 take; is that correct?

1 THE WITNESS: That is correct, Your Honor.

2 MR. ELKINS: Also, Judge, we haven't received  
3 any information about this, no records. This is a  
4 complete surprise to me.

5 THE COURT: I don't know what discovery  
6 you've got here, but --

7 MS. ELCANO: UNITY notes --

8 THE COURT: -- but why wouldn't you have  
9 gotten --

10 MS. ELCANO: UNITY notes were provided.

11 MR. ELKINS: UNITY notes, Judge, but they  
12 didn't go back to where she's talking about.

13 THE COURT: 2012?

14 MS. ELCANO: Your Honor, I would also argue  
15 that his client has knowledge of this.

16 THE COURT: See, I don't understand why  
17 you -- why you wouldn't provide -- I mean, are there  
18 records of this?

19 MS. ELCANO: Your Honor, the children were  
20 not removed. I believe UNITY notes as far back as 2012  
21 were provided.

22 MR. ELKINS: That's true, Judge, but  
23 not -- they were provided, I believe, beginning in -- I  
24 think the earliest was in October.

1 THE COURT: That's what they just said, first  
2 involvement, October 2012.

3 MR. ELKINS: But my understanding is she's  
4 being asked to testify to something that occurred prior  
5 to that time.

6 THE WITNESS: That is correct.

7 THE COURT: Prior to October 2012?

8 THE WITNESS: That was the question that was  
9 just asked.

10 MR. ELKINS: I have no documents relating to  
11 that.

12 THE COURT: What was the question again?

13 MS. ELCANO: Your Honor, I had asked -- and I  
14 apologize, I'm trying to run through the discovery  
15 because I thought it was provided this far back. I had  
16 asked the previous history that Ms. Menesini was aware of  
17 at the time that she became involved in this case in  
18 October of 2012.

19 I'm sorry. The Court's indulgence.

20 THE COURT: That's fine. I get paid by the  
21 hour.

22 MS. ELCANO: Then I'll take a little longer.

23 THE COURT: When I was sitting as a regular  
24 judge, I had lots of things to do. Now that I'm retired,

1 not to say I want this to go forever, but I'm not in as  
2 big a rush as I used to be.

3 MS. ELCANO: Your Honor, I believe UNITY  
4 notes were provided back to 2009.

5 MR. ELKINS: I'm sorry?

6 THE COURT: Let's go ahead and figure out  
7 what they are. You two can decide. We don't want to go  
8 back any further than that if we can help it because it's  
9 not really fair to them.

10 MS. ELCANO: Yes. The UNITY notes that were  
11 provided to opposing counsel, I believe, began in 2009.  
12 They certainly encompass 2010, yes, they do.

13 MR. ELKINS: Judge, I will go -- I didn't  
14 actually bring the UNITY notes with me, but that's not my  
15 recollection.

16 THE COURT: Is she looking at -- are you  
17 looking at what you gave him on your computer?

18 MS. ELCANO: Yes.

19 THE COURT: Why don't you take a look at it.  
20 How far back?

21 MS. ELCANO: It's with the packet I gave to  
22 both counsel. They started on September 17, 2009.

23 MR. ELKINS: When did you provide that?

24 MS. ELCANO: That was the last big packet

1       that was provided, I believe, in -- like in June.

2               MR. ELKINS: Judge, again, I'm prepared to  
3       look at the discovery I got, but I don't recall anything  
4       prior to 2012. If I'm mistaken, I'm mistaken.

5               THE COURT: Based on counsel's  
6       representation, I'll let -- how far back do you go with  
7       this case?

8               THE WITNESS: I initially became involved in  
9       October 2012. When I received that first report, we did  
10      look at previous history just to see if we had any.

11              THE COURT: How far back did the previous  
12      history which you looked at go?

13              THE WITNESS: We had three reports from 2009  
14      till now.

15              THE COURT: And tell me again what this UNITY  
16      thing is or whatever you're talking about.

17              THE WITNESS: UNITY is a statewide computer  
18      system where each agency of child and family services can  
19      look up, so if a family moves from Washoe County to  
20      another county, we can have access to see if they've had  
21      any history within the counties in the state of Nevada.

22              THE COURT: That doesn't include any other  
23      states, just Nevada?

24              THE WITNESS: Just Nevada.

1 MR. ELKINS: Judge, when I got the notes I  
2 organized them by year, and for whatever reason there are  
3 no 2009 or '10 notes in what I have. Now, if Ms. Elcano  
4 wants to show those to me, if we want to take a brief  
5 recess, I'll review them. That's okay.

6 MS. ELCANO: Your Honor, they were provided.  
7 I'm not certain what happened, but I can tell you that  
8 over 3,330 pages of discovery was provided at one point,  
9 which included, I think, close to a thousand pages of  
10 UNITY notes which began in 2009.

11 So they were released on the system pursuant  
12 to our stipulation in a timely manner, and they included  
13 this. This is the document specifically that was  
14 released through our system to opposing counsel.

15 Also, there is further documentation in there  
16 as to the particular reports that were called in, and  
17 those go back as to 2009, so there's numerous documents  
18 that reference --

19 THE COURT: How long do you need to look at  
20 them? Ten minutes?

21 MR. ELKINS: I can look at what's on her  
22 computer if you'd like, Judge, but I'd rather actually  
23 look at the physical documents that I have, but I don't  
24 mind looking at what's on the computer. It may be --

1 THE COURT: Let's take a 5-minute -- we'll  
2 come back at 20 to 12:00.

3 MR. ELKINS: Maybe ten minutes.

4 (A recess was taken.)

5 MR. ELKINS: If I may address the Court,  
6 Judge.

7 THE COURT: Okay.

8 MR. ELKINS: For whatever reason -- and I  
9 don't doubt Ms. Elcano's good faith -- but the documents  
10 that I downloaded from our electronic discovery system do  
11 not include these 2009 notes. There are 33 pages of  
12 them. If you will give me until after lunch, I'll look  
13 them over and I'll be prepared to proceed.

14 THE COURT: Okay. We can come back -- we can  
15 come back at 1:15, so we'll take our lunch break now.

16 MR. ELKINS: I appreciate that, Judge.

17 I would ask that I get a hard copy of just  
18 these 33 pages.

19 MS. ELCANO: I can go back to the office and  
20 print them out, I guess.

21 MR. ELKINS: Or attach them to an e-mail.

22 THE COURT: I have a thumb drive if you want  
23 to put them on that.

24 MS. ELCANO: I don't think I can e-mail

1 from -- I can put them on a thumb drive, I guess. I  
2 can't e-mail from here because my e-mail won't work, but  
3 I could try putting them on a thumb drive. I guess I  
4 could extract --

5 MR. ELKINS: I appreciate that, Judge. Thank  
6 you.

7 (The midday recess was taken.)  
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