REDIRECT EXAMINATION

BY MS. ELCANO:

Q I think you've kind of gone over this, Ms. Buttacavoli, but your evaluation is based on the information you have at the time --

A True.

Q -- is that correct?

A Yes.

Q And is it reasonable to believe that an individual might be experiencing some things at one point and some things at a later point?

A Yes.

Q And is it also reasonable to conclude that if a patient does engage in therapy over a period of time, you may identify other diagnoses or certain things that a patient is struggling with?

A Absolutely.

MR. ELKINS: Objection. Leading, Judge.

THE COURT: Well, she's answered it. I've heard the answer, so --

MR. ELKINS: I'll try to get up quicker next time.

THE COURT: You may need more exercise.

MR. ELKINS: I need a stronger floor.

BY MS. ELCANO:

Q Could your diagnosis change as you engage in therapy?

A Absolutely.

Q Is there any difference or what is the difference that a licensed psychologist can provide as a diagnosis versus a licensed clinical social worker?

MR. ELKINS: Objection, Judge. She hasn't been qualified to answer this question.

THE COURT: Well, she's -- objection is overruled.

Go ahead and answer the question. Do you understand the question?

THE WITNESS: You're asking what a licensed neuropsychologist can do as different from a licensed clinical social worker?

BY MS. ELCANO:

Q Correct. Do you know? If you don't, that's okay.

A Neuropsychologists perform a battery of different testing tools over a long course of time. I meet the patient for an hour. Neuropsychologists have multiple hours that they perform a variety of different tests that pop out results based on what the research

suggests people with those symptoms have.

Q Fair enough. And then you indicated that you did not diagnose Ms. Guerrero with anxiety disorder?

A No.

Q And why not?

A Because the symptoms she reported to me did not meet the criteria for an anxiety disorder.

Q And you indicated that you did diagnose Ms. Buttacavoli -- I'm sorry -- Ms. Guerrero with borderline personality disorder; however, not with a dependency personality disorder. Is that correct?

A Yes.

Q And why not?

A Because the -- the symptoms that she presented with and the symptoms that she was describing were more indicative of meeting criteria for borderline personality disorder.

Q And what were those symptoms?

A She described a fear of abandonment as well as difficult interpersonal relationships. She also reported a lack of or transient disconnectedness as well as feelings of emptiness. Patients that --

Q And -- I'm sorry. I didn't mean to cut you off. Please continue.

A Often patients with borderline personality disorder have experienced trauma. So certainly her trauma history was not overlooked and helped me to formulate the diagnosis of borderline personality disorder.

Q And in what capacity do you consider a previous assessment done by a person with a Ph.D. or another counselor when you're evaluating an individual?

A I don't understand.

Q What weight or how do you incorporate a previous evaluation done by another counselor, therapist, doctor when you're evaluating an individual who is in front of you today?

A Typically patients who present for an initial evaluation, if they have had previous especially psych testing or neuropsychological testing, they would need to sign a release for information so that I could get access to that information, even previous therapists, if I want to have a conversation with them. I would have to meet with the person initially and then would have the opportunity, once releases were signed, to review any records.

It certainly is helpful if assessments have been done and I have access to those, and typically what

I would do is review them on my own and then discuss them with the client in real time.

Q So it's fair to say you would take it into consideration; correct?

A Yes.

Q But it's not indicative of what your assessment would be?

A True.

MR. ELKINS: Objection. It's a leading question.

THE COURT: We already have that answer.

MR. ELKINS: I'm just going to have to get up quicker.

THE COURT: Some of this stuff is intuitive almost.

BY MS. ELCANO:

Q Did you ask Ms. Guerrero if she had had any prior assessments when you met with her?

A She was asked what type of therapy or treatment she had had in the past.

Q And was she asked specifically about whether any assessments had been done?

A She was asked if she has any history of having any mental health treatment, inpatient,

outpatient, and who provided that treatment.

Q And she indicated who had provided that treatment in the past?

A She told me that she had seen Dori Orlich, who's a licensed clinical social worker.

Q And, generally, if you do have a prior assessment done by a therapist, or diagnoses previously, how do those impact the treatment recommendations that you make?

A The treatment recommendations come from how the patient is presenting at the time. Assessments from the past are helpful because clients either often don't recall specific severity of symptoms or duration of symptoms. And if there is information of a person having multiple treatment attempts over time, then it's helpful for me because that's indicative of a failure at a specific level of care, that perhaps that person might need a higher level of care.

Q I see. And if you had known or if Ms. Guerrero had previously been diagnosed with an anxiety disorder, would it have impacted your treatment recommendations?

A No.

MS. ELCANO: I have no further questions,

Your Honor.

THE COURT: Recross?

RECROSS-EXAMINATION

BY MR. ELKINS:

Q Ms. Buttacavoli, on June 10th, when Ms. Guerrero came to you, she stated that she was struggling with anxiety and panic symptoms; correct?

A And I believe I go on, yes, to describe her description of those symptoms.

Q Well, I can show you the document if you'd like, but --

A No, that's not necessary.

Q Doesn't it say starting when her children were initially removed from her care?

A Yes.

Q So is that the reason that you didn't diagnose her with having an anxiety disorder, because of the duration?

A No. I didn't diagnose her -- if you would go on to read the full note, I describe what she states as the symptoms. So if a patient comes to me and says, "I have anxiety," I ask them to describe what that's like for them. When a person says, "I yell and scream and

pull my hair," that's not what people typically associate with anxiety.

Q I see. Well, if you were to learn, for example, that when her -- let me give you a hypothetical.

Ms. Guerrero is visiting her children in the community, and the agency decides to have her visits begin and end at the agency instead.

Now, you've worked with CPS; correct?

A No, I've never worked with CPS.

Q Not at CPS, but you do evaluations for Children's Services?

A No.

Q Didn't you do this one at the request of Children's Services?

A No.

Q This wasn't sent to you by Washoe County Department of Social Services?

A She stated that Dori Orlich had referred her for DBT. She stated that Dori Orlich did an evaluation for Washoe County Social Services and recommended that she receive DBT treatment.

Q Okay. In the course of treating or evaluating Ms. Guerrero, did you have any discussions with a caseworker?

A I did not because Ms. Guerrero refused to sign a release of information so I could do that.

Q But in any event, let me go back to my hypothetical.

So she's visiting in the community, she's told her visits will begin and end at the agency, and she gets so upset that she's overwhelmed with crying and cannot catch her breath and cannot speak, for example.

Would that be consistent with an anxiety disorder?

MS. ELCANO: Objection, Your Honor. This is way out of the scope of redirect. This is also speculative.

MR. ELKINS: Judge, subject to connection. It's a hypothetical. She's an expert.

MS. ELCANO: She's not been qualified as an expert.

MR. ELKINS: She's testifying, Judge, to a diagnosis, and that's what I'm directing the question to.

THE COURT: The objection is overruled. Go ahead.

THE WITNESS: Can you repeat your question?

BY MR. ELKINS:

Q I'm sorry. I believe it was a little

convoluted.

She has visits with her children in the community. She's told that her visits will be beginning and ending at the agency instead of out in the community with the foster parent, and she becomes so distraught that she's crying, she can't speak, she can't catch her breath.

Would that be consistent with an anxiety disorder?

MS. ELCANO: I object again, Your Honor. I think we can ask what conditions or characteristics arise to anxiety, but this is a hypothetical, it's speculative, and, again, I think it's outside the scope.

THE COURT: If she's diagnosing or she's given a diagnosis, so objection is overruled.

Go ahead and answer the question. Do you understand the question?

THE WITNESS: Yes, I understand the question.

So you're asking if -- if Ms. Guerrero had told me that she was having visits at the agency and was observed to be out of breath --

BY MR. ELKINS:

Q No, no, no.

A -- and upset --

Q No, that's not --

A -- as to when her children were removed, if I would diagnose her then with an anxiety disorder?

Q No, that's not the question.

A Okay.

Q The question is, would a reaction of that kind upon being told that your visits would be at the agency instead of in the community, crying hysterically, not being able to catch your breath, not being able to speak, that reaction to that situation, would you say that's consistent with an anxiety disorder?

A I would like to ask a person more questions than just that because it could be an inability to tolerate distress, it could be difficulty regulating emotion, it could be -- certainly could be panic, but I would need more information.

Q Let me give you another hypothetical.

Suppose you were told that the patient is working as a hotel desk clerk and her register comes up short because she believes that she's given the wrong change to someone and that she panics and is unable -- to to the point that she's so afraid, that she's unable to return to work.

Would that be consistent with panic disorder?

MS. ELCANO: Objection, Judge. Opposing counsel is trying to use situations that have allegedly occurred in Ms. Guerrero's life -- these are not hypotheticals, these are facts that have allegedly occurred -- and trying to use them in a way to somehow impact or affect the original diagnoses that was given by Ms. Buttacavoli.

I think that he -- we can certainly ask what other symptoms are indicative of anxiety, but to somehow put on testimony in these, quote/unquote, alleged hypotheticals when they specifically relate to facts and incidents which have already been discussed and testified to to somehow change or impact a diagnosis is not appropriate.

THE COURT: I'm going to allow the question.

Answer it, but we're starting to get a little afield. This witness --

MR. ELKINS: I'm going to move on.

THE COURT: -- is restricted.

MR. ELKINS: Thank you, Judge.

THE COURT: Let's move on.

BY MR. ELKINS:

Q So do you understand the question? Do you want me to repeat it?

A If --

THE COURT: She was at a motel --

THE WITNESS: Register is short, can't go back to work because she's scared.

THE COURT: Yes.

THE WITNESS: Yeah. And you're wanting to know what about that situation?

BY MR. ELKINS:

Q Would that be consistent with a panic -- an anxiety disorder?

A A panic attack, perhaps. Could be.

MR. ELKINS: Thank you, Judge. I have nothing else.

THE COURT: We're getting an awful lot of could be's.

You're done, ma'am. Does anyone want to re-call this witness?

MS. ELCANO: Not at this time, Your Honor. Thank you.

MR. ELKINS: No, Judge.

THE COURT: You're excused permanently.

Do you have a short witness because -- I don't mean in stature. Do we have a brief witness or do we want to take lunch now and come back?

MS. ELCANO: I don't have a brief witness, Your Honor, but I don't know what you'd like me to do with Exhibit HH. May I bring it up to the clerk?

THE COURT: Yes. So we'll take our lunch break now and we'll come back at 1:20.

MR. ELKINS: Thank you.

(The midday recess was taken.)

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 1:15 P.M.

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 1:36 P.M.

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

Ms. Elcano.

MS. ELCANO: Your Honor, I'd call Rocio Lopez.

THE COURT: So the record should reflect, as per the ruling earlier, that --

Is it Ms. Seronio?

MS. ELCANO: Seronio.

THE COURT: -- Ms. Seronio is not present pursuant to the exercise or invocation of the rule of exclusion by Mr. Elkins.

Go ahead and swear the witness.

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ROCIO LOPEZ,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ELCANO:

Q Can you please state and spell your name for the Court.

A Rocio, R-o-c-i-o, Lopez, L-o-p-e-z.

Q Who is your present employer?

A Washoe County Department of Social Services.

Q In what capacity are you presently employed there?

A I am a permanency social worker.

Q Approximately how long have you been employed at Washoe County Department of Social Services?

A About eight years and eight months.

Q Have you ever been employed as an assessment worker?

A No.

Q Where were you employed prior to Washoe County Department of Social Services?

A Washoe County Department of Juvenile Services.

Q What were your responsibilities while there?

A I was -- my official title was an outreach specialist. I basically did case management and provided services to children who were status offenders.

Q Can you please provide your educational background for the Court?

A I have a bachelor and master's in social work from the University of Nevada, Reno.

Q Are you a licensed social worker?

A Yes, I am.

Q And did you receive any training in order to become a permanency worker with Washoe County Department of Social Services?

A Yes, I did.

Q And can you please describe that training?

A I was in the training unit for six months. That consists of attending trainings on how to work our UNITY system, how to fill out paperwork correctly, how to do court reports, shadowing a senior social worker for the first six months.

Q And any additional training?

A Yes. I'm required, as a licensed social worker, to do 30 credits, 30 hours of training every two years. Three of those hours have to consist of ethical

training.

Q And have you done any specific training to domestic violence or --

A I've done many trainings over the last -- counting when I was at Juvenile Services, I was required to do training. Domestic violence, child abuse, substance abuse, mental health, trainings in regard to the SAFE program, trainings in regards to interviewing the parents, interviewing the children, identifying child abuse marks, excessive physical discipline marks. Really, it's been really, really broad, like lots and lots of training.

Q Can you please briefly describe your job duties as a permanency worker with Social Services?

A My job is to provide services in order to find permanency for the children, so whether that's with their parents, providing case management services, speaking to the parents, finding resources in the community.

If the permanency plan is something else, then obviously reaching that goal. So if the permanency plan is guardianship, adoption, or the children are going to stay in foster care until they're 18, then I am required to work on that permanency goal, providing an

adoptive home, providing a 16-year-old services in order to age out. It just depends on the actual permanency plan.

Q And you keep using the term "permanency" or "permanency plan."

Can you explain to the Court what that is?

A A permanency plan is the plan that is identified by the agency and the courts to be what is in the best interests of the child. So what is it that we think is in the best interests? It could be returning to a parent's home. That would be a permanency plan. It could be termination followed by adoption. That would be a permanency plan.

THE COURT: Guardianship?

THE WITNESS: Guardianship.

BY MS. ELCANO:

Q Are you familiar with Roberto, Kayleigh, and Nathan?

A Yes, I am.

Q How do you know these children?

A It's a case that's been assigned to me.

Q And are you familiar with Ethan Hunt-Taylor?

A I am, yes.

Q Are you the social worker assigned to Ethan

Hunt-Taylor's case?

A No, I'm not.

Q And who is?

A Ms. Malia Seronio.

Q Who is the mother of Roberto, Kayleigh, and Nathan?

A Ms. Jacqueline Guerrero.

Q And who is their father?

A Mr. Hunt-Taylor.

Q How is paternity established?

A Through an affidavit and birth certificate.

Q When were you assigned as a social worker to this case?

A I was assigned approximately on April 30th of 2013.

Q And in what capacity were you assigned to this case?

A I was assigned as the permanency social worker.

Q Who was the case transferred from?

A Andrea Menesini.

Q Why was the case transferred from an assessment worker, Andrea Menesini, to a permanency worker such as yourself?

A Because the children were in Washoe County custody, and permanent -- the permanency plan was reunification, returning them to their parents' care, and they needed further services.

Q Is this a SAFE-FC case?

A Yes, it is.

Q Can you tell the Court what SAFE-FC is?

A Yes. The SAFE-FC program is a program --

THE COURT: Is that S-A-F-E?

THE WITNESS: Yes. S-A-F-E and then --

THE COURT: F-C?

THE WITNESS: -- F-C.

The program is a program that the agency started about three years ago. It's part of a research project to determine if more intensive services, more collaboration, providing more services, meeting with the parents more, changing the way that we meet with the parents, the way we talk to the parents, if any of those things would reunify the children with their parents a lot faster.

BY MS. ELCANO:

Q And how is a case assigned to the SAFE-FC group?

A It is randomly assigned by a computer system.

Q So not all of the Washoe County Department of Social Services cases are SAFE-FC cases; is that accurate?

A That's accurate, yes.

Q So what's the difference between a SAFE-FC case and a regular case or not being assigned to the SAFE-FC program?

A So the differences are, SAFE-FC works in collaboration with the Children's Cabinet. The thought behind that is that social workers, because of the high caseloads, don't have time to provide the services and the one-on-one services that the parents need. And so in collaboration with the Children's Cabinet, it pairs up with the case manager there, and whatever services the parent needs, then I would tell that Cabinet worker, "This is what she needs. Go provide her with this," whether it be a bus pass, transportation. So that's one aspect. We work very closely with them.

Also, there is a safety plan aspect, if we are able to return the children with a safety plan, putting in place certain people to check on them, other resources that we could put in place, and they would monitor that. Regular cases don't get that. That's only SAFE-FC.

Also, SAFE-FC requires weekly face-to-face contact with the parent. Regular cases don't require that weekly face-to-face. They do phone calls. They can do a face-to-face once a month. It doesn't require that.

Also, it requires checking on -- reviewing the case plan every three months. There's documentation attached to that that the regular cases don't have, and they're not required to review every three months the way that the SAFE-FC is required.

SAFE-FC is also required to staff the case on -- initially on a weekly basis, and then it can move to a monthly basis as time goes on with your supervisor with the intent that you're constantly reviewing the case plan goals, what do the parents need, what more can you do to move quicker and get the children home. Regular cases, yes, there is staffing but not on a weekly basis.

There's also -- it also required what we called CASIs. They're assessments that parents fill out on a computer. It also had an aspect of -- it evaluated our relationship, whether our relationship needed to be worked on. Again, that's not something that regular cases have.

And so it required a lot of training, and there was motivational interviewing, paperwork learning,

learning the program itself, how to change your mindset from this program to this program, so there is -- there is a difference. Basically the goal is still reunification but just a different way.

THE COURT: Sounds like it's more intensive?

THE WITNESS: It's definitely very, very intensive.

BY MS. ELCANO:

Q Are more services available to a family because a case is a SAFE-FC case?

A Yes. There are services through us and through the Children's Cabinet. There was a grant that was mentioned earlier in this courtroom.

Q Is more funding available to a family if it's a SAFE-FC case?

A It could be. It's based on the family situation, so we don't guarantee that they're going to get financial assistance. It just is case by case.

Q As a social worker with a SAFE-FC case, is it fair to say that you have much more contact with the family and review the case plan and go over things more often because it's a SAFE-FC case?

A Yes.

Q I may have asked that, but this case

regarding the Guerrero-Hunt-Taylor children is a SAFE-FC case; correct?

A That's correct.

Q I did want to go into a little bit.

You do collaborate with Children's Cabinet; correct?

A Correct.

Q How does that work? Are they working independent or --

A No. No. It's part of the SAFE-FC program. It's a collaboration. The social worker still has the lead in the case, so we are the ones who lead the case. We know -- we're the ones meeting with the parents. We know the services they need or what they're requesting.

It's more like they are -- and I don't want to say assistance, but it's more of a collaboration, but, really, if I needed something, I would contact the Children's Cabinet and say, "Please provide this service to the parent."

Also, they require our approval for services, so they would contact us, Say, "The parent is requesting a bus pass. Do you approve?"

So it is a collaboration. The grant money was assigned to the Children's Cabinet, but it is part of

this SAFE-FC project.

Q And is the Children's Cabinet worker present during meetings and case plan reviews and whatnot?

A Yes.

Q Were Roberto, Kayleigh, and Nathan in the care of Washoe County Department of Social Services at the time the case was assigned to you?

A Yes.

Q And where were the children placed?

A They were at Kids Cottage.

Q And did that placement change throughout the life of this case?

A Yes.

Q And where were the children placed from Kids Cottage?

A In Ms. Sandra Matute's home.

Q Approximately when did that occur?

A In May of 2013.

Q Where are the children placed right now?

A In Ms. Matute's home.

Q Has that placement ever changed throughout the life of this case?

A No.

Q What did you do first after this matter was

assigned to you?

A I reviewed the past history, I read the case notes, prior case notes in our system, and I read Ms. Andrea Menesini's initial assessment.

Q Who, if anyone, did you staff this case with?

A I staffed the case with my supervisor, Ms. Amy Reynolds.

Q And did you discuss the case with anyone else at the time it was transferred to you?

A Yes. Once I staff the case with Ms. Reynolds, the next step is to set up a transfer meeting. During the transfer meeting, the assessment worker is present, which was Ms. Menesini; her supervisor, Ms. Krystal Zboinski; the Cabinet supervisor, Matt -- I think the last name is Mowbray; the Children's Cabinet case manager at the time was Cassie Pasley; and then my supervisor -- I can't remember -- and myself.

Q What's discussed at the transfer meeting?

A Basically the reasons the child was removed, what -- if any services have already started. Sometimes the assessment workers get started on services, and so they just kind of give us an update. We talk about the needs of the children, so far what the needs of the parents are based on what they know.

We talk about things that I need to do in order to move forward from there and pretty much just get familiar with the case and talk to the people who are present.

Q After the case was transferred to you, how often did you staff this case with your supervisor?

A Initially within the first two weeks -- and this is a SAFE-FC-only routine -- we have what is called a PCFA -- please don't ask me what that stands for, an acronym -- but basically what it is is it's a discovery.

You need to meet with the parents at least four to five times before you do a case plan. You can meet less, you can meet more, but, really, they like at least three times. The purpose of that is to get to know the parents, what their issues are, so that when you do a case plan, it's just not based on what the agency feels are the needs but also what the parent feels the needs are. That is only a SAFE-FC routine.

So initially I met with her several times a week because I did what we call an introduction. You meet with the parents, introduce yourself --

Q I'm sorry. You said you met with her. Can you clarify who "her" is?

A I'm sorry. Ms. Amy Reynolds, my supervisor.

Before I meet with the parent, I have to meet with my supervisor, and I have to discuss what I plan to discuss with the parent. And then after I discuss it with the parents, I have to meet with her again to get ready for the next meeting.

So the answer to your question is, several times for several weeks, several times a week for several weeks.

Q And then after that how often did you staff this case with your supervisor?

A Initially, I would say the first maybe six months, it was once a week, and then after that we probably went to every other week or once a month.

Q And approximately how many times did you meet with Ms. Guerrero?

A Like I said, the SAFE-FC project requires once a week, and so I would always schedule my appointments with her once a week, whether she showed up or not.

Q After reviewing this case file and staffing the case, what were the outstanding safety concerns which prevented Roberto, Kayleigh, and Nathan from being placed home with Ms. Guerrero?

A It was lack of basic needs and ability to

provide needs and lack of motivation.

Q Can you expand on lack of basic needs a little bit?

A Yes. I think the major problem at that time was housing and income and ability to pay your bills to keep a safe home, and the other part of it was lack of motivation.

Mainly, when I first got the case, it was in regards to Roberto's school. Now, as a social worker, I do have the ability to continually assess the situation and add more impending dangers or adjust based on what I assess.

Q And whose lack of motivation specifically?

A Ms. Guerrero.

Q And her lack of motivation to do what?

A To do the things a parent needs to do to keep her home clean. And, of course, like I said, that changed. Initially that wasn't a concern. That changed as I had the case. So initially it was just the concern about Roberto getting to school, but as the case continued, there was further lack of motivation.

Q Okay. And generally -- excuse me.

What was the permanency plan for this case when it was first assigned to you?

A Reunification.

Q And did that permanency plan change?

A Yes.

Q And what did it change to?

A It changed to termination of parental rights followed by adoption.

Q When, approximately, did that occur?

A About April of 2014.

Q Why did that permanency plan change?

A Because at the 12-month mark we have to make a decision based on what we think is in the best interests of the children and present it to the Court based on the law, and at that point we felt that there had not been sufficient progress or behavior change and decided that it was in the best interests of the children to allow them to be adopted and move on with their life.

Q And you mentioned sufficient progress or behavior change. By whom?

A By Ms. Guerrero.

Q Thank you.

What is the Adoption Safe Family Act or the ASFA?

A The ASFA is a law that we need to follow in regards to permanency for the children. Basically the

law states that --

MR. ELKINS: Objection, Judge. She's not a lawyer, she's not an expert witness, and the law isn't factual, it's legal.

If she wants to testify what her obligations are or the agency's obligations are, I have no problem with that, but she can't testify as to what the statute says.

THE COURT: She can testify about what they follow, and it's based -- so I'll let her testify to that.

BY MS. ELCANO:

Q You can continue.

A So ASFA is a law that we follow. It basically states a parent has 12 months to reunify with the children, to have sufficient behavioral changes in order to provide the child with a safe home.

If in 12 months they're not able to demonstrate that necessary change, the agency has the obligation to present a different plan to the Court for permanency for the children. Basically, that could be adoption, guardianship, staying in foster care until they're 18.

Q What is a case plan and service agreement?

A A case plan and service agreement is a document that we created along with the parents and their lawyers to determine what goals they need to achieve in order to get their children back. We also identify tasks and things that can help them, things that they think would help them, and that's basically what guides the parents in the process of reunifications.

Q When is a case plan and service agreement created for a family?

A It has to be created within 45 days of the removal of the child.

Q And what's the purpose of creating this case plan and service agreement?

A The purpose is so that the parents know what they need to do to reunify.

Q Thank you.

And how is a case plan and service agreement developed?

A It is developed with -- again, can I bring it back to SAFE-FC?

Q Please.

A Business as usual, a lot of the times you would go into a case plan and ask the parent for information, but, really, the case plan is drafted based

on what the agency wants them to do.

A SAFE-FC plan is different. Because you've met with the parents several times before this meeting, you get to know them and know what they feel are the issues. So the case plan is drafted based on what the parent feels the issues are in the home and also in combination with what the agency feels the issues are.

Q And you indicated there were goals and objectives. What are the goals and objectives and how are they identified?

A So a goal is basically what issues are going on in the home. That is really what they need to achieve in order to reunify. I'm sorry. I kind of lost track of your question.

Q What was the goal/objective? How is it identified?

A Okay. It's identified through the initial assessment completed, which was in this case Ms. Menesini, also through the conversations with the parents, and also through my assessment during these conversations.

Q Can you give an example of a goal or objective?

A Sure. It might be, you know, a parent

has -- they could say, "I really, really struggle with depression, and I feel that getting up in the morning is really difficult." And so we might do something that states, "Ms. So-and-so will have enough energy -- has enough energy to get up in the morning, is meeting her emotional needs in a legal manner and not using illegal drugs." And so that might be a goal.

Q What are tasks?

A Tasks are things stated in the case plan that help a parent meet that goal. It might be something -- like in this case, if this person is using drugs to manage their depression, the task might be get a substance abuse evaluation, it might be to attend substance abuse treatment. That is a task to reach a goal.

Q And how do you track if goals/objectives/tasks are completed or met in a particular case?

A Through conversations with the parents, reports from counselors who are involved, observations, through drug tests if there's a drug problem. Basically that's what we do.

Q What is the difference between completing a task and observing behavioral change?

A So completing a task -- and I'll use my sample again. If you have somebody who's using meth, is using a drug, the goal is for them to be able to address their drug issue in a healthy manner, getting treatment in a legal manner. They can go to 30 sessions of counseling. That is a task. Just because they complete the task doesn't mean they change the behavior, so that's the difference. We're looking for the behavior change, not just completing the task.

Q You may have answered this question, but just so we're all on the same page, how often is a case plan and service agreement reviewed in a SAFE-FC case?

A In a SAFE-FC case it's every three months.

Q And because you're reviewing the case plan and service agreement, does that always necessitate or require updating the case plan and service agreement?

A No, not all the time. If the case plan goals are still relevant, then there's no point in us changing them. If the parents feel like that's not the goal anymore or if we feel that's not the goal or we need to add more goals or tasks, then at that point we would do that.

Q Was there a case plan and service agreement in place at the time that this case was transferred to

you?

A No.

Q When did you develop a case plan and service agreement for Ms. Guerrero?

A May of 2013.

Q Was Ms. Guerrero included in this process?

A Yes.

Q Was her attorney?

A Yes.

Q What goals or objectives were identified in Ms. Guerrero's case plan and service agreement?

A She had two case plan -- what we call SMART goals. She had one that would address the lack of basic needs, so she would need to get housing, a stable income through either welfare or employment, paying her bills on time, just overall meeting those basic needs.

The second one was in regards to motivation. That was in regards to keeping your home clean, getting your children to appointments on time, attending the appointments, getting your children to school on time, and also it was tied into her emotional well-being, so having the energy to do it and being emotionally well.

Q So I'd like to turn first to the basic needs and housing specifically.

Why was the provision or the goal/objective of basic needs identified for Ms. Guerrero?

A At the time that I received the case or the -- the reason the children were removed, first of all, was due to lack of housing. At the time I received the case, they also did not have housing.

Q And who is "they"?

A I'm sorry. I should say Ms. Guerrero. We're talking about Ms. Guerrero.

Q Thank you.

What tasks were identified to enable Ms. Guerrero to address the provision of stable housing for herself as well as her family?

A So by the time we drafted the case plan, she had already obtained an apartment, so it was more about maintaining it.

We provided the task of applying for Reno Housing because we know that Reno Housing goes based on a sliding scale, and it would be just -- it would be more beneficial for them to be in Reno Housing instead of paying full rent. So that was one of the tasks.

Sorry. I lost my train of thought.

MS. ELCANO: Maybe if we could just ask that cell phones are turned off.

THE COURT: What?

MS. ELCANO: If we could just ask that cell phones are turned off.

THE COURT: Was there a telephone somewhere?

THE WITNESS: So what tasks?

BY MS. ELCANO:

Q Yes.

A I'm sorry.

THE COURT: Did a cell phone go off? I didn't hear it.

MR. ELKINS: It was vibrating, Judge. It didn't really ring.

THE COURT: I didn't know I was that oblivious.

BY MS. ELCANO:

Q You were discussing maintaining housing.

A Yes. So the task was applying for Reno Housing and maintaining that housing.

Q And I'm sorry. You were kind of saying that -- if you could just clarify, you also talked about Reno Housing. Why did you think that applying for Reno Housing was necessary if they already had an apartment, if Ms. Guerrero already had an apartment?

A Right. So because of their history of not

being able to keep their apartment on their own, Reno Housing is a program that goes based off a person's income. And there's Section 8, there's -- well, there's different programs. There's some where you have to pay based on how much you make, some where you don't have to pay anything, but you still have to, you know, work -- do community service.

I mean, there's different programs, and I felt that that would be better because then they wouldn't have to pay the full rent.

Q I see. Was Ms. Guerrero having to pay full rent in her current apartment --

A Yes.

Q -- to your knowledge?

And did there come a point in this case where Ms. Guerrero lost that apartment?

A Yes.

Q And did the tasks at all change given that she no longer had the apartment?

A We didn't change the tasks on the case plan, but they were still -- the goal, again, going back to the goal, is to have housing, and so that didn't change.

Q Okay. Did Ms. Guerrero effectively complete any of the tasks associated with housing?

A Yes, she did. She complied with applying for housing. I wouldn't say she followed through all the way, but she did apply for it.

Q And what services were offered to Ms. Guerrero to address the lack of stable housing and obtaining and maintaining housing throughout this case?

A So she had went to Reno Housing. We provided referrals to Reno Housing because they require letters from us, also from the Cabinet. So we provided that.

In regards to paying her rent, we tried to help her with budgeting. We -- because they had an income, we can't provide financial assistance when there's income already, and so it was more about helping her manage her money already.

Q Did Ms. Guerrero participate in these services?

MR. ELKINS: I'm sorry, Judge. I'm not sure what services counsel is referring to.

MS. ELCANO: The ones she just identified as the services offered.

THE COURT: I'm not sure either which services.

THE WITNESS: So it was applying for Reno Housing. Yeah, she did. She did go apply for Reno

Housing.

Did she work on a budget? She filled out forms, but she didn't follow the budget.

BY MS. ELCANO:

Q And you referenced, I think, a couple times that Ms. Guerrero did apply for Section 8 housing or Reno Housing.

Did she follow through with obtaining that housing?

A No.

Q What did Ms. Guerrero fail to do?

A She was provided with a voucher for an apartment, and I believe that was a year after I got the case, possibly about July of 2014. She was provided with a voucher, and she did not follow through on that voucher for Reno Housing.

Q What specifically did Ms. Guerrero fail to do?

MR. ELKINS: Judge, I believe this is hearsay, and I'm going to object.

BY MS. ELCANO:

Q Based on your conversations with Ms. Guerrero, what did she fail to do?

A She told me she was going to let go of the

voucher because she couldn't find an apartment.

Q Do you know why Ms. Guerrero allegedly couldn't find an apartment?

MR. ELKINS: Again, Judge, same objection, limited to, of course --

MS. ELCANO: I'm asking if she even knew why.

THE COURT: The answer is yes or no.

THE WITNESS: I know what she told me.

THE COURT: Okay.

BY MS. ELCANO:

Q Can you please tell the Court what she told you?

A She told me she couldn't get an apartment because she had bad credit.

Q In your experience is that a barrier to finding an apartment?

A Yes and no.

Q Can you go ahead and explain that answer?

A There's apartments that will take you even if you have bad credit.

Q In Reno, Nevada?

A Yes.

Q So it sounds as if Ms. Guerrero did obtain houses or residences throughout the life of this case.

Can you walk me through the residences that Ms. Guerrero had while you were the assigned social worker for this case?

A Sure. When I first met her, she didn't have a residence. Then by May they had obtained an apartment over by Linden Street. They were in that apartment from May 2013 to December 2013. They were evicted toward the end of December. I believe it was actually the day that Ethan was born, which was January 1st.

Then from there she went to her father's home. She was there from January 2014 to March 2014. In April she had obtained a mobile home on the same parking lot where her father lived over on Fourth Street. She was there from April 2014 to July 2014.

And then from there she reported to me that she was renting a room from somebody who lived off of Fourth Street but did not provide me an address. Then she told me that she was staying at a motel, and then about September 2014 she again told me she was staying at that same room she was renting off of Fourth Street. And then right after Ethan was removed she told me she was staying with friends. I don't remember what friends.

Then since then she's told me motels, friends, and then CAAW, which is the Center for

Abused -- Aid for Abused Women, Committee for Aid for Abused Women, and I didn't know where she was staying until earlier when she said she was at the shelter.

Q You mentioned a Linden Street apartment from May to December of 2013.

Why was Ms. Guerrero no longer living in that at apartment, to your knowledge, based on conversations with Ms. Guerrero?

A Ms. Guerrero had told me -- we had several, many, many discussions about this. She was behind on rent. She was behind on rent. We talked about getting her caught up, but it was -- they were constantly late on rent starting from, I want to say it was about August.

MR. ELKINS: Excuse me, Judge. I have to object unless the witness is testifying based upon a conversation with my client.

MS. ELCANO: That was the question I asked.

THE COURT: That was the question, yeah.

THE WITNESS: Yes, it was a conversation with Ms. Guerrero.

MR. ELKINS: Thank you, Judge.

THE WITNESS: So that was the reason she got evicted. It was due to lack of payments.

/////

BY MS. ELCANO:

Q Why was Ms. Guerrero homeless at the time you got this case, to your knowledge and based on your conversations with Ms. Guerrero?

A Ms. Guerrero had told me about losing her apartment that they had obtained earlier that year. She wasn't able to really explain why they lost it. They said that it had -- the manager -- it was the manager's fault, and I never really got a very clear story as to why.

Then she told me that they were staying in a motel when Social Services removed the children because of what you heard earlier, which was that she owed -- the motel manager was charging them $200, and she didn't realize, and then she didn't have the money for the additional rent to stay anymore.

Q And then from the Linden apartments, Ms. Guerrero moved in with her father.

Why did she leave -- to your knowledge and based on your conversations with Ms. Guerrero, why did she leave the father's home?

A So Ms. Guerrero and I had a conversation when she first moved in there. She told me that her father had put conditions on her to allow her to be in his home.

I asked her what those conditions were.

She said one of them was to pay $200 a month to go towards the rent. She needed to help around the house with chores. She needed to work towards her case plan and save money for her own place.

Later she -- she told me that she was moving out because her -- she wasn't getting along with her dad based on that he felt that she wasn't following through with their conditions, and she told me she needed her own space and wasn't getting along with her stepmother either.

Q And then Ms. Guerrero moved to the mobile home next to her father's mobile home, and why did Ms. Guerrero leave there in July of 2014 based upon your conversations with Ms. Guerrero?

A So Ms. Guerrero had basically told me it was due to the manager of the parking lot harassing her and that she did not think it was safe for her to be there.

Q And then from the mobile home, Ms. Guerrero was renting a room, I think you said off of Fourth Street or on Fourth Street and you were unaware of the address.

Based on your information or -- pardon me -- the conversations you had with Ms. Guerrero, why did she stop renting that room?

A I didn't have a conversation with her about that.

Q Okay. Do you know why she went back there in September or what happened?

A She -- we had a conversation about where she was staying, and she said she was on and off staying in that room. Sometimes they would stay in a motel; sometimes they would stay in that room.

Q And so did Ms. Guerrero meet the goal of demonstrating an ability to maintain or obtain stable housing throughout this case?

A No.

Q So did she address this goal or objective?

A No.

Q And is Ms. Guerrero addressing this goal or objective today?

A No.

Q And aside from the information you've already provided, if there's anything additional, what is the basis for that answer?

MR. ELKINS: Objection. Calls for hearsay.

MS. ELCANO: It's a conclusion that she's drawing. If she's relying on hearsay --

MR. ELKINS: The question is, what is the

basis, and she's not been qualified as an expert witness. It's calling for hearsay.

THE COURT: She's saying she doesn't think she's met the goal.

You don't think she's met the goal. Why don't you think she's met the goal?

THE WITNESS: Because she doesn't have that stable housing. She hasn't been in a safe home for a period of time.

BY MS. ELCANO:

Q I'd next like to turn to, in terms of basic needs, the income aspect.

So what tasks were identified from Ms. Guerrero to address her lack of employment, stable income, and government benefits at the time you drafted the case plan and service agreement?

A She was asked to continue to meet and work in collaboration with her Nevada State Welfare case manager in regards to the money that was provided to her by the welfare office. She was also asked to meet with Ms. Pasley on further services that she would need in order to find employment.

Q And do you know what additional services in regards to Ms. Pasley could be provided?

A Yes. They provide help with résumés, they provide help with seeking employment, they provide referrals such as -- they get a lot of information about job fairs, jobs that are available, so they have a lot of that information. She could have provided services like how to complete an interview, how to dress. So these are really all services that Ms. Pasley could have provided.

Q To your knowledge and based on your conversations in these meetings that you had with Ms. Guerrero, were those services offered?

A Yes.

Q And did Ms. Guerrero effectively complete any of the tasks identified on meeting with Ms. Pasley and meeting with the welfare agent?

MR. ELKINS: Objection. In terms of her basis of knowledge in meeting with Ms. Pasley, who, as I understand, will be a witness.

THE COURT: Well, again, if she's talking to Ms. Guerrero, Ms. Guerrero is telling her she hasn't been making meetings.

MR. ELKINS: I don't know if that's the case, Judge, but if that's the basis, I'd like to hear that.

THE COURT: Do you understand, if you have personal knowledge of something, you can testify about

it, or if the mother in this case, Ms. Guerrero, has told you that, even though it's hearsay, it's an exception to the hearsay rule. So you can testify from either one of those bases of knowledge. Otherwise, if you receive information, say, from another welfare worker, that's hearsay. Okay?

So if you received information from Ms. Guerrero or you have personal knowledge about her accomplishing the goal about income, you can testify about that. So go ahead. Answer that question based on that.

THE WITNESS: Ms. Guerrero and I did have numerous conversations about the income aspect. She told me she did complete her résumé. I actually did see the résumé. She told me that she had applied for jobs, though I never saw the application. She told me that she was meeting with her welfare worker and she was working on the tasks that had been assigned to her.

BY MS. ELCANO:

Q Did you believe Ms. Guerrero effectively completed these tasks?

A The résumé, yes. Finding a job, no. While meeting with the welfare worker, if I can't talk about hearsay, I can't answer that question.

MS. ELCANO: I think it's a basis of her conclusion as to whether or not these tasks were met, Your Honor.

MR. ELKINS: Objection.

THE COURT: What did you say?

MR. ELKINS: I'm objecting to it on the basis of hearsay, Judge.

THE COURT: It would be hearsay. It's hearsay, so objection sustained.

BY MS. ELCANO:

Q Did Ms. Guerrero have welfare throughout the life of this case, welfare benefits?

A Yeah. Yes. And I can't talk about hearsay, so I can't really answer that question.

THE COURT: You know, I have a question.

So you're Washoe County Department of Social Services. When you say "welfare worker," you're a social worker. A welfare worker is what, someone who --

THE WITNESS: They're a case manager. I don't know what kind of titles they hold. They could hold a different title, but they're State of Nevada.

THE COURT: Oh, they're State of Nevada?

THE WITNESS: Yeah.

THE COURT: And that's where she'd get the

financial?

THE WITNESS: The welfare services, yes.

THE COURT: Okay. I was getting a little confused.

BY MS. ELCANO:

Q Did Ms. Guerrero receive welfare benefits consistently throughout the life of this case?

A No.

Q What services did you offer to Ms. Guerrero, aside from the tasks that you've already talked about, to address her lack of employment, her lack of income, and her lack of government benefits?

A I had offered to stay in communication with her welfare worker to make sure she was meeting the requirements, to provide reminders to her, since I was going to be meeting with her weekly, to make sure that she maintained that income.

I also had conversations with her about getting employed, what do employers look for, such as -- there's a couple times where she would show up and her hygiene wasn't the best. I said, "If you show up to an interview like this, they're not going to hire you." So we talked about just what is the employer looking for overall: Being on time, dressing clean, looking

presentable. And so we talked about different techniques to get a job.

We talked about, this is where she could go look for a job. So she would say -- I would say, you know, maybe trying somewhere where it's close by.

She would say, "Okay. Well, there's a McDonald's close by, there's a Marshall's close by."

So we did talk about places and ideas of where she could look for work.

Q And was Ms. Guerrero employed throughout the life of this case?

A No.

Q She never was employed anywhere?

A Oh, she was. Not throughout the whole case.

Q Where was she employed?

A She told me she had worked at Motel 6. That was about four weeks. She worked at SK Foods through a temp agency. And she had reported getting hired at other locations but then told me those jobs didn't work out, such as like working as a maid at Grand Sierra.

Q Did she indicate to you why those job did not work out?

MR. ELKINS: Judge, I'm sorry, but the witness's testimony was so vague, I'm not -- I don't

understand specifically what she's talking about. If she could be asked to answer the question with specificity so that I know exactly what it is she's saying.

MS. ELCANO: I don't think you can object to the vagueness of testimony. She can testify as to her knowledge.

THE COURT: Well --

MR. ELKINS: I'll object to the form of the question, Judge.

THE COURT: Start the question over.

BY MS. ELCANO:

Q Did Ms. Guerrero indicate to you why the several jobs that she got and did not take did not work out?

A Yeah. She would tell me -- I know the Grand Sierra, she had to do a drug test, and she didn't follow through with it. I believe there was transportation problems.

There was -- she -- I can't remember all the jobs she told me that she had obtained and then didn't follow through. I just remember there were things such as transportation, not being able to find the location for the interview, just -- I can't really recall them.

Q Did Ms. Guerrero ever provide proof of

obtaining these jobs to you?

A For SK Foods, yes. I did get paycheck stubs.

Q And anywhere else?

A I don't recall if I got anything on Motel 6.

Q And do you know approximately when Ms. Guerrero was employed at Motel 6?

A I want to say -- honestly, I don't remember. I just know it wasn't within the first year.

Q And SK Foods?

A It was about -- I want to say it was about January, February of 2014.

Q Did Ms. Guerrero -- pardon me.

And then in regards to governmental benefits, when was Ms. Guerrero receiving welfare during this case?

A She was receiving welfare when I first got the case.

Q And how long did she receive welfare for?

A I believe she had her sit-out for TANF in -- I want to say it was about September of 2014 was her sit-out, and then she has a year sit-out, so typically she would qualify again next month.

And then she was not allowed to receive food stamps due to the fraud. And she had Medicaid, but it's been a long time since her and I talked about whether

she's still on Medicaid, so I don't know whether she's on it right now.

Q Okay. Did Ms. Guerrero demonstrate an ability to maintain stable employment throughout this case and effectively address this goal and objective?

A No.

Q What's the basis for your answer?

A She hasn't provided sufficient paycheck stubs to prove she was employed, based on our conversation of consistently looking for employment. Also, the income, obviously that stopped in September of 2014, and so, no, she did not reach that goal.

Q To your knowledge, who did Ms. Guerrero work with at Nevada Welfare?

A Ms. Sara Lowrey.

Q Anyone else?

A Not that I know of.

Q And I want to turn next to, in regards to basic needs, you identified paying bills.

What tasks were identified for Ms. Guerrero to address her failure to pay her bills consistently and timely?

A We offered to help her with budgeting so that she'd learn how to pay for basic needs first.

Q And were any other tasks identified?

A I don't recall.

Q If you could turn to Exhibit T, as in Tom. I believe this is already entered into evidence.

MR. ELKINS: Yes, Judge, the case plans are in evidence by stipulation.

BY MS. ELCANO:

Q Could you just review that and determine if any other tasks were assigned to Ms. Guerrero regarding paying bills?

A Yes. We did have a task of applying for low-income energy assistance, which would help her pay for her power bill.

Q Were there any other tasks?

A No.

Q What services, aside from what you have identified, were offered to Ms. Guerrero to assist with budgeting and paying bills and organization?

A I know that Ms. Pasley worked with her on this task because I asked her to. I know I worked with her on budgeting as well. We sat down and drafted a budget form and talked about how to pay for bills first and then use the money for other things.

We -- she was provided with the low-income energy assistance application, and I stayed in contact with Ms. Lowrey on that even though that's not really her task, but she was really helpful.

Q Did Ms. Guerrero effectively address this case plan goal and objective to timely pay her bills and organize and budget appropriately?

A No.

Q And what is the basis for your answer?

A Well, her power was turned off in August of 2013. It was turned off in the apartment on Linden Street, and it was off for several months until the apartment complex decided to turn it on because it was about November, and they can't have an apartment without heat. And so then it was added on top of the rent at that point.

Q And why was her power turned off, Ms. Guerrero's power turned off?

A For nonpayment.

Q Thank you.

I'd next like to turn to motivation?

Why was Ms. Guerrero's lack of motivation identified as a goal or objective in her case plan and service agreement?

A Initially it was due to Roberto not getting to school on time. As time -- it was on the case plan. As time went on, I realized their lack of motivation was more -- more -- there was more going on there than just getting Roberto to school on time.

Q Can you explain to the Court what you mean by there was more? What was that?

A Sure. It was in regards to -- when we mark lack of motivation in parenting skills, actually, there's two aspects to that impending danger. Lack of parenting skills is, we think, a parent can't -- needs more skills, needs to go to parenting classes, there's issues with supervision. That was not the case here.

The reason we marked lack of motivation was because the lack of motivation -- as parents, we have to do many little things in order to make sure our children are provided for and cared for, and we have to have the motivation to do those things.

And so as I got to know her more, that lack of motivation wasn't just about Roberto getting to school. It was about doing all the other little things we need to do as parents, like getting to work, paying your bills, cleaning your home, getting to appointments on time, because that would demonstrate to me that she

would get Roberto to school on time. So it was just a lot of -- really, just lack of follow-through.

Q What tasks were identified to Ms. Guerrero to address her lack of motivation?

A She needed to meet with me once a week to discuss her case plan goals and services that she may need, and that's usually -- just because it's not in the case plan doesn't mean she doesn't get the service. So if she said she needed some kind of service during our meetings possibly, we would work on providing those. She also was required to meet with Ms. Pasley, whose job is also to help her with that motivation.

She worked on time management. I worked with her on time management. She was provided with a calendar to help her keep organized, and what I mean by "calendar" is our pocket -- our pocket books with the calendar in it.

She was provided with appointments for her children so she could get their addresses so she knew where they were. She was provided with appointments for the school. Whenever there was a school meeting, she was provided with that information.

Q Were any additional services offered to Ms. Guerrero to address this motivation?

A Yes. We had requested she complete a psychosocial. A psychosocial would identify if she needed further services such as therapy to address an underlying issue, or medication or any other service, parenting. Really, they can recommend anything they feel would be helpful based on that psychosocial evaluation.

Q Did Ms. Guerrero effectively complete the tasks associated with addressing this lack of motivation?

A She completed the psychosocial. She didn't follow through on the recommendations.

Q And did Ms. Guerrero effectively engage in services offered to address the motivation?

A Initially, I would say the first four months, she met with me on a weekly basis. She would attend our appointments. Although she was late often, she would be there. After four months, I would say about the fifth month she started attending, on average, twice a month.

I know that she was meeting with Ms. Pasley as well, and so she was attending those meetings. They're also required to meet with her once a week, so I know that she was meeting with them as well because they have to report back to me.

Q Did you ever go to Ms. Guerrero's -- any of the residences that she had?

A Yes. And that was also meeting -- having the motivation --

MR. ELKINS: Judge, objection. Nonresponsive. She answered the question "Yes."

MS. ELCANO: It's fine.

BY MS. ELCANO:

Q Did you go to any of Ms. Guerrero's numerous residences throughout the life of this case?

A Yes.

Q And were there any issues associated with going to those residences?

A Yes.

Q Could you please identify those issues?

A The cleanliness of the home. Several times the home was pretty filthy. It was worse than you had seen in those pictures.

MR. ELKINS: Objection, Judge. Move to strike the opinion.

THE COURT: Well, that's her opinion, so I don't know that's an expert opinion. I think a layperson can describe what they think the cleanliness of a place is, and that's all she did. So objection is overruled.

THE WITNESS: On several occasions -- initially the home was fine. I didn't have a problem

with it. I just reminded her she needed to clean.

There was several times where I'd just show up in the home, and there was lots of clutter, dirty dishes, garbage on the floor. The smell in the home was pretty horrific. I know there was cats in the home. The smell was really bad. So we talked about chores, skills, how to keep your house clean, things she needed to do.

I requested that Ms. Pasley buy her cleaning supplies. We did offer the vacuum, as had been mentioned earlier, before her power was turned off. We didn't actually purchase the vacuum until after the power was turned on. There was no point in having one at that point.

There was some progress later on, about November -- I would say November, December of 2013 she made some progress in keeping the home clean at that point.

And then when she moved in the Fourth Street home, mobile home, in April -- no, sorry -- yeah, it was April 2014 -- I had went to the home, and the first visit I had some concerns not about the cleaning, but more about the home was not up to code. It was an old mobile home, not up to code. There was problems with the plumbing.

Later I had made another appointment -- actually, I showed up unannounced the second visit there. The home was starting to get a little dirty, garbage on the floor again, clutter, dirty dishes.

Ethan was born at that time, and so we had talked about keeping the home organized, what did she need to do. She told me she was already cleaning, they had just gotten stuff out of the storage, and she was in the process of organizing. And that was the last time I was in one of her homes.

BY MS. ELCANO:

Q When you talk about the residence with the odor and being unclean, which residence in particular are you referencing?

A The Linden apartment.

Q The Linden apartment?

A Yes.

Q Thank you.

Did Ms. Guerrero effectively address her motivation or her lack of motivation as a goal or objective of her case plan?

A No.

Q What's the basis for your answer?

A She's still not able to do the things a

parent needs to do, provide for basic needs. In certain aspects she did. She'd been better about attending the appointments for the children. In that regards the motivation did improve, attending any kind of appointments for the children, but in regards to the other things, you know, that we need to do as parents, provide for our children, get work, all that is with regards to motivation, paying your bills, all those things she has not demonstrated she can do.

Q Why was emotional stability identified as a goal or objective in Ms. Guerrero's case plan and service agreement?

A Due to a conversation we had on the first day we met, she told me she suffered from depression. She told me that other social workers prior to myself had asked her and that she had not been fully honest with them and she was more depressed than she had initially reported to them.

At that point that's why I requested the psychosocial and put that in her case plan.

Q Are you trained in diagnosing depression?

A No.

Q And what is the general practice of Social Services in the event that a parent indicates that they

might be suffering from depression?

A We discuss referring them for either a psychosocial evaluation or to a psychiatrist for medication and evaluation if they're just in therapy.

Q And what did you do in this particular case given Ms. Guerrero's statement that she was suffering from depression?

A We initially talked about whether she felt her depression impacted her motivation. She told me she didn't think it did. She said that she -- that her depression did not impact her ability to get to work on time, to get the kids to school on time, to bathe them, clean them, clean the house, do all the little things, right.

I requested she do the psychosocial anyways just to make sure we were going to address any needs that she had. She did complete the psychosocial. She was recommended to do therapy. She was -- several vouchers were submitted for therapy that she did not follow through on.

Q You said several vouchers were submitted. Specifically, who did you submit these vouchers to?

A The first one was to Brianna Carter. That's who completed her initial psychosocial evaluation. She

was an MFT intern with the Children's Cabinet. She recommended individual therapy and --

MR. ELKINS: Objection. Beyond the scope of the question.

BY MS. ELCANO:

Q So, Ms. Lopez, if we can just -- if you can make sure you're answering the question. I think you're anticipating what I'm going to ask, but let's just stick to the question for now.

So what additional vouchers?

A The other voucher was to Mr. Deken Gossett through Clover Community and then another voucher again to Ms. Brianna Carter.

Q Okay. And to your knowledge and based on your conversations with Ms. Guerrero, did Ms. Guerrero engage in counseling with Ms. Carter?

A She went several times, twice maybe, and that was it.

Q And to your knowledge did Ms, Guerrero, based on your conversations with her, engage in counseling with Deken Gossett?

A She went maybe four out of eight times.

Q To your knowledge did Ms. Guerrero, based on your conversations with her, attempt to engage in therapy

with anyone else throughout the life of this case?

A Throughout the life, yes. We talked about -- she told me she was seeing Dori at one point.

Q Dori who?

A I'm sorry. Ms. Orlich.

At one point she told me she was going to go see Ms. Amanda Buttacavoli. She told me that she was seeking psychiatric assistance through HOPES. That's a program that performs psychiatric services and therapy as well.

Q Did you make any referrals to HOPES for her?

A No.

Q Were any additional tasks identified to address Ms. Guerrero's lack of addressing her emotional stability?

A No.

MR. ELKINS: Judge, I'm going to object to the form of the question. I don't think that's what the witness said. I think she was talking about motivation.

MS. ELCANO: We were talking about emotional stability.

THE COURT: Well, the answer is "No," so let's move on.

MR. ELKINS: Thank you.

BY MS. ELCANO:

Q Were any additional services offered by Social Services to Ms. Guerrero to address her lack of emotional stability and mental health issues?

A Yes. We did offer the mental health program to her.

Q What is the mental health program?

A Mental health court is a program -- it's a 15-month program, 12 months of the program and then 3 months aftercare. You go in front of a judge every other week. You're involved in treatment through Northern Nevada Mental Health Services. You are required to -- I'm sorry, I kind of lost my train of thought.

Basically that's what the program is. It's supposed to help you with your mental health stability. They could offer you -- they could offer you medication and deal with it that way; therapy, so we did offer that to her. In order to get into that program, you need to do certain tasks, so that was offered to her.

Q To your knowledge did Ms. Guerrero enter into the mental health program?

A No, she didn't.

Q And based on your conversations with Ms. Guerrero, why didn't she enter into the program?

A Well, again, we had several conversations. She would go back and forth between saying she wanted treatment, "No, I don't want treatment. I don't think I need this. I'm not crazy. I don't want to be on medication." And then she would say, "Okay. I'll do it," but then, again, would go back to "I don't want to do it."

She -- she just -- she didn't follow through with the tasks as well, and so she can't be admitted into the program unless she follows through with the tasks.

Q Did Ms. Guerrero effectively address her emotional stability and meet this goal and objective?

A I would say no, I don't think she has met this goal.

Q What is the basis for your answer?

A She's stating her anxiety is causing her not to be able to do all these things, and she is not in any kind of treatment right now.

Q Was Ms. Guerrero engaged in a romantic relationship throughout the life -- sorry. Let me back up a moment.

So you talked about offering these services and identifying these tasks to Ms. Guerrero.

How were they identified?

A The tasks?

Q I'm sorry. How were they conveyed to Ms. Guerrero?

A I'm not sure what you're asking me.

Q Okay. When you would identify these tasks and offer these services to Ms. Guerrero, how did you make Ms. Guerrero aware of these things?

A Through conversations, writing things down for her, providing her with just information about the tasks and things she needed to do.

Q Were any other techniques used to convey these tasks or services to Ms. Guerrero?

A Yes. I was -- she always carries around a calendar book because I told her to write things down and I would see her writing it down, such as if there was an appointment coming up, when is your appointment, and then she'd write it down.

Q Did you ever ask Ms. Guerrero if she understood what you were saying to her?

A Yes.

Q Were you ever concerned that Ms. Guerrero was not understanding the tasks?

A Sometimes she would -- when I'd ask her to repeat things back, she would get it wrong, and I would

explain it to her and say, "Okay. Do you understand now? What did I just say?" If you would repeat it a couple times, she would get it.

Q So who did Ms. Guerrero identify to you as an individual she was in a romantic relationship with throughout this case?

A Throughout most of the case it was Mr. Hunt-Taylor.

Q Was there anybody else she identified?

A Yes. Mr. Alberto Vazquez.

Q Did you have any concerns with Ms. Guerrero's relationship with Mr. Hunt-Taylor?

A Initially, no.

Q Did that change?

A Yes.

Q And what were those concerns?

A In July of 2014 there was the domestic violence arrest in regards to Mr. Robert Hunt-Taylor. At that point Ms. Guerrero and I met, and she disclosed to me that there was domestic violence history that had been occurring for a long time.

Q And why was that concerning to you?

A It's concerning to me because of the children. I mean, growing up in a domestic violence

environment is not the best -- the healthiest thing for a child.

Q And did you offer any services or what services did you offer to Ms. Guerrero to address this domestic violence incident and the domestic violence disclosed in her relationship with Mr. Hunt-Taylor?

A I did not offer services because at that point I was relieved of reasonable efforts.

Q And why were you relieved of efforts?

A Because the permanency plan was changed in April of 2014 and the arrest was made in July of 2014.

Q So what does it mean to be relieved of reasonable efforts in the case?

A So usually when a plan is changed to anything but reunification, the Court determines that the agency is no longer -- it's conflicting to provide services to the parent but at the same time have a different plan, and so they relieve us of efforts so we don't have to provide services, we don't have to pay for anything, we don't need to do anything for the parents. They can do it on their own.

And so at that point I was relieved of efforts, and so that is why I did not provide services to her.

Q What steps did Ms. Guerrero indicate to you she took to address this domestic violence incident?

A At a later date we had talked and she told me that she was going to seek treatment from the Committee to Aid Abused Women.

Q To your knowledge did Ms. Guerrero obtain a temporary protection order?

A Yes, she did.

Q And was this extended?

A Yes, it was.

Q And do you know approximately when it was extended to?

A Initially she got September -- it got extended -- it's good for 30 days. It got extended to, I believe, December of 2014.

Q And based on your conversations with Ms. Guerrero, did she engage in a relationship with Mr. Hunt-Taylor during that time period of the temporary protection order being placed?

A Yes, but I don't know if it was a romantic relationship. There was a relationship.

Q Can you describe what was occurring with the children at this time?

A Yes. Once Mr. Hunt-Taylor was released from

jail, we provided him visits, but they were separate from Ms. Guerrero's visits. Because we can't violate a protection order, the agency separates the visits.

There came a point where Ms. Guerrero and Mr. Hunt-Taylor requested that we allow them to visit together again. Again, we told them, "We can't do that until this protection order either expires or you request for it to be terminated."

Once Ms. Guerrero called me and told me that it had expired and she provided a copy to Ms. Seronio, which I don't have a copy of, but she provided it to her, then we allowed them to visit together again.

Q And you mentioned Alberto Vazquez. What concerns, if any, did you have regarding Ms. Guerrero's engagement in a romantic relationship with Mr. Vazquez?

A So Mr. Vazquez. She entered into a relationship with Mr. Vazquez shortly after Mr. Hunt-Taylor was arrested. She came in and told me that she had -- was dating somebody new.

My concern was it was so soon and she had so many other things she needed to focus on, which was reunification with her children. We had a conversation about whether she felt that was the best thing at this time.

She told me she thought it was, and so I said, "Okay. I can't -- I can't decide for you what kind of relationships you're going to have."

Later we had another conversation where she told me that Mr. Vazquez had been in a juvenile detention center from the age of 14 to the age of 21. I pointed out to her that when a person is in juvenile detention for that long, until the age of 21, they must have done something pretty bad, and she said she didn't know what that was.

I told her, "Don't you think that's concerning?"

She said, "No."

I told her I thought it was concerning.

Usually when there's a new boyfriend involved that's not the father of the children, we do background checks in order to let the father be around the children. So I requested to do a background check, and so she introduced us, and he -- she introduced him as Alberto Ramirez, I believe it was. It wasn't Vazquez. He refused to do a background check, and so I told her he cannot be around the children during your visits.

Q Did Mr. Vazquez ever come to visits?

MR. ELKINS: Objection. Personal knowledge,

Judge.

BY MS. ELCANO:

Q Did you ever observe Mr. Vazquez at the visits?

A Yes, I did.

MR. ELKINS: Thank you.

BY MS. ELCANO:

Q And was he allowed to visit with the children?

A No, he wasn't.

Q And did you discuss this with Ms. Guerrero?

A Several times.

Q And what were your discussions with Ms. Guerrero?

A So one of the times was I heard somebody -- we were on the phone. She was at the visit. I heard a male in the background. I asked her who that was. She told me it was Mr. Vazquez. I told her that he was not allowed to be around the kids since I was not able to do a background check on him and I hadn't met him at that time.

Then later she invited him to a meeting that we had in regard -- to review her case plan, and I told her again he is not to be around the children. I don't

have any way of doing a background check until I get an ID from him.

She said she understood, and about -- her visits at the time were off site, so she would -- she would meet the foster parent at the building and then leave and then come back about -- either 5:30 or 6:00. I don't recall what time the visits ended, but it was about 5:20, I was leaving the building, and I saw them across the street together with the children.

Q I'm sorry. Who is "them"?

A Ms. Guerrero and Mr. Vazquez and the children.

I walked over. I told her, you know, "I told you he cannot be here," and I requested that he leave the visit site. I told her if she did it again, I would have to bring them back to the office because he is a person that I was very concerned about.

Later we -- we had another conversation because she -- he had been at one of the visits again.

Q When you say, "We had a conversation" --

A Sorry. Ms. Guerrero and I.

So that's when I brought the visits back to the office on site.

Q So the visits were back on the Washoe County

Department of Social Services property?

A Yes.

Q And why?

A I had concerns about who she was bringing around the visits, which was Mr. Vazquez.

Q Were any other efforts or services offered to Ms. Guerrero throughout the life of this case that we haven't touched on or discussed, by you?

A Even once I was relieved of efforts, I provided her assistance. One day she came to me and told me that emotionally she wasn't feeling well and she asked -- she said, "I think it's time for me to see a therapist." I gave her a list of therapists that take her Medicaid, and I told her to contact them for treatment.

She's requested letters to housing again. Just recently she asked me for one and I provided it to her. There was a time where -- it was about September 2014, during --

MR. ELKINS: I'm sorry?

THE WITNESS: About September 2014.

MR. ELKINS: Thank you.

THE WITNESS: She was needing to get a lease copied to a domestic violence advocate. She came to

me -- she had given me a copy when she came to me the following week and said that she hadn't turned it in. I asked her why, and she said she didn't have a copy and she didn't have a way to get there.

I provided her -- actually, let me backtrack. I'm getting my story wrong.

She said she didn't have a way to get the lease signed. So I gave her a two-ride bus pass to get to the location, get the lease, sign it, and she provided me a copy of it.

A week later, when she said, "I still haven't turned it in," and she said, "I don't have a copy of it," I gave her a copy of my copy so that she could go down to the advocate office, which was within walking distance.

BY MS. ELCANO:

Q Were there any other that you can recall?

A I can't recall right now, no.

Q Any other safety concerns or barriers to reunification not already identified that exist in this case?

A No.

Q Just for education and the record, Exhibit T, can you please just identify that for the Court, T as in Tom?

A Yes. This is the case plan that I drafted with Ms. Guerrero on May 24th.

Q Is this the first case plan that you drafted in this case?

A Yes.

Q And was it signed by Ms. Guerrero?

A Yes.

Q And can you please turn to Exhibit U, and, again, can you please identify this document?

A This is a case plan. Nothing's been changed besides the date. I never change anything unless a parent or lawyer are present, so the only difference are going to be the details on here. We always extend dates when a case plan hasn't been achieved.

Q Is this the last case plan that you developed for Ms. Guerrero?

A Yes.

Q And how often did you review her case plan throughout the life of this case?

A Every three months or so, three or four.

Q And when you were relieved of reasonable efforts because the plan was changed from reunification to termination, did you continue to review Ms. Guerrero's case plan with her?

A I reviewed it once, yes.

Q And were the goals or objectives ever changed in this case plan throughout the life of the case?

A No.

Q Were the tasks ever changed?

A No.

Q Did Ms. Guerrero effectively complete any of the -- pardon me -- effectively accomplish any of the goals identified in her case plan and service agreement?

A I would say she accomplished a partial -- partially on her lack-of-motivation goal. Part of it was to attend all of her kids' appointments, and that she's been doing.

Q And the rest of the goals?

A The rest -- the rest of the goals, no. The lack of motivation is still lacking and an ability to provide needs.

Q What behavioral changes has Ms. Guerrero demonstrated in regards to accomplishing the goals -- pardon me -- in regards to the goals and objectives identified in her case plan?

A I would say, really, the only behavioral change that I've seen in regards to the goals is more involvement with her children, attending their

appointments. Again, that's big. We really do require that because the more you attend the appointments, the more you know about your children and the better you can parent. So I think that's basically the only behavioral change I've seen.

Q You testified this was a SAFE-FC case.

Can you please explain what a Protective Capacity Progress Assessment is?

A Yes. So that's what we call a PCPA. It's shorter. We -- every three to four months we fill out a document that guides us in assessing where they are -- where a parent is in their -- on their case plan goals. So we have different levels. We have no progress, we have minimal progress, general progress, sufficient progress, and goal achieved.

Under each one there's a list of questions, and you go through the questions. One question might be "Are the parents meeting with you?" You check the box, and then you go back -- once you've checked all the ones that pertain, you go back and you count them, and whichever category had the most, that's where the parent is. And so if they have the most in no progress, then it would be they've made no progress.

Part of that PCPA is also evaluating whether

the goals are still effective or if there's other safety concerns. We might have a parent who we didn't know was using drugs and then we find out later. Then at that point we could say, "Okay. Now we need to add another goal to this case plan."

We also discuss the conditions for return. We discuss if the current safety plan is effective, so if the children are in a foster home, is that still being effective, are they meeting their needs.

Q And did you complete your Protective Capacity Progress Assessments throughout the life of this case?

A Just for the first year.

Q And how often did you do those?

A About every three to four months.

Q And what were the SMART goals identified in Ms. Guerrero's PCPA?

A The same ones identified in the case plan: The lack of motivation, the basic needs.

Q Can you please turn to Exhibit R, as in Rachel.

Can you please describe to the Court what that document is?

A This is what we call a Protective Capacity Progress Assessment, our PCPA.

Q And did you author this document?

A Yes.

Q Can you please review the document and indicate to the Court whether or not this is a true and accurate copy?

THE COURT: What exhibit is it again?

MS. ELCANO: R, as in Rachel, Your Honor.

MR. ELKINS: It's not yet in evidence, Judge.

THE WITNESS: Yes, it is.

BY MS. ELCANO:

Q And when, approximately, was this created or authored?

A This document was created in February of 2014.

Q Is this a document that you create with the parent?

A No.

Q And can you please indicate to the Court whether there was minimal progress, no progress, general progress?

MR. ELKINS: Objection. She's asking for her to read from the document, Judge.

MS. ELCANO: I'm not asking her to read from the document.

BY MS. ELCANO:

Q In this particular progress PCPA which was done, what was the category of progress made by Ms. Guerrero?

MR. ELKINS: Objection. I'd like to voir dire the witness, too. She's being asked an expert opinion, Judge.

THE COURT: Again, she's just reading the progress, so objection is overruled.

Let's pick a convenient time. He's going to cross-examine, so this witness is going to go on for a while. We've got an hour and a half, so it's about time to take the afternoon break. We're only going to go to 4:30.

MS. ELCANO: If I could get through this document, Your Honor, I'm happy to take a break at that juncture.

THE COURT: Okay. Let's carry on.

BY MS. ELCANO:

Q So what category of progress was made in regards to Ms. Guerrero and the SMART goals?

MR. ELKINS: Judge, I'm going to object to the following reason: In effect she's being asked to read from a document that's not in evidence. Because the

questions are being asked are referring to this computer-generated document --

THE COURT: Well, I'm not sure why she asked her to refer to the document.

Do you remember how you graded her?

THE WITNESS: I remember.

THE COURT: Without referring to the document?

THE WITNESS: Yes.

MR. ELKINS: If she wants to close the document, I suppose we could do that.

THE COURT: Okay. Close the document.

I agree, you can't refer to a document that hasn't been admitted.

THE WITNESS: I remember the last PCPA I did was February 2014, and I assessed that she was at minimal progress in regards to her achieving her goals.

BY MS. ELCANO:

Q And what was the basis for that assessment?

A At the time that I drafted that, she was living with her dad, but it was a temporary basis.

Q Who is "she"?

A I'm sorry. Ms. Guerrero.

Ms. Guerrero was living temporarily with her

father and was still seeking stable housing. She was employed at SK Foods but was only providing me paychecks for maybe two days a week that she was working, so there wasn't sufficient income coming into the home.

She was not attending meetings with me on a consistent basis, which, to me, that shows lack of motivation. She was not attending treatment meeting her emotional needs in order to identify the underlying reasons why she was not able to do all these things and provide basic needs for her children, so I felt that she was at minimal.

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

THE COURT: Any objection?

MR. ELKINS: Yes, Judge, I do object, and I have voir dire, but I guess I'd like --

THE COURT: Are you done with her, then, after this getting admitted?

MS. ELCANO: No, I'm not, Your Honor.

THE COURT: Okay. Let's take a break. Let's take a 15-minute break.

MR. ELKINS: Thank you.

(A recess was taken.)

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 as named in the petition. The parties are present with their counsel with the exception of Serriano --

MS. ELCANO: Seronio.

THE COURT: Seronio is not present based on the rule of exclusion.

Go ahead, Ms. Elcano.

MS. ELCANO: Your Honor, I had requested that Exhibit R, as in Rachel, was entered into evidence.

MR. ELKINS: Voir dire, Judge? I object. I'd like to voir dire the witness.

VOIR DIRE EXAMINATION

BY MR. ELKINS:

Q Ms. Lopez, this document is a computer-generated document; is that correct?

A No.

Q It is not? Does it have check marks? You check those on the computer screen?

A I check them.

Q So you check off boxes on a computer screen?

A Yes.

Q And it's in a format where the statements

exist and you choose the one that you think is most compatible with your opinion?

A Yes.

Q Do you know how this computer program was generated? Do you know who generated it?

A I don't.

Q Do you know what the SAFE-FC program is?

A Yes, I do.

Q And isn't it a fact that it was an experimental program?

A Yes.

Q And it was designed, I think you testified, for Washoe County to determine whether it would improve certain outcomes with the agency; is that right?

MS. ELCANO: Objection, Your Honor. This isn't cross-examination. It's voir dire on the document.

MR. ELKINS: Yes, it is voir dire on the document, Judge.

THE COURT: Well, if this form is a SAFE-FC form, it is an appropriate question, so the objection is overruled.

Go ahead.

MR. ELKINS: Thank you, Judge.

/////

BY MR. ELKINS:

Q Is that correct, that's what you testified to, that this was a program created to improve certain outcomes for Washoe County?

A The SAFE-FC?

Q Yes.

A Yes.

Q Do you know who created the program?

A I don't.

Q Okay. Do you know whether this experimental program was peer-reviewed, or do you know what "peer-reviewed" means?

MS. ELCANO: Objection, Your Honor. Again, we need to focus on the document. I don't understand the history of SAFE-FC being created relevant to voir dire of a document.

THE COURT: Except she's not the one that created the document is the problem.

MS. ELCANO: She did create --

THE COURT: She checked --

MS. ELCANO: But she also typed in information related to the document and gave her account of things.

THE COURT: So as long as we're talking about

what she's put on the document and why, that's fine, but I agree, I'm not going to admit this document if you don't know --

Is there somebody else that developed this form that you're answering questions on?

THE WITNESS: Well, I didn't develop it, if that's what you're asking me.

THE COURT: Somebody else?

THE WITNESS: Yes.

THE COURT: And you don't know -- were you involved in the development of the form at all?

THE WITNESS: No.

THE COURT: So my inclination is to --

MS. ELCANO: Your Honor, if there's a question of authenticity, that objection should have been made pursuant to the time the document was given and at the time of discovery, I think pursuant to NRCP 16.1. There's never been a question of authenticity or that the information completed in here --

THE COURT: She can tell us what answers she made to whatever questions were asked, but the form itself, if it was developed by somebody else that we don't -- aren't going to have here, then it's not admissible.

MR. ELKINS: Thank you, Judge. That would be my objection to each one of these SAFE-FC forms.

THE COURT: And you can read what the question is and she can tell you what her answer to that question is. The results of it is another thing.

It's sort of like NHTSA's Field Sobriety Test. It got standardized enough and is accepted by enough courts and argued over nationally that I think our Supreme Court finally said all of that is admissible in court, but something like this that has just been developed locally -- but, again, you can ask her, "What's the question? What's your answer?"

MS. ELCANO: Your Honor, if I may clarify, this is a form whereby Social Services inputs information. It's a created form; however, the information included in here is developed by Social Services. The names are provided; SMART goals are identified and created by Social Services. They check off whether there's been progress, minimal progress, general progress, significant progress, or the SMART goal has been achieved. However, the information that's related to these and the information of why or why not these have been achieved or haven't been achieved is all entered in by Social Services.

So it's not just a form where one check is made. There are some form-entered things on this. However, the SMART goals are created and identified by Social Services, and the information relating to whether or not they were achieved is entered in by Social Services.

THE COURT: Let me see if -- if I understand your testimony correctly, depending on how many you check one way or the other determines what the conclusion of the form ends up being? So if you check more minimally satisfactory than you have satisfactory, ultimately you determine that their accomplishment is minimally satisfactory?

THE WITNESS: Correct. But the computer doesn't determine that. I do. So the computer doesn't count anything, doesn't spew out a count or a recommendation, now, this would be no progress. I'm the one assessing that.

THE COURT: I need to look at the form to determine whether or not I'm going to admit it or not. This is --

MR. ELKINS: Judge, I thought we had a ruling, so if you'd let me continue with voir dire, I'm happy to do it.

THE COURT: Well, go ahead and finish your voir dire.

MR. ELKINS: Thank you.

THE COURT: Which exhibit was this?

MR. ELKINS: This is No. R, Judge.

THE COURT: Go ahead.

BY MR. ELKINS:

Q So you go to a computer screen, correct, and this form comes up?

A Uh-huh.

Q "Yes"?

A Yes.

Q And the form under each category, such as "Caregiver Progress Assessment," gives you a list of boxes that you can check; is that correct?

A Correct.

Q And then you decide, based upon these preexisting statements, whether to check the box or leave it unchecked; is that correct?

A Well, not preexisting. I have to type them in there.

Q You typed the --

A Sorry. Not those.

Q No. The statements next to these boxes exist

in the computer, do they not?

A Mr. Elkins, I can't see that far.

MS. ELCANO: She has it in front of her.

MR. ELKINS: Just go to T. R. I'm sorry.

THE WITNESS: R.

BY MR. ELKINS:

Q So as I understand it -- and correct me if I'm wrong -- what first comes up on the form is this grid, and then you fill in the names?

A That's right. That's right.

Q The dates?

A Yes.

Q And then comes up this Caregiver Progress Assessment, for example; right?

A Yeah.

Q And under that are a series of boxes; correct?

A Correct.

Q With statements next to them; is that right?

A Correct.

Q And obviously these statements are not statements that you made; they were statements that were created by the computer program; correct?

A Well, not by the computer program. By

somebody.

Q Yes. Somebody who put it in the computer; correct?

A Right.

Q And then among those preexisting statements, you check the boxes that you feel most approximate your opinion; is that right?

A Right.

Q Okay. Based upon the boxes that you check, then the computer generates a finding of either no progress, normal progress, general progress?

A No, the computer doesn't generate that. I do.

Q So you check that box?

A I check the box.

Q But the boxes that you check -- withdraw.

The statements next to the boxes that you check are not your own? This is something that you read, and then you either decide to agree or disagree with the statement; is that right?

A Correct.

Q Who developed those statements; do you know?

A I don't.

Q So do you know what their credentials were,

how they were developed, what they're intended to represent, the statements?

A I don't.

Q So this is an instrument that was given to you as part of this experimental program that was being implemented in Washoe County in order to improve outcomes for the department; correct?

A Corrected.

MR. ELKINS: Judge, unless they bring in somebody who can validate this instrument as being related to actual scientifically recognized, peer-reviewed social work --

THE COURT: You can argue --

MS. ELCANO: Your Honor, first of all, as I indicated, authenticity has never been argued at the time this document was provided to me or provided to opposing counsel. Additionally, I don't think we're required to show that there is any sort of a scientific connection with the statements being made and the effect of the SAFE-FC program.

This is not just a computer-created document. Under "Caregiver Name," Ms. Lopez enters into a goal, she checks boxes that are applicable, she provides an explanation for checking any of those boxes, and makes

conclusions based upon that explanation.

Ms. Lopez obviously is not checking boxes that don't apply and can qualify any of the boxes that have been checked. Regardless of whether the statements are formulated by someone else isn't really relevant.

THE COURT: Well, it is because there's a reason why they're limiting her responses to questions --

MS. ELCANO: However, Ms. Guerrero can explain that further and is given the opportunity to do so.

THE COURT: See, you know, first of all, I think -- I'm trying to think of something similar to this. We had the one lady with the real hard name to pronounce.

MS. ELCANO: Buttacavoli?

THE COURT: What?

MS. ELCANO: Ms. Buttacavoli?

THE COURT: Buttacavoli, yeah. She's only a master's degree, I think, in social work is what she testified, and when you started questioning her about some of the tests that were given by Aberasturi, who is a Ph.D. psychologist, I took from her answers that she can't give those tests because she's not qualified to give them and I suppose, to a limited degree, interpret

the results.

That's the same thing with this here. Someone developed these questions -- when I say "questions," someone developed the box -- the statements that are alongside boxes that she has to check. Now, if she were making up those statements, but here it only gives you, what, the caregiver seems to be vacillating between resisting and contemplating the need to change, is moving between precontemplation and contemplation.

You didn't make that statement up even though you checked it; right?

THE WITNESS: Right.

THE COURT: So were you left to your own devices? You might not have said that, but that's a choice you're given to check by somebody else, and you don't know who made those --

THE WITNESS: I don't know who created this document.

THE COURT: Okay. So given that, I won't admit this document. And the minute I say that, I think 98 percent of what this document ends up concluding I've already gotten from you anyway, from your own personal observations.

MR. ELKINS: Judge, let me just be clear.

To the extent that, you know, there are statements included in here by the caseworker, she can testify to them. It's the instrument I object to. We have no idea that it has any scientific validity.

THE COURT: I'll sustain the objection. This exhibit won't be admitted.

Conclusions you drew from your own personal observation you can testify to. This I don't -- unless I get more testimony on this form, I won't admit it, but, again, I think what you're trying to prove with this document has already been testified to by this witness.

DIRECT EXAMINATION

(Cont'd)

BY MS. ELCANO:

Q Ms. Lopez, you testified that when you completed the Protective Capacity Progress Assessment, that the progress that Ms. Guerrero had made was minimal progress; is that correct?

A That's correct.

Q Additionally, you indicated that the SMART goals identified within the Protective Capacity Progress Assessment were the same as identified in the case plan and service agreement; is that correct?

A Yes.

Q And why did you conclude that Ms. Guerrero had made minimal progress in regards to the Protective Capacity Progress Assessment?

MR. ELKINS: I'm sorry, Judge. If I could get a date.

MS. ELCANO: A date on what?

MR. ELKINS: When she made this determination.

MS. ELCANO: I think she's already testified that this was developed on 2/27/2014.

MR. ELKINS: Thank you.

BY MS. ELCANO:

Q What was the basis of that minimal progress?

A So the basis -- the reason I assessed that she was at minimal progress was because she was still mismanaging her money, she was not providing -- she was not able to provide basic needs, didn't have stable housing. Again, she was not providing me with a steady income. She would provide me with a check that had maybe two days of work on it. She was not in treatment at the moment. She was not -- she was not providing me with proof of being on any kind of medication, which led me to believe she wasn't on medication.

So based on all of this information that I had and throughout the course of my case -- I mean, we're at February, so I have to look at everything that's been done or not done up until February 2014, so April 2013 to February 2014 -- I had to assess where she was on the goals, and I decided that she was at minimal progress.

Q And today how -- let me back up.

In regards to the goals and objectives identified in the case plan and service agreement for Ms. Guerrero, today has Ms. Guerrero made any progress on those?

A I don't believe she has.

Q And what is the basis for your answer?

A Well, she doesn't have stable housing, consistent housing. She's been very transient. She doesn't have a steady income coming into her home. She is not engaged in treatment to help her through whatever issues she may have that are not allowing her to meet those needs, which leads me to believe there's still lack of motivation. She is not -- she's not setting aside her own needs to meet that of her children.

Q What services, additional services, could have been offered to this family, Ms. Guerrero specifically, which haven't been to date to further

facilitate reunification?

A I really can't think of any. I know in working with -- Ms. Seronio and I are in the same department. We've worked very closely on this case. Therefore, I know all the services that are offered. I just don't think our department could offer anything more than has been offered. There's a point where a parent needs to use those services to take action and make changes on their own.

Q And has that happened here?

A I don't think she has.

Q At any point in the case did Ms. Guerrero ask for additional services that weren't being offered to her?

A At the time that Ethan hadn't been removed and I was no longer providing services, as I said before, she did approach me for therapy. She wasn't in therapy. There was no active voucher at the time, so she was given those services.

She had asked for a bus pass. When we're relieved of efforts, we usually don't provide them, but there were occasions when I did. Not very often, but I did.

Q And when Ms. Guerrero asked for those

additional services, were those provided by the agency?

A Sometimes, yes. Like I said, we can't -- we only have a limited amount of bus passes, for example, so if I had some and it was something that was important, such as getting a lease, then, yes, because that would mean she could get a home, and so I did provide it even though at that time I wasn't required to provide any.

Q To your knowledge, in the underlying dependency case did Ms. Guerrero's attorney ever approach you and ask for additional services?

MR. ELKINS: Objection, Judge. My objection is that it's irrelevant, essentially.

THE COURT: What's the relevance of the attorney asking?

MS. ELCANO: Your Honor, I'm just trying to establish that all the services -- Ms. Guerrero or her representative never asked for additional services that we did not provide.

THE COURT: I think she's already testified to that, didn't she?

MS. ELCANO: She did as to Ms. Guerrero, that's correct. I can move on, Your Honor.

THE COURT: Has any service been requested -- has anybody asked you to provide a service

that you haven't?

THE WITNESS: Ms. Guerrero did ask for financial assistance, but we can't provide financial assistance on an ongoing basis, and she had already been provided financial assistance by the agency when she got into her apartment in December of '13. So she did ask for financial assistance, but I refused because we're not in a position to provide money all the time.

THE COURT: And as long as I'm asking, you talked about a voucher. What --

THE WITNESS: A voucher is our way of paying for therapy or an evaluation. So we submit a voucher to an agency. It's kind of like a promise, we're going to pay you if you provide this service.

THE COURT: So if she came in and you wanted her to get therapy, you give her a piece of paper that she could take to the person who is giving the therapy?

THE WITNESS: We don't give it to the parent. We send it directly to the agency.

THE COURT: You mentioned you had given her a voucher for something. Do you notify them that she's got it or --

THE WITNESS: Yes. So, for example, in her case she -- I sent her to get a psychosocial evaluation,

so the voucher gets sent to Children's Cabinet, which was where Ms. Brianna Carter was working at the time. Then they provide the service and they bill us, and she's informed when she can go make that appointment and the voucher has been submitted.

THE COURT: Okay. That was an aside, but I'm trying to clear that up.

MS. ELCANO: Fair enough. I apologize I hadn't cleared that up, Your Honor.

BY MS. ELCANO:

Q Ms. Lopez, to your knowledge is Ms. Guerrero presently employed?

A Not that I know of.

Q And were the children ever -- by "the children," I mean Roberto, Kayleigh, and Nathan -- ever returned to Ms. Guerrero's care while you've been assigned to this case?

A No.

Q And why not?

A Because they -- she has not been able to provide, on a consistent basis, a safe home.

Q Can you please describe Ms. Guerrero's contact with the children while you've been assigned to this case?

A She's had consistent contact. That's never been an issue. Initially she started with -- I believe we had two out-in-the-community visits. She would meet with the foster parent somewhere and have a lengthy visit, from six to eight hours, usually on a weekend. Eventually that did change. The pick-up and drop-off time -- place, sorry, location -- became our office, and then there was three visits a week, and then a change to two visits a week off site, and then a change to two visits a week on site.

Q Why did it shift from three visits a week to two visits a week?

MR. ELKINS: I'm sorry, Judge. I'm going to object because I don't know that the witness was the worker at the time that occurred, so I'm objecting based on whether she has personal knowledge.

BY MS. ELCANO:

Q When did the visits change from three times a week to two times a week?

THE COURT: Based on your personal knowledge. Do you have personal knowledge of why?

THE WITNESS: Yes. I was the one who changed them.

MR. ELKINS: Thank you Judge.

THE WITNESS: I don't recall when, though, but I was the one who made that decision.

BY MS. ELCANO:

Q And why did you change them from three times a week to two times a week?

A Because Ms. Guerrero requested me to do so. She told me she wanted to -- she was at the time -- and I want to say it was about January, maybe February of 2014 -- she had gotten an SK job. She said she needed -- they used to be Monday, Wednesday, and Friday. So because of work, she couldn't attend the Monday, I think it was, and so she asked if we could reduce it to twice so she could go to work. And so I did, I reduced it to twice.

Q After that point did Ms. Guerrero ever request that the visits be increased back to three times a week?

A Yes.

Q And did you do so?

A No.

Q Why not?

A We were way past the point of -- the permanency plan had been changed. We were way past the point of -- the plan was no longer reunification, so I

felt that two visits were appropriate.

Q And how many visits a week currently is Ms. Guerrero having with the children?

A Two.

Q And where do those occur?

A At Washoe County Department of Social Services building.

Q And I believe you provided information previously regarding why they changed to on site.

Is there any additional information why the visits are remaining on site today?

A No.

Q Has Ms. Guerrero been able to visit all three children at one time?

A Yes.

Q So the visits aren't with each child individually; correct?

A No. They're -- all of them are together.

Q Are they supervised visits currently?

A On-site, unsupervised.

Q Thank you. Based on your personal knowledge -- so if you don't have knowledge of this -- once Ethan was taken into care, did he also visit with the older three children?

A Yes. All four visit with Mom at the same time.

Q What concerns, if any, have you had regarding Ms. Guerrero's behavior or interaction with the children during these visits that you have personal knowledge of?

A Well, Ms. Guerrero and I have had discussions about certain events. There's been one incident of her behavior where she had a hysterical -- she was in hysterics, crying. She was upset because I wouldn't allow her to leave the building. I want to say it was right after his removal.

She had this reaction in front of the children which scared them, and so we had a conversation about appropriate behavior in front of the children. I told her if she needed a moment to pull herself together and not behave that way in front of the children because they were scared, she needed to take a moment and use the restroom and request that staff watch the children while she was pulling herself together.

We had conversations about conversations she had with the children that were inappropriate. She had told Kayleigh, who at the time was four years old, that --

MR. ELKINS: Judge, I'm going to object. I

believe this is hearsay. The source is not my client.

THE COURT: Did you hear this inappropriate --

THE WITNESS: Well, I heard it, but then I talked to her about it, so we did actually talk about it.

THE COURT: So you heard her say something to Kayleigh?

THE WITNESS: No, no, no. I heard Kayleigh say it, and then Ms. Guerrero and I talked about the information.

MR. ELKINS: Objection.

BY MS. ELCANO:

Q So if you could limit your answer to the conversation you had with Ms. Guerrero.

A So Ms. Guerrero and I discussed appropriate conversation with the children. She had overshared what happened in regards to the domestic violence incident with Kayleigh.

Q And I just want to caution you. Is this what Ms. Guerrero stated to you?

A Yes. We talked about it, yes.

Q Okay. Thank you.

A She told me that she felt that it was okay for Kayleigh to know this, and I told her it was not okay

for a four-year-old to know the details of what happened, but it was okay for her to tell her that her dad was in jail.

Q And when you talk about this domestic violence incident, can you just clarify what incident you're talking about?

A The domestic violence in July of 2014.

Q Between who?

A Ms. Guerrero and Mr. Hunt-Taylor.

Q Thank you.

THE COURT: Just to clarify, you testified that you wouldn't let her leave the building and she got hysterical. Do you mean you wouldn't let Ms. Guerrero leave the building or you wouldn't let Ms. Guerrero leave with the children?

THE WITNESS: With the children.

THE COURT: She could leave the building?

THE WITNESS: Oh, yeah, she could leave.

THE COURT: I was wondering why you wouldn't let her leave the building.

THE WITNESS: No, no.

MR. ELKINS: Sometimes I feel like that.

BY MS. ELCANO:

Q I apologize.

Any other concerns?

A Yes. We talked about not --

Q Again, before you move forward with this, based on information you received from Ms. Guerrero and discussed with Ms. Guerrero. Thank you.

A So we talked about not telling the children that I was the reason that they weren't home, and so that was a conversation that we had, not talking about anybody on the case, not the foster parent, not the social worker, not the attorney. Basically to limit her visits to spending quality time with her children, having fun, playing with them, and not to talk to them about -- or blaming me for them not being home.

Q And any other concerns?

A No.

Q Did Ms. Guerrero consistently attend her visits?

A Yes, she did.

Q Was she on time for her visits?

A Not all the time, no.

Q Okay. And while you were the social worker and -- never mind. I think we've already covered that.

To your knowledge when is the last time Ms. Guerrero visited her children?

A Friday of last week.

Q Does Ms. Guerrero -- I'm sorry. Has Ms. Guerrero sent any cards, gifts or letters to her children while you have been assigned to the case that you are aware of?

A I don't know if she sent cards, but I do know that she buys them gifts, brings snacks. I have seen that.

Q And does Ms. Guerrero have telephonic contact with the children?

A She's allowed to. I don't really supervise it. She's allowed to call the foster parent whenever she wants.

Q Do you know how frequently she does so or does not?

A I don't.

Q Okay. To your knowledge has Ms. Guerrero paid any support on behalf of Roberto, Kayleigh or Nathan since you have been the assigned worker to this case?

A Not that I know of.

Q How often did you have contact with Ms. Guerrero throughout the life of this -- I guess throughout the first year of this case?

A I would say pretty frequently in person or by

phone or by e-mail.

Q And did you initiate that contact typically?

A It went both ways.

Q It did?

A Yeah.

Q Thank you.

Did Ms. Guerrero consistently attend meetings you had scheduled?

A No.

Q And approximately how often did she attend meetings?

A As I mentioned before, the first four months she -- she was pretty consistent in attending the once-a-week meeting. After about, starting about the fifth month, she would no call/no show to our weekly meetings. She on average was showing up about -- maybe twice a month.

After a year she had requested that we continue to meet frequently. We agreed every other week, but she no show/no called to the first three, and then I didn't make any further attempts to continue to schedule ongoing every-other-week meetings.

Q When is the last time you had contact with Ms. Guerrero regarding this case? Obviously not in

court, but --

A We had a conversation -- well, I had contact with her last Wednesday when I provided her a letter for Reno Housing. We didn't really talk in depth because the children were present.

I would say probably a couple weeks prior to that, maybe, we talked a little bit. I mean, ongoing I would pop in during a visit, and she would give me updates if it was possible. If not, then we wouldn't talk.

Q Would it be normal to expect Ms. Guerrero to speak with Ms. Seronio as she is the worker for Ethan?

A Right. And I actually encouraged that.

Q And what concerns, if any, have you had with your contact with Ms. Guerrero?

A I would say my concern with Ms. Guerrero was in that -- like I said, in that first year we did meet a little more than we did after that. She would tend to start crying, saying that she was scared, that she was scared she was going to lose her kid. So we'd have conversations about what could she do so she wouldn't lose her kid and also addressing why she was constantly crying when she's telling me, "I'm not depressed, I don't need therapy," but yet she constantly seemed upset.

And so I would encourage her to go to treatment, to get some services, but there was several times that she presented that way and she -- and we had the same conversation several times.

Q And what was Ms. Guerrero's response to your suggestions?

A Sometimes she would say, "Okay, I'll do it," and other times she would say, "I don't need it, I'm not crazy."

And I would tell her, "Going to therapy has nothing to do with being crazy. It's about getting that extra help to get through a rough time."

So sometimes she seemed receptive, sometimes not so much.

Q What information -- pardon me.

Did you have occasion to discuss with Ms. Guerrero the lack of progress on her case plan and service agreement goals and objectives?

MR. ELKINS: Time frame, Judge, please.

MS. ELCANO: I was just establishing if she has, Your Honor.

THE COURT: Okay. Then the next question -- if she says, "Yes," then the next question should be --

/////

BY MS. ELCANO:

Q When did you do so?

A Throughout the case. Even though I have been relieved of efforts since April 2014, there's been occasions where her and I have sat down and talked about the lack of progress and where to go from there.

Q And what specifically did Ms. Guerrero say to you or respond to you during those conversations?

A We would -- sometimes she would say, "I don't understand my goal." So we'd review again the goals. Sometimes she would give me updates, this is what I'm doing, and so we would discuss follow-through, what's important.

Sometimes she would say, "I've done everything you asked me."

And so I would ask her, "What have you done?" And she would have a hard time explaining that to me.

I think the last time we had a really good conversation was right after our settlement on this -- on the trial, which I can't remember when it was. I don't know if it was June of 2015 or July. We sat down afterwards. For about an hour we sat outside the building and talked.

Q So this wasn't during the settlement

conference; correct?

A No, no, no. It was after.

Q I just wanted to make sure you weren't saying something.

A No, no, no. It was after.

Q Go ahead.

A She was outside the building, and we sat down and talked because I was leaving for the day -- it was at 5 o'clock -- and she -- we started talking, and we talked about getting medication, the benefits, the pros and cons, what she might get out of it if she tried it. We talked about therapy.

She told me -- and one of the things that every time we talked -- not every time, I shouldn't say every time -- a lot of the time she would say, "Okay. Now I'm ready, now I'm ready to change." That particular day she said the same thing.

So, again, I said, "What's different now? So you're ready to change now. So what's going to change compared to the last couple years?"

So we really had a really good discussion about where to go from there. She appeared motivated, it seemed like. You know, she would constantly say she was motivated throughout the case, but then there was no

follow-through.

Q When Roberto, Kayleigh, and Nathan were originally removed -- pardon me.

When originally were Roberto, Kayleigh, and Nathan removed from Ms. Guerrero's custody?

A April 19, 2013.

Q So approximately how long have Roberto, Kayleigh, and Nathan been in the care and custody of Washoe County Department of Social Services?

A About 28 months.

Q And you testified that Roberto, Kayleigh, and Nathan are presently placed with Sandra Matute; is that correct?

A That's correct.

Q Are the children placed in an adoptive home?

A Yes.

Q And approximately how long have they been placed with Ms. Matute?

A For 27 months.

Q And can you please describe Roberto to the Court?

A Roberto is eight years old. He is in second grade, super sweet boy, very, very sweet, so sensitive, loves Pokemon. He can talk to you -- talk for hours

about Pokemon. He is a regular boy, likes to play outside, likes to do sports. He likes to do soccer, baseball, karate, gets along well with the other children in the home, excellent student, very smart. Does have a slight speech delay but overall just a great kid, very loving.

Q Can you please briefly describe Kayleigh to the Court?

A Kayleigh is five years old, attending kindergarten, started this year, feisty, feisty little girl, bossy, but loving, so sweet, so silly, loves Little Kitty.

She loves to follow -- she's the only girl in the home besides the foster mom, so she follows all the boys around, likes to do the karate, the soccer even though for some of the sports she's a little young, but she's starting to do some of those sports as well.

She likes to look for spiders, although she's scared of them. I don't know why. She's just, again, very loving, gets along well with the other children in the home, excellent student. Very, very bright. She's actually very, very bright, but does have, I would say, a little more of a delay in speech. For a long time it was really difficult to have conversations with her because I

couldn't understand what she was saying, but it's been about -- I would say about a year and a half that her speech has improved and we're able to have really long conversations and talk to each other.

Q And can you please describe Nathan to the Court?

A Nathan is four years old. He is going to pre-kindergarten. He is so sweet, so loving, loves to be silly. A little jealous of his little brother, Ethan. He used to be the baby in the home, in the foster home, and now it's Ethan, so he likes to pick on his little brother a little bit.

He is very, very bright, also has a slight delay in speech, and so -- but just really overall just fun, fun kid to play with.

MS. ELCANO: And, Your Honor, I believe Exhibit GG, so Greg Greg, has been admitted. I believe it was stipulated to being admitted?

MR. ELKINS: Judge, how could we not agree to admit that picture?

BY MS. ELCANO:

Q Could you please turn to Exhibit GG?

THE COURT: You did not?

MR. ELKINS: No, no. I said, how could we

not, Judge? Such an attractive photograph.

BY MS. ELCANO:

Q Could you please describe what Roberto is wearing in that photograph?

A Roberto is wearing a green Puma shirt and holding a toy up to his face.

Q And can you please describe what Kayleigh is wearing?

A Kayleigh is wearing a Hello Kitty shirt with -- a Hello Kitty shirt with a bow on it.

Q And then can you please describe what Nathan is wearing there?

A He's wearing a blue Puma shirt.

Q And how are his arms positioned?

A They're straight up, holding a toy.

Q Okay. And if you could turn to the next picture.

Are the children wearing the same things in that picture?

A Yes, they are.

Q Thank you.

I think you've talked both about Roberto, Kayleigh -- you've talked about Roberto, Kayleigh, and Nathan all having speech delays to some extent; is that

correct?

A That's correct.

Q Are there any other identified special needs of these children?

A Roberto goes to counseling.

Q With whom?

A He goes with Ella Cutter at a Child's World.

Q And why was Roberto referred to counseling?

A Roberto was referred to counseling about five months ago because I had had a conversation -- where this case is going, first of all. I think because he's the oldest and more aware of what's going on, I felt that he needed a safe place to talk to somebody and process any kind of feelings he may have regards to the case and the way things were going.

Q And despite these special needs, do you believe these children are adoptable, Roberto, Kayleigh and Nathan?

A Oh, of course.

Q And have these children had these identified special needs throughout this case aside from just the counseling coming up in the last five months?

A The speech delay, yes.

Q And how has the adoptive mother, Ms. Matute,

handled these identified special needs, based on your observations and personal knowledge?

A So she's taken them to speech therapy, allowed speech therapists to come to her home, and one of the kids gets the speech therapy at school.

Q Can you please describe Roberto's relationship with Ms. Matute based upon your personal observations?

A They have -- they appear to have a very comfortable relationship, loving relationship. She's affectionate with him. He's affectionate with her. He calls her "Mom." I've seen them run to her for comfort. It's a comfortable relationship.

Q And can you please describe Kayleigh's relationship with Ms. Matute based on your personal knowledge and observations?

A I think Kayleigh would be a little more -- a little closer to Ms. Matute. She calls her "Mommy." She runs to her for comfort constantly. Ms. Matute uses endearing names like "My Love" with them. With her, sorry. She looks comfortable in the home, moves around freely, and so that tells me that she's comfortable with Ms. Matute.

Q And can you please describe Roberto's

relationship -- pardon me -- Ms. Matute's relationship with Nathan based on your personal experience and knowledge?

A Again, same thing. I've seen them hug, kiss. She calls him, again, endearing names. She -- you know, he runs to her for comfort when he falls or -- you know. He, again, moves freely throughout the home, doesn't appear fearful of Ms. Matute.

Q What is Ms. Matute's primary language?

A Spanish.

Q And does she also speak English?

A I would say she understands it more than she speaks it.

Q Do Roberto, Kayleigh, and Nathan speak fluent Spanish?

A Not fluent, no.

Q Do they speak some Spanish?

A Yes, some.

Q Do they understand Spanish?

A Yes, some.

Q And, Ms. Lopez, are you fluent in Spanish also?

A Yes, I am.

Q So how are you able to tell whether or not

the children understand the Spanish spoken by Ms. Matute?

A Because when I'm in the home and Ms. Matute talks to them in Spanish and gives them a direction, they follow it.

Q Fair enough.

To your knowledge does Ms. Matute have any biological children?

A She does.

Q And approximately how many?

A She has three biological children.

Q And how many children live in her home that are her biological children?

A Two.

Q And do you know their approximate ages?

A I believe one is about eight, the other one is probably about ten.

Q And have you seen these children interact with Roberto, Kayleigh, and Nathan?

A Yes, I have.

Q And what have been your observations when they interacted?

A They all play together. They seem to get along. I've never seen them actually argue or fight when I'm there in the home.

Q How are the children -- Roberto, Kayleigh, and Nathan -- adjusting to their current placement and doing in their current placement?

A The children are doing great. They're healthy, they're making academic progress, speech progress, especially Kayleigh. They've adjusted really well. This is basically their home. They're doing well.

Q Based on your experience as a social worker, what do children, specifically Roberto, Kayleigh, and Nathan, require from their caregivers in order to be in safe placement?

A They require a safe home, food, the basic needs. They require someone to take them to the doctor when they're ill, to take them to school every day. They require love and affection, structure, stability.

Q And can Ms. Guerrero presently provide that?

A Some of it, yes.

Q What can't she provide?

A The basic needs, the stability.

Q And can Ms. Matute presently provide that?

A Yes, she can.

Q Do you believe that -- has Ms. Matute provided that for the last 28 months?

A 27 months, yes.

Q 27 months. Excuse me.

Do you have any reason to believe that Ms. Matute will be unable to provide that in the future?

A No. She's been doing great for the last 27.

Q What are the outstanding safety concerns and impending dangers which exist today that prevent Roberto, Kayleigh, and Nathan from being placed in the care and custody of Ms. Guerrero right now?

A The impending dangers are inability to provide basic needs and lack of motivation.

Q Do you believe that Ms. Guerrero has failed to adjust her circumstances to enable the safe return of Roberto, Kayleigh, and Nathan?

MR. ELKINS: Objection, Judge. Calls for a legal conclusion.

THE COURT: You've asked the question in different ways already, so I'll sustain the objection.

BY MS. ELCANO:

Q Do you believe that additional services would bring about lasting parental adjustment at this juncture --

MR. ELKINS: Same objection, Your Honor.

BY MS. ELCANO:

Q -- by Ms. Guerrero?

MR. ELKINS: Objection. Calls for a legal conclusion.

MS. ELCANO: I don't think it calls for a legal conclusion.

THE COURT: Well, the question is, are there additional services that you can provide that would assist in the reunification? Are there?

THE WITNESS: Not that I can think of.

BY MS. ELCANO:

Q Do you believe that there is a risk of harm to Roberto, Kayleigh, and Nathan if they were returned to Ms. Guerrero today?

A I think there is.

Q And what is the basis for that answer?

A These children are very attached to Ms. Matute at this point. This is their home. It would be ripping them from their home again, and so that would be very emotional and traumatic for them.

Q And do you believe that it would be beneficial or in the best interest of Roberto, Kayleigh, and Nathan to be separated from Ethan?

A No.

Q And what is the basis for your answer?

A They've been living together for the last

year. They know that they are related, they're brothers and sisters. Separating them at this time would just cause trauma in the older children because they would wonder where's their little brother.

Q And do you believe that it's in the best interest of Roberto, Kayleigh, and Nathan that Ms. Guerrero's parental rights are terminated?

A Yes.

Q And what is the basis for your answer?

A These children have been in care for the last 28 months. Being in foster care and having CPS involved in your life is not healthy, it's not healthy for any child. There is a reason why there is an ASFA law which gives a parent 12 months to to reunify, and it's because there's a stigma when a child is in foster care.

They do need permanency. They need to know this is their forever home and allow them to move on with their childhood. Bringing them into the office twice a week, it's not a healthy -- it's not healthy for them. Waiting around for their parent to make changes -- it's been 28 months. How much more time do they have to wait? And so at this point I think it's time to let these children move on and have normal childhoods.

Q Do you believe that it's in the best interest

of these children to have continued contact with their mother at this point?

A I don't -- I don't think so for the younger children. For Roberto, I can't really -- that would be more of a therapist question.

MS. ELCANO: Fair enough. I have no further questions at this time, Your Honor.

THE COURT: Do you want to quit now and start in the morning?

MR. ELKINS: If you don't mind, Judge. Ten minutes -- there was a lot. I'm sorry, I didn't mean to --

THE COURT: That's fine. I don't care if you sit or stand.

MR. ELKINS: In any event, there was a lot of testimony this afternoon. We're going to begin at 8:30 tomorrow morning.

THE COURT: Yeah.

MR. ELKINS: As you know, my client is --

THE COURT: Be on time tomorrow, Ms. Guerrero?

THE RESPONDENT: Yes.

THE COURT: What were you telling me about -- if we're going to do something next week, we

need to let them know by Friday?

THE CLERK: It would probably be the following week, I believe, the 15th. Court administration has asked that we wait until Friday to see if another hearing date is going to need to be available, but we are able to go Friday until 5:00.

THE COURT: Do I understand that not next week, but the week after that we're all free?

MS. ELCANO: Your Honor, I'm not here on Monday.

THE CLERK: The 15th, 16th, 17th or 18th.

MR. ELKINS: I keep a cot in my office.

THE COURT: Maybe I'll bring the dog over and it can stay with you and get you up at 4 o'clock in the morning. Nothing like a dog tongue in your ear at 4:30 in the morning.

So 15, 16, 17, 18 everybody keep free until we find out Friday if we need another day, and if we do, then we can have either the 15th, 16th, 17th or 18th.

THE CLERK: I believe they would start looking then to make arrangements and then advise.

THE COURT: Okay. You can all be at ease. We're in recess until 8:30 tomorrow morning.

(Proceedings adjourned at 4:37 p.m.)

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

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

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

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

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

Dated this 12th day of September, 2015.

Peggy B. Hoogs

Peggy B. Hoogs, CCR #160, RDR

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:

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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

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.
Tracie K. Lindeman
Clerk of Supreme Court

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

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JOINT APPENDIX VOLUME THREE

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Docket 70210 Document 2016-23792

TABLE OF CONTENTS

1. Amended Petition to Terminate Parental Rights filed on July 17, 2015 ..... 1JA 13

2. Errata and Reply filed on October 19, 2015 ..... 1JA 127

3. Notice of Appeal filed on April 18, 2016 ..... 1JA 168

4. Notice of Entry of Order filed on March 21, 2016 ..... 1JA 152

5. Order Appointing Counsel filed on January 22, 2015 ..... 1JA 11

6. Order Terminating Parental Rights filed on March 21, 2016 ..... 1JA 138

7. Petition to Terminate Parental Rights filed on October 24, 2014 ..... 1JA 1

8. Petitioner's Opposition filed on October 19, 2015 ..... 1JA 114

9. Petitioner's Trial Brief filed on October 12, 2015 ..... 1JA 29

10. Stipulation and Order filed on August 28, 2015 ..... 1JA 26

11. Summation filed on October 13, 2015 ..... 1JA 76

12. Transcript of Proceedings: Trial—Day 1 *held* on August 31, 2015 ..... 2JA 170

13. Transcript of Proceedings: Trial—Day 2 *held* on September 1, 2015 ..... 3JA 462

14. Transcript of Proceedings: Trial—Day 3 *held* on September 2, 2015 ..... 4JA 709

15. Transcript of Proceedings: Trial—Day 4 *held* on September 3, 2015 ..... 5JA 966

16. Transcript of Proceedings: Trial—Day 5 *held* on September 4, 2015 ..... 6JA 1232

17. Transcript of Proceedings: Trial—Day 6 *held* on September 15, 2015 ..... 7JA 1469

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SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE WILLIAM A. MADDOX, SENIOR DISTRICT JUDGE

--oOo--

TERM: R. TAYLOR, K. GUERRERO-TAYLOR, N. HUNT-TAYLOR, E. HUNT-TAYLOR,

Case No. FV14-03897

Dept. No. 2

TRANSCRIPT OF PROCEEDINGS

TRIAL

DAY 2

Tuesday, September 1, 2015

Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

APPEARANCES:

For the Petitioner Washoe County Dept. of Social Services:	TYLER ELCANO, ESQ. Deputy District Attorney 1 South Sierra Street, 4th Floor Reno, Nevada
For the Respondent Jacqueline Guerrero:	LEE ELKINS, ESQ. Deputy Public Defender 350 South Center Street Reno, Nevada
Also Present:	JACQUELINE GUERRERO MALIA SERONIO ROCIO LOPEZ

INDEX

WITNESSES FOR THE STATE	PAGE
SUZANNE ABERASTURI	
Direct Examination by Ms. Elcano	297
Cross-Examination by Mr. Elkins	347
Redirect Examination by Ms. Elcano	370
AMANDA BUTTACAVOLI	
Direct Examination by Ms. Elcano	375
Cross-Examination by Mr. Elkins	393
Redirect Examination by Ms. Elcano	403
Recross-Examination by Mr. Elkins	409
ROCIO LOPEZ	
Direct Examination by Ms. Elcano	419
Voir Dire Examination by Mr. Elkins	493
Direct Examination (Cont'd) by Ms. Elcano	505

EXHIBITS		MRKD	ADM
Petitioner's Exhibits			
HH	Notes of Amanda Buttacavoli	386	386

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 9:06 A.M.

-oOo-

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 counsel.

Your next witness, Ms. Elcano.

MS. ELCANO: Thank you, Your Honor. I would call Suzanne Aberasturi, Dr. Aberasturi.

THE COURT: Is she any relation to Leon Aberasturi?

MS. ELCANO: I believe, the judge, it's her husband, yes.

THE COURT: Okay.

SUZANNE ABERASTURI,

having been first duly sworn,

was examined and testified as follows:

THE COURT: You're related to Leon, then?

THE WITNESS: I am.

THE COURT: Anybody that has to put up with

him is probably a saint.

THE WITNESS: That is so true.

DIRECT EXAMINATION

BY MS. ELCANO:

Q Good morning, Dr. Aberasturi.

Could you please state and spell your name for the Court?

A Suzanne Aberasturi. Suzanne is S-u-z-a-n-n-e, Aberasturi is A-b-e-r-a-s-t-u-r-i.

MS. ELCANO: Your Honor, it's my understanding that there is no opposition to Dr. Aberasturi being qualified as an expert in the field of psychology, and I have provided a résumé to opposing counsel. I have several copies of her résumé again today if needed and would like to avoid going through all of her --

MR. ELKINS: Judge, we stipulate she's an expert -- thank you -- in psychology and neuropsychology.

BY MS. ELCANO:

Q What is your current occupation?

A I am a clinical psychologist specializing in neuropsychology.

Q And what licenses do you currently hold?

A I have a license in clinical psychology through the State of Nevada. I also have a school psychologist's license and some educational licenses.

Q Thank you. What is a neuro -- well, let me back up.

Are you in private practice?

A I'm in private practice, yes.

Q And approximately how much of your practice is devoted to completing psychological and neuropsychological evaluations?

A Approximately 95 percent.

Q And what is a neuropsychological evaluation?

A A neuropsychological evaluation is looking at the different functional areas of the brain to see exactly how it's working. You do observations, you do several batteries of tests to look at different strengths and weaknesses throughout the brain, and then you make conclusions based on that.

Q What steps do you take to complete a neuropsychological evaluation?

A I start off with an interview to kind of gain what kind of questions and things that we're going for as well as get a thorough history, and then from there I create a hypothesis about what kind of direction I need

to take and I make a list of tests. Then as I test, I make adjustments to that based on performance, and then from there I analyze and score and kind of put together to do a report, and then I give a report that goes over my observations, test results, conclusions, diagnosis, if it's appropriate, recommendations.

Q And do you only interview the individual that you're completing the neuropsychological evaluation for?

A It depends on the question of the case and the different resources that are available.

Q Approximately how long are your interviews with the person who you are evaluating?

A The standard interview is typically one hour.

Q And do you have multiple interviews?

A Let me backtrack on that. It's one hour of solid interviewing, and then I ask questions as I go throughout the testing as well, so...

Q So there's an hour of interviewing and then time allotted to complete tests?

A And in between tests sometimes I will ask for clarification or ask more questions.

Q Fair enough. Okay.

And you may have kind of touched on this, but what specific areas are evaluated when you are completing

a neuropsychological evaluation?

A I definitely go through the different areas: Visual, spatial, verbal, memory, sensorimotor, frontal-lobe executive functions, as well as emotional, behavioral.

Q And why are those areas important to evaluate?

A Those are the standard areas of the brain that kind of develop and kind of work together to cause problem-solving, reasoning, and things like that.

Q Thank you.

What diagnoses or conclusions are generally rendered upon the completion of a neuropsychological evaluation?

A It can be different depending upon the initial question of the evaluation. Diagnoses are based off of not only test results -- test results definitely weigh the heaviest -- but observations, behavioral interventions, and any records I've obtained, and so it depends on the situation.

Q Are treatment or can treatment recommendations be made as a result of the completion of a neuropsychological evaluation?

A Yes.

Q And is a psychological evaluation different than a neuropsychological evaluation?

A Yes.

Q How is it different?

A A psychological -- a neuropsychological evaluation is very thorough. It's looking at the different parts of the brain. A psychological evaluation is really looking at the emotional state of the person and frequently will include a cognitive functioning.

Sometimes I throw in some other tests for reasoning or focus depending on the question or what the person said in the interview, but it is a much shorter battery and it's much more specific to a question, usually typically of just diagnosis.

Q Is a neuropsychological evaluation encompassing of a psychological evaluation, if that makes sense?

A A psychological evaluation would be encompassed in the neuropsychological evaluation.

Q Okay. Got it. Thank you.

Have you had occasion to become familiar with Jacqueline Guerrero?

A Yes.

Q And in what capacity did you become involved

with Ms. Guerrero?

A Social Services requested a neuropsychological eval on Jackie. I believe the funding went through Children's Cabinet.

Q When you completed this neuropsychological evaluation of Ms. Guerrero, did it include a psychological evaluation as well?

A Psychological evaluation is always part of a neuropsychological evaluation.

Q Thank you. When did you first meet with Ms. Guerrero?

A 1/27/2015, I believe.

Q And why specifically was Ms. Guerrero referred to you for evaluation?

A The initial question that was provided to me from Social Services is that they were confused about Jackie's capacity to understand her case plan and follow through with different ideas they gave her. They weren't sure if it was based on cognitive or based on emotional issues.

Q And who referred Ms. Guerrero to you? You may have already answered that. I apologize.

A It was her social worker.

Q Do you recall the social worker's name?

A It's Malia, I believe.

Q What was your understanding of the reasons why Ms. Guerrero's children came into the care and custody of Social Services?

A That information was provided by Ms. Guerrero, and she said that she was evicted from her apartment and had not sent her children to school, and there was also some other issue with not paying electricity and not having electricity that I recall.

Q Who did you interview in conducting Ms. Guerrero's psychological and neuropsychological evaluation?

A I interviewed Ms. Guerrero. I had a referral from Social Services, and I briefly talked to her social worker.

Q And why didn't you interview anybody else?

A There was not a large amount of people around her that would have been substantial witnesses to the question I was being addressed.

Q And when you interviewed the social worker, what information did you receive?

A I just -- I always let the social worker know when she comes, "I've got this information. Did you have this information?"

Q I see. So it was more communicating information Ms. Guerrero had given to you to the social worker?

A Yes. And checking to see what I had is what they had.

Q You didn't specifically interview the social worker based on her interactions with Ms. Guerrero?

A I don't recall doing that specifically.

Q Thank you.

How many times, approximately, did you meet with Ms. Guerrero?

A I believe it was four times.

Q And you said you initially met with her, you believe, on January 27, 2015.

When did you meet with her subsequent to that?

A Well, there were four dates, and I know it ended 2/27/2015.

Q Would review of your psychological/neuropsychological report refresh your recollection as to those particular dates?

A Yes, it would.

Q Could you please turn to Exhibit CC, so Charlie Charlie?

And I believe it's been stipulated that that exhibit is admitted, Your Honor.

MR. ELKINS: That's correct.

BY MS. ELCANO:

Q And if you could review that document and let me know if that does refresh your recollection.

A That does refresh.

Q Could you please close the document.

And what additional dates did you meet with Ms. Guerrero?

A January 29, 2015, and February 5, 2015, I believe was the other one.

Q Could it have also been February 2nd?

A Could have been. Sorry.

Q And approximately how long did you meet with Ms. Guerrero?

A The first session was probably an hour, and I'm going to predict that the other two sessions were either two hours -- I know the first one was two hours, and the second one was probably an hour and a half to two hours.

I do remember that the second -- the third session took a little longer because it took her a long time to fill out the questionnaire, so that one might

have actually gone to three, and then the final session is an hour.

Q And where did you meet with Ms. Guerrero?

A At my private office on Vassar.

Q And during your interview with Ms. Guerrero, did she demonstrate any cognitive delays or difficulties communicating or understanding with you?

A No.

Q Can you please describe Ms. Guerrero's level of engagement and cooperation throughout this process?

A She did seem -- she was very pleasant to be with. She did seem very forthcoming. I didn't have any trouble or animosity on her part. She didn't seem to be holding back information.

As I mentioned in the report, I was confused about one thing having to do with a boyfriend, but other than that, what I had from Social Services matched what she told me.

Q Okay. And what areas specifically did you evaluate in regards to Ms. Guerrero?

A Say that question again.

Q What areas did you evaluate when completing this for Ms. Guerrero?

A I did a very thorough neuropsychological

evaluation as well as personality assessment.

Q What areas did that neuropsychological evaluation encompass?

A It encompassed intellectual ability, memory, visual and verbal memory, short-term working memory, processing speed, the ability to process both verbal and visual information, naming, motor ability, and frontal-lobe functioning, as well as a personality assessment.

Q Just one second. Sorry. I was writing those down.

And what were your observations of Ms. Guerrero while completing this evaluation?

A She put forth good effort. She wanted to look good. She tried very hard. As I mentioned before, she was very pleasant to be with.

Q I kind of want to turn to your evaluation and walk through each piece of this. Obviously there are a lot of tests and I kind of want to, hopefully, understand how those were applied and the results.

But, first of all, it seems that you obtained work history, academic history, and learning history from Ms. Guerrero.

Can you summarize that to the Court?

A Ms. Guerrero had said that she had had several different employment histories. Some of them she left because the situation wasn't conducive to her schedule; some of them she left because she had panic attacks.

She had not obtained her high school degree. She had prepared for a GED and was told she was ready, but then her anxiety got in the way and she didn't complete it.

She had been in high school when she was in foster care, when she was pregnant, and was doing well, she reported, and then she went -- she was sent home to her mother, and her mother wanted her to stay home, so she stopped attending high school, based on Ms. Guerrero's report.

Q To your knowledge, was Ms. Guerrero employed at the time you were conducting this evaluation?

A Not to my knowledge.

Q Did you discuss government benefits at all?

A Yes. She was applying for SSI at the time and had -- I believe there was a future appointment to meet with them.

Q And to your knowledge did Ms. Guerrero receive SSI or follow through with those appointments?

MR. ELKINS: Objection.

MS. ELCANO: I don't know the basis of the objection.

MR. ELKINS: Here's the objection: It's hearsay.

MS. ELCANO: She's an expert. She's allowed to testify to hearsay.

MR. ELKINS: She's talking about a future appointment, so, also, I don't think she would have a basis for knowledge.

THE COURT: Well, she's right if it's something that an expert could rely on, so I guess you can ask her that question.

BY MS. ELCANO:

Q To your knowledge did she obtain SSI or follow through with those appointments?

A I don't know.

THE COURT: That was a lot to do about nothing.

BY MS. ELCANO:

Q What observations did you have of Ms. Guerrero in terms of obtaining the work history and academic learning history?

A She did seem forthcoming. She could report

it well. She did seem to have a good timeline to it.

Q I'd like to turn now to the emotional and behavioral impressions that you had with Ms. Guerrero.

Could you please summarize those for the Court?

A Based on -- are you asking this based on the interview?

Q Yes.

A On the interview she seemed -- she reported a large amount of anxiety, she reported a lot of obsessive behaviors and compulsive behaviors. She had reported past panic attacks. Some reliance on people was a long history. She also had a traumatic history going back into her childhood in a lot of different situations. She did not present as depressed at that time.

Q Did Ms. Guerrero make any reports regarding her mother's behavior to you?

A Yes. She reported that her mother's behavior was somewhat chaotic, that her mother would call the police on her and lock her out and be angry with her at times, and she had also reported she had been in foster care during -- when she was in her mother's care as well.

Q I'd like to next turn to the language portion.

What information did you obtain regarding language when speaking with Ms. Guerrero?

A Ms. Guerrero started with -- I believe it was Spanish as her first language but now felt like she spoke English much better than she spoke Spanish. And so I believe there were no speech services when she was young other than there might have been ESL services, English as a Second Language services.

Q In regards to your interview with Ms. Guerrero regarding motor and sensory, what information did you obtain there?

A She reported she was relatively clumsy. She was pregnant, so that's hard to assess at that time, and she was also having some headaches and things like that that were interfering with that. There was concerns of seizure at the time.

Q In regards to developmental and medical history, what information did you obtain from Ms. Guerrero?

A She had a history of headaches and migraines, and she was seeking some help for that, but as I mentioned, she was pregnant and it was interfering with that. I think she had mentioned she had received something for her headaches from the ob-gyn.

There was a concern of a seizure. She had an incident where she had altered consciousness that a person in her life had witnessed, and there was a concern surrounding that, but there was no -- at that time she had not seen a doctor regarding that, that I know of.

Q In regards to Ms. Guerrero's family history, what information did you obtain when interviewing her that you haven't already provided? I don't mean to make you reiterate anything. Is there anything additional?

A I think that there was some chaos surrounding a brother, some problems with the brother that I recall. I'd have to -- I'd have to relook at the report on that section. I apologize. I don't want to misspeak.

Q That's fine.

Did Ms. Guerrero provide any information regarding visitations associated with her children who were in foster care?

A She said she had had, I believe it was three days' visitation that was reduced to two, and I think it had something to do with the power at the apartment, but I'm not going to state that for a fact.

Q What tests were administered to complete the neuropsychological evaluation of Ms. Guerrero?

A She was given the Wechsler Abbreviated Scale

of Intelligence II. That was supplemented with the Wechsler Adult Intelligence Scale IV. I also gave her the California Verbal Learning Test II, the Rey Complex Figure Test, the Boston Naming Test, grooved pegboard, hand dynamometer, Wisconsin Card Sorting, Delis-Kaplan Executive Function Test, Conners Continuous Performance Test, and the Personality Assessment Inventory.

Q And what factors, if any, may have affected testing?

A Ms. Guerrero presented as anxious, and that sometimes affects scores, but it goes to part of the interpretation of the neuropsych functioning. Any time a person is being forced to do a neuropsych, that is definitely an issue that needs to be taken into account as well.

Q How do you take that into account when you're rendering?

A Well, you look for effort issues. If I felt there was an effort problem, I would definitely have done some effort measures. Within the measures that were given, there are definitely some effort things that you can look at. At no point did I feel like she was not giving her all during the testing.

Q Were there any concerns that there were

interruptions or any other factors during the testing that could have impacted these scores?

A My office is actually pretty quiet. She sometimes got some phone calls, but, you know, take that in stride, so I felt like it went well.

Q I'd like to first turn to the Wechsler Abbreviated Scale of Intelligence II and the Wechsler Adult Intelligence Scale IV.

What does that assess?

A Those are both intelligence tests. They measure verbal, nonverbal, as well as working memory processing speed.

Q And how is that test administered?

A It is a one-on-one test with activities that she does in front of me, so it's not a paper-pencil test. Me asking questions or her doing things.

Q Can you give me an example of an activity?

A On the perceptual reasoning test, I give her blocks, and she has to copy a picture and some blocks. One of the other subtests is patterns, and she has to pick out what piece finishes the pattern. She answers vocabulary questions and compares vocabulary words.

Working memory, I give you numbers, you have to give them back to me. You have to give them backwards

and put them in order. And processing speed, you have to scan and respond to information quickly.

Q And how did Ms. Guerrero score on these tests?

A She did very well on the Wechsler Abbreviated Scale of Intelligence. She was average overall. I believe her verbal scale was 100. She was slightly higher on the verbal comprehension index.

She had a very good score on similarities compared to vocabulary, which that occurs when you have less schooling. So she basically had a lot of verbal knowledge, but she didn't have a lot of vocabulary. Her vocabulary was still average, but it didn't match because of her lack of schooling. Her nonverbal was slightly lower but still solidly average. The only -- and her processing speed, I believe, was average.

The only deficit she had was verbal working memory, and that test only measures verbal working memory, and she was below average on that, which will cause some difficulties when giving verbal information, processing it quickly, and kind of responding to it.

Q And what -- I think you've just answered what the verbal memory subtest results indicated to you in regards to Ms. Guerrero.

What did the other test scores indicate to you?

A She had a pattern on the verbal subtest of trouble with verbal memory when there was one exposure and when there wasn't outside structure. So, basically, if you repeated it and then you gave her some structure on how to put it into her memory, kind of like into a nice, neat file cabinet, she did fine, but if you just relied on her to organize the information, she had a mild amount of difficulty. It wasn't horrible, but it was a mild amount of difficulty, which could result in some difficulties not understanding verbal instructions.

Q I see. Okay.

And you said you also administered the California Verbal Learning Test II. CVLT, I think is the acronym.

What does that assess?

A That measures verbal learning as well as your ability to kind of transition between that and distraction lists, as well as long-term memory, as well as there's a structural component to that and a recognition part.

Q How is that test administered?

A I give her a list of 16 words, and then she

has to give them back to me, and I do it again and again and again, and then I give another list, and then we go back to the first list, and then we do it 30 minutes later.

Q And how did Ms. Guerrero score on this CVLT test?

A She had some difficulty initially encoding it into memory. She actually had some variability on encoding and retrieval, but as we went down to the later recalls, when I cued her, which means I group it for you based on the categories in the list, then she jumped up to average. So that showed me that if I structure the information for her, she was able to retrieve and encode it relatively well.

Q I just kind of want to back up because there's some terms that I'm not super familiar with, so I just want to make sure I'm understanding correctly.

When you talk about encoding something, what do you mean by that?

A Encoding is -- if you think about it as a file cabinet, encoding is putting it into the file cabinet, and then retrieving it is taking it back out of the file cabinet.

Q When you talk about structuring how it's

encoded, can you give me an example of that?

A When I give you the list, it's not in any -- it's not in any order, it's not organized by categories of any sort, and so you can either try to remember it in order or you can try to group it, and she tried to kind of remember it somewhat randomly.

Then what happens is I say, "Okay. Tell me all the vegetables." And then she would tell me all the vegetables, and that actually helped her increase into the average range.

So basically I was helping her kind of organize her storage so she could get the words out appropriately.

Q Okay. Fair enough.

You used the term "cue" or to "cue" someone. How do you cue someone?

A That would be by providing the different categories.

Q Okay. Thank you.

And I believe you said that she was below average at first, but then as you helped her, she improved; correct?

A Yes.

Q What did this tell you about Ms. Guerrero and

her memory?

A That she has the ability to learn and understand verbal information well, but she might need some help organizing it in order to have it done efficiently.

Q Next I'd like to turn to the Rev Complex Figure Test and Recognition Trial. Rey. Pardon me. I'm misreading that.

What test is that?

A It is a test of both visual-motor integration and visual memory.

Q And how is that test administered?

A I give her a complex visual picture that she copies. She has as much time as she likes to copy it, and then after she copies it, I distract her for two minutes, and then I make her draw it from memory, and then 20 minutes later I make her draw it from memory again. And then there's a recognition phase where I show her different parts of a drawing, and she has to pick out which were the ones that were in the original picture.

Q And how did Ms. Guerrero test on this visual-spatial test?

A She was -- she had good visual memory. She actually kept what she encoded, which was very good. She

was a little stronger with visual memory than she was with verbal memory.

She had a mild issue with the organization of what's called visual-motor integration. What comes into your brain gets processed, and then when it comes out, we hope it looks exactly like what we saw, and hers looked close to what my picture was, but it was a little disorganized. So, again, she had a little trouble kind of organizing the pieces of the picture. It was a low average score.

Q And what did that tell you about Ms. Guerrero?

A Again, that reflects that she might have some difficulties kind of organizing the environment, especially when it becomes relatively complex. That can also correlate with mood issues and math problems.

Q Can you explain what "mood issues" mean?

A That can go with either depression issues reactive emotional issues like aggression and things like that. It doesn't mean it happens, but it does tend to correlate with that.

Q And math difficulties, just --

A Because math is basically taking pieces and putting it together to make a whole, which is very

similar to what that test is measuring, so those two things tend to go together.

Q I see. Thank you.

And then you indicated that the Boston Naming Test was completed. What is the Boston Naming Test?

A It's a booklet with line drawings that are basically objects, and she just basically has to name them.

Q So a drawing is presented, and then she identifies what objects are in that drawing; is that correct?

A Yes.

Q How did Ms. Guerrero test in this area?

A She was a little bit low on that measure. And then what happens is, if you don't have it, I give you the first sound. So if it's "harmonica," I say "har" to see if you have it and you're not pulling it out.

She increased, but she didn't increase significantly. So that shows she doesn't have what's called anomia, which is a word-finding problem.

Her vocabulary was average on the IQ test, and this test was a little bit lower. Sometimes that occurs with anxiety, but it also sometimes occurs with English as a second language.

Q I see. So what did that tell you about Ms. Guerrero?

A It just said that her naming vocabulary was just a little low.

Q I see. Okay.

And then I believe you talked about the grooved pegboard and hand dynamometer. I just butchered that.

What are those tests?

A The group pegboard and the hand dynamometer are motor tests, and they're not only looking at small motor ability, they're also looking at whether there's some kind of weakness throughout the brain. So group pegboard looks at dexterity and hand dynamometer looks at grip strength.

Q And how did Ms. Guerrero test in these motor and sensory tests?

A Is it possible I can look at the report one more time for that?

Q Would that refresh your recollection?

A Yes, it would.

Q Okay. If you could please turn to Exhibit CC. Take your time, and if it does refresh your recollection, let me know.

A That does refresh my recollection.

Q Thank you.

How did Ms. Guerrero test on the motor, sensory, and tactile areas?

A On the group pegboard, which measures dexterity, she was average with her right hand and below average with her left hand, so she had a left-hand weakness on that test.

Q Is that normal?

A I want average for both, so no.

Q Is it normal to see a difference between left and right hands?

A You should have a 10 percent difference. That would still put you in the average range on both. You're always 10 percent stronger on your dominant hand if there's a preferential dominant hand, and so I do expect that and that is put in the calculation, so --

Q But in this case was that larger than 10 percent?

A Yeah. She was much larger on -- her right hand was significantly faster than her left hand, so her left hand had relative weakness with that.

Q What does that indicate to you regarding Ms. Guerrero?

A Well, in motor tests you want to look for a pattern, and then you want that pattern to match up with the rest of the testing. So one test all by itself really isn't that meaningful.

So let's do the hand dynamometer.

Q Okay. Go for it.

A The hand diameter is a grip strength test to see how strong you are. She was weak in both, and there's lots of different reasons why people can be weak in both. That can come from prenatal problems. It can be inherited where whole families have week grip strengths. It can happen for a variety of reasons. And she was, again, much better with her right hand than her left hand, so we had two left-hand weaknesses.

Left hand goes to the right side of the brain, which would be associated with a lower visual-motor integration, lower nonverbal IQ. It correlates with math issues, and it can sometimes correlate with some mood issues as well.

Q I'd like to next turn to the Wisconsin Card Sorting Test.

Can you please describe what that test evaluates?

A That test actually measures what's called

executive functions. It specifically looks at reasoning, your ability to transition, your ability to benefit from feedback, as well as some issues with distractibility.

Q And how is that test administered or what activities are done?

A There are cards, and she sorts the cards, and every time she puts a card down, I tell her she's right or she's wrong, and then she is supposed to take my feedback to figure out where I want her to put the cards. Then after she gets so many right, I change it, and then she has to figure out what changed, and then she has to kind of go with me, so...

Q When you say "cards," are we talking playing cards? Do they have pictures?

A They have pictures of different geometric shapes that are in different colors and have different numbers of items on the cards.

Q So are you giving instructions on basically how they're supposed to be sorted initially and then --

A No. All I tell her is I want her to match them up based on what she thinks they match the best with, and there's some base cards she's matching to. And then I tell her every time she puts one down, I'm going to tell her she's right or wrong, and she has to take my

feedback and try to figure it out.

Q How did Ms. Guerrero test in this area?

A She did really well on that. She was absolutely fine on that test. She did well with the transition, well with reasoning. She had no problems benefiting from feedback.

Q What did that tell you about Ms. Guerrero generally?

A That generally correlates -- that's the middle frontal part of the brain. That generally correlates with people who do have the ability to understand cause and effect, understand that things go together and see patterns in life.

Q So you didn't believe that she had any difficulty with that causal effect thing based on this test?

A In a situation like that test, she would not have problems.

Q And then you also, I believe, indicated you did the Delis-Kaplan Executive Function System Test, and what does that evaluate?

A That's a large battery of executive function tests that looks at different parts of the front. There's actually about 25 tests in that test, and I pick

and choose based on the question and what I'm looking to measure.

In this case I gave a visual transitioning test, I gave a test that measures production, and I gave an impulsivity test from that.

Q And is one of those tests the Trail Making Test?

A Yes.

Q And what is a Trail Making Test?

A The Trail Making Test inadvertently looks at processing speed, but it also looks at your ability to transition. Again, it's a little bit of a visual working memory. You have to switch between two different stimuli, so you have to transition between two different ideas.

Q Can you tell me how that test is administered?

A There's four parts, and the first three are just to get you basically used to the test. They're like dot-to-dots, 1, 2, 3, A, B, C.

The only one I truly care about is the last one, and you have to go 1A, 2B, 3C. It's like a dot-to-dot. So you have to put them in sequence and switch between the two.

Q I see.

And did you also do a Verbal Fluency Test, you said?

A Yes.

Q What is a Verbal Fluency Test?

A A Verbal Fluency Test has three sections. The first section, I give you a letter and you have to come up with as many words as you can think of in one minute, but there are rules and that's what causes issues for people. You can't tell me names of people, places or numbers, and so that obstacle causes people to have trouble with production. The Category 1 doesn't have those same rules, so it's a bigger pool of information. And then the category switching, she has to switch between two categories.

Q And then the Color Word Interference Test, can you please describe what that is and what it evaluates?

A That also has four sections. The first two sections are just to get you accustomed to the task; the last two are the ones I care about. It's basically a test called the Stroop Test. It's the word "blue" written in red ink, and you have to tell me the color of the ink. On the harder inhibition switching one, if it's

in a box, you have to read the word. If it's not in the box, you have to tell me the color of the word.

Q And then the Conners Continuance Performance Test III, what's that evaluating? How is it administered?

A That's one of the only tests that she does independently. It's actually on a computer, and she has to just hit a key every time she sees a letter unless it's an X. She's not supposed to hit the key with the X.

It's actually in the hallway on purpose because it's supposed to mimic a real-life situation as much as my office can mimic a real-life situation, so it's in the hallway where people walk by.

Q And how did Ms. Guerrero test on the Trail Making Test, the Verbal Fluency Test, the color --

Well, let's start with the Trail Making Test. How did she test on that?

A She did fine on the Trail Making Test. She didn't have any trouble with transitions.

Q What did that indicate to you about Ms. Guerrero?

A Again, she always did much better with visual material on that, so she did okay with switching between information.

Q And how did she test on the Verbal Fluency Test?

A She did well on that. That test is interesting. It tends to correlate with people who can produce things. People who do poorly on that test have a very difficult time continuing to do tasks when there's some kind of obstacle, and she did fine on that test.

Q And when you talk about "produce things," what do you mean by "produce"?

A It correlates really highly with people who can kind of keep working and sustaining their efforts in tasks in life. A good example is for people who are in school, they're the kind of person that they get a math question they don't know, they stop working. Or they stop working; they have a job and they stop working because they can't get to work and they just give it up.

Q And Ms. Guerrero did well in that area, you said?

A Yes, she did.

Q The Color Word Interference Test, how did Ms. Guerrero test in that area?

A She did well in that as well.

Q And what did that indicate to you about Ms. Guerrero?

A That she did not have -- at least in the nonemotional sense, she didn't have issues with impulsivity or inhibition on that test.

Q When would you see issues with impulsivity in people?

A Almost everybody who sees me has impulsivity.

Q Would that relate possibly to drug or alcohol abuse issues, or no?

A People who are impulsive tend to go towards drug and alcohol use. So you can go the opposite direction; people who use drugs can be much more impulsive. But there's a lot of different reasons why people are impulsive: ADHD, mental health issues. Impulsivity comes with a lot of different problems and can create a lot of difficulties with people's lives.

Q And Ms. Guerrero did not have impulsivity?

A Not on that test.

Q Thank you.

And then the Conners Continuous Performance Test, how did Ms. Guerrero test in that area?

A She did have a problem on that test. She had -- she had -- she matched up with a group of attention problems. That was the only test she did independently, and she had a hard time sustaining on that

test.

Q And when you say she did it independently, what do you mean by that?

A On all the other tests I'm in front of her, kind of encouraging her and, you know, giving her feedback, and on that test she doesn't have that. It's basically 15 minutes of her being completely at the end of the hall without me.

Q And what did that indicate to you regarding Ms. Guerrero?

A Well, that can be indicative of focus issues. There are other things that can interfere with focus. As I mentioned in the report, that can create that kind of profile as well.

Q And then I think the final test that you did was the Personality Assessment Inventory, I believe it's called, and can you tell the Court how that is done?

A That is a questionnaire. Many people are much more familiar with the Minnesota Multiphasic Personality Inventory. It's a shorter version which I typically use in my practice because my clients typically can't do that long MMPI, and it basically measures -- it's a general personality assessment looking at all sorts of different areas of personality.

Q How is it administered?

A It's a questionnaire she does independently, so --

Q So it's read by a person; they fill out the information?

A Yes. So she would read it herself and she would fill out the information. She was allowed to ask questions.

Q And did Ms. Guerrero ask you any questions?

A She asked a large amount of questions.

Q And is that indicative of anything to you, asking those questions?

A It did seem anxiety based. She was very worried about how she was going to present, so she wanted to make sure she was being honest.

Q And how did Ms. Guerrero test in this area?

A She -- on the personality questionnaire, consistent with her interview, she reported quite a bit of anxiety, some phobias, some fears, some past traumatic events and things like that. So she definitely -- she did a good job validity-wise on the test, but she definitely was pretty consistent with interview.

Q And it seems as if this test is broken down into validity and main scales and subscales.

Can you describe what the validity scales are?

A The validity scales are looking to see whether a person -- it basically has questions in there to make sure you're paying attention, and then it also has questions in there that most people don't answer in a certain direction, to make sure that you're not answering the bizarre or idiosyncratic -- in a weird way and so that you're reading it. And in that sense it makes sure that you're not being odd or if you have a good reading level.

It also answers whether you answered too positively or too negatively. Some people will be defensive, especially in this situation, and some people will be overly positive, and sometimes, for different reasons, some people will be overly negative.

Q And how did Ms. Guerrero test on the validity scales?

A Can I just glance?

Q If review of your report will refresh your recollection, yes.

A Thanks.

Q And, again, that's Charlie Charlie.

THE COURT: Do you have any objection? This

is admitted, so if you need to review your report, just say you're going to do that and what you're reviewing.

THE WITNESS: Thank you.

THE COURT: Because it's admitted, so there's no reason why she shouldn't be able to --

THE WITNESS: It's hard to memorize the whole thing.

THE COURT: It's hard for me to memorize where I'm at.

THE WITNESS: Okay. That refreshed my recollection.

BY MS. ELCANO:

Q Thank you.

How did Ms. Guerrero score on the validity scale?

A She did very well on the validity section. There was no indications that the report was invalid in any manner.

Q And what about the main scale, what does that look at?

A The main scales, there are actually a large number of main scales looking at different ones. I reported ones that are significant in her -- on hers, which were anxiety based.

Q And the subscales?

A Subscales kind of explain why they're having problems. For example, the anxiety scale has three different subscales. People can be anxious because -- in a physiological or body manner, people can feel anxiety and people can think anxiety, and the subscales break them up into those sections.

Q And was any applicable to Ms. Guerrero?

A Can I refresh my memory again? Sorry.

Q Yes.

A I thought I had that one down.

She did -- that refreshed my recollection.

Q And what area applied to Ms. Guerrero?

A She was elevated on phobias and fears. She has a very high sense of fear and phobia that kind of went into that.

If you look at the individual questions, some things are subclinical. She also had indications of different trauma situations as well.

Q And what did this tell you, this evaluation of the Personality Assessment Inventory as to Ms. Guerrero?

A Secondly, there was a second part where it talked about her view of her interpersonal relationships,

and she felt she was very warm and friendly, which is how she presented in interview.

Q I'm sorry. It is or is not?

A It is how she presented in interview.

And she also talked and the way she answered the questions is she's a person who put a high value on harmony, so she tends to avoid conflict even in the face of the times that she should have conflict, And so she might give in to people based on the fact she wants life to be harmonious. So it did help.

Now, sometimes it's very different than interview and sometimes it matches up with interview. In this case it matched up very much so with interview.

Q So what did that tell you in regards to Ms. Guerrero?

A That she was consistent in how she was presenting and reporting.

MS. ELCANO: The Court's indulgence. I apologize.

BY MS. ELCANO:

Q So what summary or diagnoses did you make based upon all of this information as to Ms. Guerrero?

A Ms. Guerrero had three different diagnoses that technically fall under the anxiety. I gave her

generalized anxiety with history of panic attacks, I gave her obsessive-compulsive disorder, and I gave her post-traumatic stress disorder based on her past traumatic experiences. Whenever you have those three, those tend to kind of marry together because they're all kind of anxious-based diagnoses.

In addition to that, I gave her attention deficit -- attention hyperactivity -- attention deficit hyperactivity disorder, inattentive presentation, which means she doesn't have the hyperactivity piece. She has mostly the inattentive section.

She did present that way on the testing in the sense that she was a little bit disorganized and she had trouble with that one test, and sometimes she can be a little scattered. Now, I do think that was secondary to anxiety, that if the anxiety was clean, then you might not have as much focus issue. So I gave it to her, but I lowered it down, and I put it as very mild on that scale.

Q And --

A Oh, and I gave one more diagnosis. Sorry.

Dependent personality disorder was my last diagnosis. Dependent personality disorder is a person who relies on other people and fears rejection and wants harmony and wants other people to make decisions.

Q So a dependent personality disorder is a personality disorder as characterized in the old -- I'm not asking the question right, sorry -- the old diagnosis scale that was used before?

MR. ELKINS: Judge, I would object to the reference to the DSM. It's no longer used.

MS. ELCANO: I was trying to clarify -- I think that there was some confusion as to whether or not there was a personality disorder made based on trial statements, and I'm trying to clarify that the old DSM index is different than the new DSM index, and they are categorized differently.

THE COURT: What I gain from all of this is she's relatively normal except she's anxious and she lacks harmony.

THE WITNESS: Yes.

BY MS. ELCANO:

Q Was post-traumatic stress disorder at all an issue?

A Yes.

Q Was there a depression diagnosis at all here?

A She did not indicate issues with depression. She does have a little bit of a neuropsych profile that could go that way, but there was no history reported to

me of significant depression, and she didn't present as depressed at that time.

Q I see.

And the Court's indulgence.

You testified as to the reason why Ms. Guerrero was referred to you based on what Social Services indicated and to determine if there was some sort of an issue related to understanding tasks and whatnot.

What was your conclusion as to evaluating that particular question?

A I do believe she can understand tasks. She had average intelligence. She definitely could process information.

It would behoove Social Services to present in a better way because she sometimes has some trouble with verbal instructions, including some trouble with focus and some issues processing verbal, but she definitely -- once it's processed, she definitely can understand in an average manner.

Q When you say "present it in a better way," what do you mean by that?

A Everybody has strengths and weaknesses on how they process information. If you were to walk by

Ms. Guerrero and just give her verbal information once, you're taking a little bit of a chance that maybe all that information doesn't get processed. So she would do better if you had it in writing or you did some type of demonstration.

Q Okay. You also talked about Ms. Guerrero's dependency issues. Can you go into those a little bit more?

A Yes. Ms. Guerrero, in her -- when she reported her history and her life, she tends to be based on the person that -- her life centers around the person that's around her and kind of structure in her life. If we even go back to when she was in foster care, she reported she did very, very well at that last foster care she was at because that apparently really structured her life, and so she felt good, she did well, she went to school. Then Social Services returned her to her mom, and her mom was not that same person, her mom was more chaotic, and then she had more difficulty because of that.

Then she reported that she had different boyfriends, significant others, and her life was kind of based on them making decisions, them doing things, and her life was chaotic based on whether they were chaotic.

Q So it would be fair to say that Ms. Guerrero is impacted by her environment?

A Yes.

Q What recommendations did you make given this diagnosis?

A I definitely recommended therapy. I felt good strong therapy to help guide her and help her learn to be independent in her decision-making, because she does have good intelligence and she is capable of making decisions.

I also suggested therapy might help her deal with her anxiety systems as well as her post-traumatic stress disorder symptoms as well as deal with her past, and they might also help her provide a better structure so that she can, you know, do the things that Social Services wants her to do.

In addition to that, I suggested she might seek a psychiatry evaluation to see if the medication -- the treatment of choice for anxiety is therapy, but you can also do therapy and medication, and so I referred her to a psychiatrist as well.

I had also made some suggestions on how to help her with her case plan and processing of information, as well as her children. I gave her a

suggestion that she might get some structure for her children because several of her children had some special needs, and there's some agencies out there that can help you with that.

Q Was dialectical behavioral therapy recommended?

A I'll have to refresh my memory again. Sorry. My memory is refreshed.

Q Did you recommend dialectical behavorial therapy?

A I did. I traditionally do with anxiety disorders.

Q What is dialectical behavioral therapy?

A It is behavioral therapy that is also more educational based. They tend to focus on relationships, and they deal with things like fears of abandonment and things like that, and for personality disorders it is -- the research suggests it is the most appropriate form of therapy for that disorder.

Q When you indicated or recommended that Ms. Guerrero undergo therapy, does that have to be with a psychologist?

A You can do a psychologist, you can do a marriage and family therapist, or you can do a social

worker.

Q And any of those individuals would have been beneficial, in your opinion, for Ms. Guerrero to engage in therapy with?

A Yes. If they were appropriate for her issues.

Q And could, in your opinion, Ms. Guerrero's diagnoses have been addressed by just therapy?

A The research does suggest you can tackle these disorders with therapy only. It does take longer, and it takes a longer time to get resolution as well as to see any kind of effect, so yes.

Q In your opinion, if Ms. Guerrero had engaged in therapy, would she likely have been able to overcome these issues?

A If she had fully engaged in therapy and it was an appropriate therapist, I would be hopeful.

Q To your knowledge, did Ms. Guerrero engage in therapy?

MR. ELKINS: Objection.

THE COURT: It's just to her knowledge.

Yes or no?

THE WITNESS: I have no idea.

/////

BY MS. ELCANO:

Q If treatment were obtained and consistently engaged in, would Ms. Guerrero have been able to effectively -- pardon me, let me --

Did Ms. Guerrero receive a copy of this report?

A Yes.

Q And in your report did you provide phone numbers as well as locations where Ms. Guerrero could obtain the psychiatric evaluations?

A I did provide the agencies and the phone numbers.

Q Did you do the same for where Ms. Guerrero could obtain therapy?

A I believe -- I don't believe -- I don't believe I did. I'll have to look again. Sorry.

Q If you could look. Thank you.

A That refreshes my memory.

Q And did you?

A I did.

Q And did you also recommend that Ms. Guerrero possibly see an epi- --

A Epitologist.

Q Thank you.

A Yes.

Q And did you provide a phone number for where she could do that?

A I did.

Q And did you also request that Jackie complete a Nevada PEP?

A That is called Nevada PEP, and that is not to complete a PEP. It is an agency that helps her with her children for special education and their school needs. So I suggested she contact them just to help her with that situation because that can be overwhelming for everybody.

Q And did you also provide a phone number for the Nevada PEP?

A I believe I did.

MS. ELCANO: I have no additional questions at this juncture.

Does the Court need a copy of the résumé?

THE COURT: I don't think so, no, as long as you guys have stipulated to her expertise. Sounds like she knows what she's talking about.

Go ahead.

MR. ELKINS: Thank you, Judge.

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CROSS-EXAMINATION

BY MR. ELKINS:

Q Good morning.

A Good morning.

Q Just in the interest of full disclosure, we've met before, have we not?

A Yes.

Q I was present in your office when you reviewed the results of your evaluation with my client?

A Yes.

Q Dr. Aberasturi, is Jackie Guerrero's anxiety imaginary?

A No.

Q Would you say that it's an excuse or a crutch?

A No.

Q In fact, you determined, did you not, that it's a condition of long standing; is that right?

A Yes.

Q That she suffers from an anxiety disorder, general anxiety disorder with panic attacks?

A Yes.

Q And by the way, you can open the exhibit book to your report and leave it open since -- I don't think

anybody objects because it's in evidence.

THE COURT: That's fine. Just leave it open if you want.

THE WITNESS: If I need it, I'll pull it out. By now I think I've got it memorized.

BY MR. ELKINS:

Q Okay. So as I understand it, among your conclusions is that Ms. Guerrero sometimes has difficulty organizing complex tasks; is that correct?

A Yes.

Q Do you ever do evaluations to determine if people are employable?

A I would say that I do evaluation -- I don't have that direct question. I have questions on whether people are eligible for disability, which is kind of the opposing side of that, so...

Q Well, can you just explain that a little bit more to the Court? How do you do that?

A Frequently, if somebody comes to me and their question is whether they're going to be eligible for services, such as SSI, SSD, whatever you want to call it, I will do, based on what kind of questions they're coming to me with and what type of symptoms they're coming to me with, I'll do a thorough neuropsych eval to see whether

there are issues that are inherent in that person that might make them eligible for their services or not eligible for those services.

If I do feel like they are work-ready, I do recommend different services to try to get them to work.

Q The evaluations you do for work readiness, is it similar to what you did with Ms. Guerrero?

A The bend of the recommendations would probably have been different, so, again, it also depends on what the client presents with.

Q So in terms of the data, though, and the testing, would that have been essentially the same?

A In this case they would have been very similar.

Q Okay.

A There might have been some life skills testing on there that I don't have on this one.

Q So could you conclude, based upon the data that you took here, whether or not Ms. Guerrero would be employable?

MS. ELCANO: Objection. That's outside the scope of direct.

THE COURT: He's just asking if she could.

THE WITNESS: I could.

BY MR. ELKINS:

Q Could you determine whether you would recommend that she qualify for SSI?

A I could.

Q Given her profile, would you recommend her for Social Security Insurance?

A I would have recommended her for Social Security Insurance while she was seeking treatment.

Q In fact, part of the history was a story about Motel 6.

Do you remember that?

A Yes.

Q Now, Ms. Guerrero had told you, I think, that she had a history of employment at Motel 6 in Arizona.

Do you remember that?

A I do.

Q For like eight months, I think?

A Yes. And then she moved.

Q Right. And then I believe she told you she was working at Motel 6 here in Reno.

A Yes.

Q And something occurred.

Do you recall what she said?

A She said she had a panic attack when she went

to work.

Q Do you recall the circumstances?

A I don't recall the circumstances.

Q Would that be consistent with her profile, according to your testing?

A Yes.

Q And can you explain how that would work, in other words, just dynamically how a panic attack would interfere with your ability to continue working?

A Panic attacks are brief episodes where you feel like you're going to die. Frequently you have heart palpitations, you can't breathe, you can't move. Frequently you get kind of frozen, have a hard time moving on. They're very exhausting. So that definitely could interfere with a person's ability to go to work, yes.

Q You stated, I think, more than once in your evaluation that Ms. Guerrero needs structure; is that correct?

A She does better with structure.

Q Okay. So is it also true that you found she relies on other people to help her with structure?

A Yes.

Q And is that what you mean by "dependent"?

A Yes.

Q So that would include a significant other, presumably?

A Yes.

Q And when that is taken away from Ms. Guerrero, according to your evaluation, what happens?

A Based on her history, she seeks another person to rely on.

Q If she doesn't have a person, then what happens?

A Based on the history she told me, I can't think of an episode she didn't.

Q But you're a doctor, obviously. You've done an evaluation. What would you predict if she didn't have someone to assist her with structure?

MS. ELCANO: Objection. Calls for speculation.

THE COURT: She's an expert, so objection overruled.

THE WITNESS: Based on her testing, I think at first she would be really anxious, and so she might have some anxiety and might have some problems with her decision-making. However, I think if she could get past that, I do feel like she has the ability to stand on her

own two feet and make her own decisions.

BY MR. ELKINS:

Q So let's talk about her strengths.

Nothing wrong with her intelligence?

A No. Her intelligence was average.

Q Would you say she has a mental illness?

A I would say she has an emotional disability with the anxiety disorder.

Q But does that qualify as a major mental illness?

MS. ELCANO: Objection. What do we mean by "mental illness"?

THE COURT: I tend to agree.

MR. ELKINS: I'll withdraw the question, Judge.

BY MR. ELKINS:

Q But does it render her unable to function, her anxiety disorder?

A Her anxiety disorder has proven in the past that she's had difficulty functioning. It is a treatable disorder.

Q Okay. Is it fair to say that in an environment that she controls that she'll do better?

A I would say she would have to learn how to

control the situation because, based on what she told me, she didn't have situations where she controlled them well.

Q Did you ask her, for example, about managing her children when they were living with her?

A No.

Q I'm just curious. This was a referral by Social Services. You knew the children were in foster care.

Is there any reason that you didn't go into that area?

A I'm not parental capacity. I don't make judgments in any sense of the word on whether she should or shouldn't be a parent, so I don't go into the parenting aspects.

Q Is there anything that you saw in your evaluation that would prevent her from parenting?

A Again, I'm not parental capacity. I never witnessed her with her children, so...

THE COURT: Parental what? Parental capacity?

THE WITNESS: Parental capacity.

THE COURT: I didn't -- okay.

/////

BY MR. ELKINS:

Q I'll move on.

Can you describe for the Court what DBT behavior is?

A Dialectical behavioral therapy.

MS. ELCANO: Objection. Asked and answered. She already provided this information.

THE COURT: He gets to ask again. Go ahead. Objection is overruled.

BY MR. ELKINS:

Q Yes, please. And if you could just answer it in some detail so the judge has an idea of what's required of a person engaging in dialectical behavioral therapy.

A Dialectical behavioral therapy is behavioral therapy that has an educational component to it. It frequently focuses on relationships and fear of abandonment and kind of being more independent and standing on your own two feet. You can do it in independent individual therapy. You can also do it with individual and group therapy. There's often educational components where you read things and respond to them. It's a little more confrontive than traditional therapy as well.

Q A person who engages in dialectical behavioral therapy, do they need special education?

A A person who administers?

Q Yes.

A They need to be trained in that, yes.

Q And is there a special licensing for that?

A Not that I know of that. I believe you just do training.

Q And can you tell me, are you familiar with the training?

A Yes.

Q And can you just tell me how much training, over what period of time, and just generally without, you know -- not a lecture necessarily, but how much time and effort goes into that?

A It seems to me the local one that does the training for that, you go and you meet several times throughout the year for educational. It seems like it's several weekends and that they do kind of educational parts of it, and then they do some training, and then they do some supervision with it. The one that I am aware of that kind of hangs out in the Reno-Las Vegas area.

Q Okay. So is it fair to say that not every

social worker, therapist is qualified to do dialectical behavioral therapy?

A That would be true.

Q Okay. You testified that Ms. Guerrero's anxiety could be treated with medication; correct?

A Therapy and medication.

Q But you did say medication?

A Yes.

Q And I believe you testified on direct that while therapy ultimately could reach the goal, that it would be quicker with medication; is that right?

A Typically.

Q What kind of medication?

A I'm not a medical doctor.

Q So you're not familiar with what kinds of medication are administered for anxiety?

A I am, but I don't prescribe medications.

Q I'm not asking you to prescribe. I'm just asking you to describe what medications would be appropriate.

MS. ELCANO: Objection. She's not a medical doctor and can't say what kind of medication is appropriate. I think she could answer as to her knowledge of medications which have been provided

previously for anxiety.

THE COURT: Have her do that. That's fine.

MR. ELKINS: I'm happy with that. I'll rephrase the question.

BY MR. ELKINS:

Q In your experience -- and let's talk about your experience for a minute.

How long have you been a doctor of neuropsychology?

A Since -- I think it's seven years.

Q And how many patients have you seen in that time; would you say?

A A lot. A lot, a lot. Hundreds, maybe thousands.

Q And how many of those patients have been administered medication for anxiety?

A For anxiety?

Q Yes.

A Probably a large percentage.

Q Okay. And what medications generally are prescribed?

A Well, the better ones get an SNRI, serotonin-neuro- -- norepinephrine reuptake inhibitor, or an SSRI to use as a maintenance medication to help with

anxiety.

Q Can you give me some of those brand names?

A Celexa, Lexapro, Effexor, Zoloft, Prozac, Prilosec, those type of medications. Some doctors will prescribe benzodiazepines at times.

Q And can we talk just a little bit more about DBT, dialectical behavioral therapy? What kind of commitment does it require on the part of the patient?

A The patient definitely has to participate in therapy, has to go, and then he has to engage in the process. They have to do -- frequently there's homework and they have to do homework. I'm really happy if I get 80 percent of homework.

Q What does the homework consist of?

A Sometimes there's tasks they have to do. Sometimes there's reading they have to do. Sometimes they have to try different skills out on different people and report back on how it goes.

Q So you said apparently you're trained to do dialectical behavioral therapy?

A No, I am not.

Q I'm sorry. I thought I heard you say that.

And so how many hours a week would you say a patient who is doing this would be required to devote to

that?

MS. ELCANO: Objection. She's just said she's not trained in this area. Asking her about it, I think it's outside the scope.

MR. ELKINS: Let me rephrase the question.

BY MR. ELKINS:

Q Although you're not trained yourself in dialectical behavioral therapy, do you work with others who do that?

A I do.

Q Are you generally familiar with the practice?

A I am.

Q Okay. Do you know how much time commitment it requires on the part of a patient?

A That also depends on where you go for it because different people have different philosophies. Traditionally, it's at least two to three hours a week of therapy. Traditionally, there's an individual and a group. Sometimes the group is two hours. I believe NNAMHS runs it where you do like three hours is my understanding.

Q Okay. So is it fair to say that, compared to other therapies, it's labor intensive by the patient?

A Yes.

Q So when you said in your testimony an appropriate therapist, presumably you meant someone who's trained in DBT?

A And I also like the client to be comfortable with that person. Not every client matches up with every therapist, and so I do feel that that's a part of things.

Q By the way, who paid for the evaluation?

A I believe it was paid for through the grant through Children's Cabinet, which is technically through Social Services, but I'm not sure how that money works. I know the checks come from Children's Cabinet.

Q Okay. That answers my question.

Initially when you were approached to do this evaluation, were you asked to do it through Amerigroup; do you recall?

A I don't take Amerigroup, so if somebody called and said that, I'd say no, and I don't recall that happening.

THE COURT: Why don't people take Amerigroup? Is that a problem or --

THE WITNESS: They don't like to pay.

THE COURT: And this is the government, the federal government?

THE WITNESS: There are three Medicaids,

there's Fee for Service, HPN, and Amerigroup, and Fee for Service is by far the best. They still pay a little, but they pay most of the time. HPN, I took -- I took eight clients; I got paid on one. Amerigroup won't actually talk to me about being on their panel.

THE COURT: How do people end up with Amerigroup versus one of the others?

THE WITNESS: My understanding is, when you walk up to get your Medicaid, they give you a list and they say, "Pick one," and Amerigroup is first, and that frequently adults are on either Amerigroup or HPN.

Fee for Service, you have to live rurally, outside of Reno, Carson City, or you have to have a significant emotional disorder. So it's tricky. People don't know it. They think they're getting Medicaid.

THE COURT: I don't think anybody knows anything about insurance. At least when I tried to sign up for Medicare, Jesus, how does anybody understand this stuff?

THE WITNESS: They have whole classes on how to do Medicare.

THE COURT: Where do you take the class at?

THE WITNESS: There's one down at the hospital that's excellent.

THE COURT: That's what I should do. I think I'm settled now, but who knows.

MR. ELKINS: Thank you, Judge.

THE COURT: I'm sorry to interrupt. That's come up --

MR. ELKINS: No, no. I'm listening very carefully, Judge.

THE COURT: So, then, very few providers will provide services if your insurance is Amerigroup?

THE WITNESS: Amerigroup is taken pretty widely, in my understanding, in Las Vegas, from when I was talking to someone in Las Vegas. The bigger places are starting to take Amerigroup, but it's really difficult to get paid from those companies. They want -- like if I forgot to put a period on something, they're just like, "You're done. No pay for you."

THE COURT: So it used to be -- I was -- this is interesting because -- not in the context of this case -- I was a welfare hearings officer for the State of California when I was in law school, and they had Medi-Cal --

THE WITNESS: They still do.

THE COURT: What you're saying is Medicaid in Nevada, there's three different companies that insure,

the ones you just mentioned?

THE WITNESS: Yes.

THE COURT: So that's comparable to what would be Medi-Cal in California?

THE WITNESS: Medi-Cal is much more similar to Fee for Service, which most people take, Fee for Service.

THE COURT: That question wasn't getting answered in my mind, so I'm allowed to ask some questions.

MR. ELKINS: I have no problem with that, Judge.

THE COURT: Go ahead.

BY MR. ELKINS:

Q So, Dr. Aberasturi, Ms. Guerrero came to your office on how many occasions?

A Four.

Q Was she on time?

A I don't recall.

Q You can look at your report if you'd like. Do you think that would refresh your memory?

A I believe she was early because she was nervous about being late. If I remember right, she was sitting in my waiting room all the time waiting for me.

Q Okay. That's fine.

A Yes, she was. I do remember that now that you bring it up.

Q Did she appear motivated?

A Oh, yes.

Q She was cooperative?

A Yes.

Q Was she hostile?

A No.

Q Given your profile and the incident at Motel 6, would you say that it would be difficult for Ms. Guerrero to maintain employment without treatment?

A Without treatment, based on how she presented in my assessments, I would say yes.

Q And that's because of her difficulty with sustained attention?

A That would be more about the anxiety issues.

Q You made specific recommendations to Social Services about how they should deal with Ms. Guerrero; is that correct?

A Yes.

Q And can you just tell me what specifically those were?

A I did recommend that Social Services make

sure, when they tell her things, they do repetition and give her written instructions or do some kind of demonstration of some sort to make sure that she fully processed the information.

Q So something like a coach?

A I do like coaches, yes.

Q What kind of coach would have been appropriate?

A Well, the social worker can often act as a coach. When they give her, like, tasks or her case plan that she must do, they can help her walk through that with her, role-play with her. That can definitely be done. So you can definitely have a therapist do that role. There's other agencies that provide workers that do that role as well. Children's Cabinet provides some roles, things like that.

Q Can you give me an example of what you were recommending concretely?

A So let's say that they wanted Ms. Guerrero to enroll her children in school. Rather than just saying, "Go, go enroll your kids in school," they could go to the website and they could show her the forms, they could talk about the address, they could talk about how she's going to get there, they could talk about what she needs

to bring with her that day, where she has that information and kind of help her gather that. If that's still problematic, they could have her bring in the packet before she goes to school to show them. That would be a good example of that.

Q Would the same thing apply to job applications?

A Yes. Yes, I would say so.

Q Okay. Did anyone from Social Services ever follow up with you to ask you what specifically you were requesting them to do?

A Follow up, you mean after the report?

Q Yes.

A I don't believe so.

Can I preface that with, I get a lot of calls and I don't recall.

Q That's fine. No, I understand.

Am I correct in your profile you did not see any evidence of aggression? Correct?

A The only incident she reported of aggression is there was some incident between her and -- I'm not sure if she was married at the time -- for domestic violence, where she said that her boyfriend person and her argue and sometimes they get a little physical.

There was also a comment about when she was under the age of 18 she had to do anger management classes because she was angry at the father of her baby's father, the father of the father.

Q And did she tell you that this person was arrested and prosecuted?

MS. ELCANO: Objection. What person?

MR. ELKINS: The person you said she was having conflict with.

THE WITNESS: I do believe the police picked them up, but I don't know if they were cited or whatnot, but I know that she mentioned that people called because they were out in the open.

BY MR. ELKINS:

Q Okay. But you didn't find her to be aggressive, right, in your profile?

A No.

Q Okay. And you didn't find her to be impulsive?

A No.

Q You found her to be empathetic?

A Yes.

Q Nurturing?

A (No audible response.)

Q Let me rephrase that.

She had the capacity for nurturance based upon her psychological profile?

A Well, I think empathetic is part of that.

I'm trying to think of a situation where people would be nurturing in my office.

Q Finally, Dr. Aberasturi, given Ms. Guerrero's profile, how would situational stressors contribute to her ability to function?

A They definitely would. She has -- what the testing shows is when things are unemotional, she has an optimal level of functioning where she has some very good strengths, but when a person gets anxious or the situation gets chaotic or disorganized, then that accentuates our problem. So she'll definitely be more anxious in those situations, which will cause her more trouble with those, which will cause her more trouble processing information. So definitely those issues will impede that problem.

Q So, for example, loss of housing --

A Yes.

Q -- would be impactful, making it more difficult for her to function?

A Yes.

MR. ELKINS: Thank you, Judge.

THE COURT: Ms. Elcano, redirect?

MS. ELCANO: Thank you, Your Honor.

THE COURT: Do we want to take a break now?

THE WITNESS: What time is it?

THE COURT: 10:30.

THE WITNESS: Do we think we're going to be done by 11:30?

MS. ELCANO: I just have a few quick questions, Your Honor.

THE COURT: Go ahead.

MS. ELCANO: Thank you.

REDIRECT EXAMINATION

BY MS. ELCANO:

Q If you could turn to page --

THE COURT: I find that I optimize what's going on in court when I'm consistent in giving breaks to the attorneys, but on occasion that doesn't happen, so that's fine.

Go ahead, Ms. Elcano.

THE WITNESS: I'm fine.

THE COURT: I'm being flip. Go ahead.

/////

BY MS. ELCANO:

Q If you could turn to page 14 of your report and the third circle indentation, is it accurate to say that you recommended therapy for Ms. Guerrero in this case; correct?

A Yes.

Q And was that individual therapy that you contemplated?

A Again, it depends on which provider you go for. Some of them will do individual and group. Some of them will do just individual.

Q And you recommended that DBT or dialectical behavioral therapy was considered?

A Yes.

Q But you didn't necessarily recommend that it was mandated in order to address these issues?

A I recommended it was a good idea.

Q Thank you.

You also referenced who paid for this evaluation. Did that in any way impact your evaluation?

A No.

Q And did the fact that Social Services presented a question to you because the children -- and that the children were in care impact in any way your

evaluation?

A No. I do go through a system with the client before they even start talking to me to explain to them that someone else is paying for this and someone else is getting this, and I very plainly state in these exact words, "Don't tell me things you don't want Social Services to know." I'm very clear on that.

So that does impact it in that sense, but I want people to be educated about the fact they're making a decision to tell me things, so...

Q And the incident reported at Motel 6, that was reported by Ms. Guerrero? You were not able to verify that incident with anybody else; correct?

A Correct.

Q And then opposing counsel referenced that he had met with you to discuss this report.

Who else was present during that discussion?

A I know Ms. Guerrero was present. I don't recall if the social worker was there or not, so...

Q And would it surprise you to find out that the social worker was there? Is it the practice that the social worker normally comes?

A I would say on cases that are from Social Services, about half the time they come. I always invite

them.

MR. ELKINS: Judge, I'm sorry. I'm prepared to stipulate there was a social worker present, and I believe it was Ms. Serriano (phonetic).

MS. ELCANO: Seronio is her name.

MR. ELKINS: Seronio. Sorry.

BY MS. ELCANO:

Q So I think you were asked a question, did Social Services call and follow up with recommendations regarding how they were supposed to communicate or you recommended the social worker communicate with Ms. Guerrero.

A After the report is the question specifically?

Q Yes.

And is it fair to say that no recommendations were specifically made to Social Services in your report on how to communicate specifically with Mom? Ms. Guerrero, I mean.

A I do have the thing about how they need to do instructions and things. I think that was specific to Social Services. And then my recommendations are basically to Social Services to help with the case plan, so...

Q Fair enough. Okay.

Would there be any reason for Social Services to follow up with you?

A If they had a question. I try to be really thorough, and I talk to social workers all the time, so I'm not going to stake my life on that I haven't talked to one, but...

Q Right.

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

THE COURT: Mr. Elkins?

MR. ELKINS: Nothing further, Judge. Thank you.

THE COURT: Is this witness excused, then?

MS. ELCANO: I will request she's excused, Your Honor.

MR. ELKINS: She's free to go.

THE COURT: You're no longer subject to any subpoenas.

We're in recess until five minutes to 11:00.

(A recess was taken.)

THE COURT: Case No. FV14-03897 in the matter of the parental rights as to the Taylor children. There's four of them named in the petition. The parties

are present with their counsel.

Ms. Elcano, your next witness.

MS. ELCANO: Amanda Buttacavoli.

AMANDA BUTTACAVOLI,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ELCANO:

Q Good morning.

A Morning.

Q Could you please state and spell your name for the court clerk?

A Amanda Buttacavoli, A-m-a-n-d-a B-u-t-t-a-c-a-v-o-l-i.

THE COURT: That's got to be one of those names you wish your family had changed when they immigrated.

THE WITNESS: Or that I kept my maiden name.

BY MS. ELCANO:

Q Ms. Buttacavoli, what is your current occupation?

A I'm a therapist.

Q And what kind of a therapist are you?
A Licensed clinical social worker.
Q And how long have you been employed in that occupation?
A Since -- licensed, since 2002.
Q Are you in private practice or are you employed by someone?
A I'm an independent contractor at Healing Minds.
Q And how long have you been employed at Healing Minds?
A Since January of 2014.
Q And where were you employed prior to that?
A Northern Nevada Medical Center on the Senior Bridges unit.
Q Can you please provide your educational background to the Court?
A I have a master's degree.
Q In?
A Social work.
Q And what typically do you do as a -- what are your job responsibilities as an independent contractor for Healing Minds?
A I assess, diagnose, and treat individuals,

families, couples and groups, providing them with therapy.

Q Do you oversee or conduct group as well as individual therapy?

A I do.

Q And as a licensed clinical social worker, what are you able to do?

A Diagnose, assess, and treat individuals, families, couples and groups who are seeking mental health or substance abuse treatment.

Q Are you familiar with dialectical behavioral therapy?

A Yes.

Q Are you certified to provide dialectical behavioral therapy?

A Yes.

Q Can you please describe the certification process?

A It was the continuing education units which licensed clinical social workers are required to do. We can choose different areas to get the certified education units. For dialectical behavioral therapy as a certification, I did an online course, which was the equivalent of two days worth of a seminar.

Q Okay. Can you please describe to the Court what dialectical behavioral therapy is?

A Dialectical behavioral therapy is an evidence-based treatment model that was developed by Marsha Linehan in order to assist individuals who, prior to dialectical behavioral therapy, had been relatively difficult to treat with quite -- with success, as it's evidence based.

It's particularly helpful for individuals diagnosed with borderline personality disorder, individuals who have some behaviors which can cause them to be somewhat treatment-resistant.

Q What does dialectical behavioral therapy involve?

A Dialectical behavioral therapy involves typically individual and group therapy, both occurring weekly. However, the group therapy is often recommended for clients to start that once a commitment has been established. Once clients are engaged and committed to attending regularly, then -- and also are expressing that the treatment is helpful and that there's benefit, then group therapy can then be initiated.

It's essentially a set of skills with four categories. There's mindfulness, interpersonal

effectiveness, emotion regulation, and distress tolerance.

So it's asked or requested, highly suggested, that clients commit to one year because there are a lot of skills to be learned in all of those categories, and the recommendation is to review all of those skills twice in the group setting and then reinforce individually with the particular skills that are helpful for that particular individual.

Q Would it be accurate to characterize some of those skills as life skills?

A Sure. I mean, unfortunately, we don't often have the opportunity to learn specific ways or healthy ways of managing stress, and we often learn by observing those around us. Not everyone has very healthy role models for how to handle upsetting life events, and so, sure, I guess they could be classified as life skills in that way.

Q With dialectical behavioral therapy, do you require individuals participating and engaging in that to take any steps outside of the therapy?

A Sure. I mean, that's one of the most difficult things about any kind of therapy in general is that, as the therapist, we are only aware of what's

happening in our office and in the groups that we're conducting. It's up to the individual to take what is learned and apply it in between the sessions.

Q Have you had an occasion to become familiar with Jackie Guerrero?

A Yes.

Q And in what capacity were you involved with Ms. Guerrero?

A As her therapist.

Q And when did you first meet Ms. Guerrero?

A June 10th of 2015.

Q Who referred Ms. Guerrero to you?

A She reported that Child Protective Services had referred her for treatment.

Q Do you know what type of treatment was -- Ms. Guerrero was referred to you for?

A She was referred for dialectical behavioral therapy.

Q Did you complete an evaluation when Ms. Guerrero was first referred to you?

A Yes.

Q And can you tell me what that evaluation involves?

A It's a face-to-face assessment, asking

questions. It's a psychosocial assessment, asking the client a variety of different questions about their life up to now, and particularly focusing on their reason for seeking treatment now and their current presentation of symptoms.

Q What were your diagnoses as to Ms. Guerrero?

A She was diagnosed with a mood disorder, otherwise specified, as well as borderline personality disorder.

Q And what was the basis for the mood disorder?

A Mood disorder, because there was some evidence in her reporting of some depressed mood that did not meet full criteria for a major depressive disorder. There wasn't enough severity of symptoms and length of time, and it wasn't clear as to whether it was situational, which is understandable, versus true clinical depression. Therefore, I didn't want to completely rule that out, so making sure to continue to assess her level of depression as treatment went on.

Q What was the basis for the borderline personality disorder?

A She met criteria based on five different factors: A fear of abandonment; difficulty in interpersonal relationships; changing emotionality; as

well as reported feelings of emptiness and transient disconnectedness.

MR. ELKINS: I'm sorry. I didn't hear that last one.

THE WITNESS: Transient disconnectedness.

BY MS. ELCANO:

Q What is transient disconnectedness?

A You can think about it -- most human beings desire feeling connected with others.

THE COURT: Do we have any witnesses in the room?

MS. ELCANO: I don't recognize --

MR. ELKINS: I think these are social worker interns from my office, Judge, and attorneys from my office and the social worker from my office.

THE COURT: Just making sure. Go ahead.

MR. ELKINS: None of whom will be testifying.

BY MS. ELCANO:

Q I'm sorry. I think we were talking about transient disconnectedness.

A Yes. Most human beings desire connection, and often in borderline personality disorder, individuals desire connection from others but report a feeling of not having a true connection with others.

There also can be periods of times where individuals with borderline personality disorder are not in the moment that they're in, they're distracted by various thoughts and feelings and are not in touch with exactly what's happening in the moment.

Q Were any other conclusions or diagnoses made?

A Not at that time, no.

Q Okay. And what were these diagnoses based on?

A Based on the only thing that I can base it on, the report of the client.

Q And was anxiety discussed?

A Yes. Ms. Guerrero did report that she felt that she had struggled with anxiety. She stated that she had been feeling anxious over the past two years since her children were removed.

She described -- when I asked her to describe her symptoms of anxiety, they weren't symptoms that one would typically associate with an anxiety disorder or a panic disorder. Therefore, I didn't diagnose her with any anxiety-related diagnoses.

Q And what were the symptoms that Ms. Guerrero provided?

A She talked about uncontrollable crying,

yelling, and pulling her own hair.

Q Were you aware that Ms. Guerrero had received an evaluation from Dr. Suzanne Aberasturi?

A No.

Q Did Ms. Guerrero at any time inform you of that?

A No. The only professional she mentioned to me was Dori Orlich.

Q Thank you.

So how many times did you see Ms. Guerrero?

A Three.

Q And I'm sorry. When was the first time you saw her? I think you said that, but I apologize.

A June 10, 2015.

Q And when was the second time?

A I don't -- June 19th, I believe. And then the last time, I know, was June 25th. I did submit the notes with the dates on them.

MR. ELKINS: Judge, I'd like the witness to just answer the questions that she's asked, please.

THE COURT: I didn't notice she didn't.

MR. ELKINS: I just don't want the witness to go beyond the scope of the question.

/////

BY MS. ELCANO:

Q Would review of the progress reports that were provided to opposing counsel refresh your recollection as to the dates that you saw Ms. Guerrero?

A Yes.

MS. ELCANO: Your Honor, I have copies of three progress reports that were provided to me by opposing counsel. They are not an exhibit. May I approach?

THE COURT: Mark them for purposes of identification.

MR. ELKINS: Judge, they are -- they are Respondent's 6, I believe.

Is that what you're referring to? No? I'm sorry. May I see what you're marking?

Thank you very much.

THE CLERK: Marked as one?

MS. ELCANO: Yes, that's fine with me.

Do you have an objection to having them marked as one exhibit?

MR. ELKINS: No.

THE COURT: Are we going to admit them or just mark them for purposes of identification?

MR. ELKINS: I have no objection to them

being admitted.

THE COURT: What's the number on them?

THE CLERK: It will be Petitioner's Exhibit HH.

THE COURT: HH is admitted.

(Petitioner's Exhibit HH was marked and admitted.)

MS. ELCANO: Thank you.

May I approach the witness, Your Honor?

THE COURT: Go ahead.

MS. ELCANO: Thank you.

BY MS. ELCANO:

Q If you could review the documents and let me know if these refresh your recollection.

Thank you.

So what were the three dates you saw Ms. Guerrero?

A The 10th of June, the 19th, and the 25th.

Q And the first time you saw Ms. Guerrero on June 10th, was that just your evaluation?

A Initial assessment, that's correct.

Q And --

MR. ELKINS: Excuse me for interrupting you. I don't have HH in my binder.

MS. ELCANO: It wasn't one that was marked. That's why we marked it, because --

MR. ELKINS: I have HH. Do you have another copy of it?

MS. ELCANO: No. This is what you provided to me.

MR. ELKINS: Okay. I didn't bring it to court.

MS. ELCANO: I can make a copy of it at lunch.

MR. ELKINS: Well, Judge, can I get a copy because I don't have a copy here? I didn't --

THE COURT: How long will it take to make a copy?

THE CLERK: I don't know where the copy machine is over here.

MR. ELKINS: I think it's two or three pages.

THE COURT: Why don't you walk back and see if they can copy it.

MR. ELKINS: Sorry, Judge.

THE WITNESS: I have a copy to save time.

MR. ELKINS: As long as I can look at it.

THE WITNESS: You can keep it.

MR. ELKINS: Now I feel much better. Thanks.

THE COURT: That's what we try to achieve, that counsel feel better.

MR. ELKINS: Thank you, Judge.

BY MS. ELCANO:

Q The June 19th date, 2015, in what capacity were you meeting with Ms. Guerrero?

A That was an individual therapy session.

Q And the June 25, 2015, date?

A Individual therapy session.

Q Thank you.

So based on your evaluation of Ms. Guerrero, what treatment did you recommend?

A Individual therapy with continued assessment of her ability to commit to ongoing therapy and, thus, starting group therapy.

Q Would that have included the dialectical behavioral therapy?

A Right. The individual therapy was using the dialectical behavioral therapy model.

Q Thank you.

A But we were waiting to initiate to make certain that that was the method of therapy that she found most helpful.

Q And how often did you recommend that

Ms. Guerrero engage in individual therapy with you?

A Once a week.

Q And how many times or appointments were scheduled with Ms. Guerrero?

A There was an initial session that was scheduled prior to June 10th that she didn't show for. She did phone the front office and reschedule that appointment. She then came on the 10th. There were two other sessions that were missed following the June 25th appointment. It is our policy at Healing Minds to only allow one no call/no show appointment.

Attendance was discussed with Ms. Guerrero following a missed appointment, and then I'm unclear as to what happened following June 25th.

Q So you reference two appointments after June 25th that Ms. Guerrero did not attend.

Did she call and cancel and reschedule, or were they no call/no shows?

A They were no call/no shows.

Q Thank you.

And was that concerning to you --

A Yes.

Q -- that she didn't show?

Why?

A It's always concerning when any patient misses an appointment, concerning because she had mentioned that she was coming to therapy in order to try to reunify with her children, and it was certainly concerning considering what potential consequences there could be for her not following through.

Q How would you describe or characterize Ms. Guerrero's level of engagement with you?

A Ms. Guerrero was very engaged during individual sessions. She was punctual, she was respectful, she was appropriate in all of the sessions. She took notes, she asked appropriate questions, she asked for clarification if there were things she didn't understand. She demonstrated, you know, complete engagement and willingness to participate fully.

Q Do you know why Ms. Guerrero no longer showed up to her appointments?

A No. She had mentioned in one session, which I referenced in a progress note, she was looking for work, so -- but, you know, I never was given information as to why she didn't come.

Q So was Ms. Guerrero effectively -- her case closed with your office or discontinued or --

A Right. When people don't appear for a period

of time or have consecutive missed appointments, the office reaches out, and then if no word is heard, then they're essentially discharged from services.

Q At the time Ms. Guerrero was discharged, did you believe that Ms. Guerrero still needed therapy?

A Sure. I think that based on her behavior and engagement during the sessions, I think that she showed that she's capable of benefiting provided she can make it to the appointments.

Q During your interactions with Ms. Guerrero, did she display any cognitive delays or difficulty communicating with you?

A No.

Q To your knowledge was Ms. Guerrero employed while she was meeting with you?

A No. She told me that she did not have a job and that she was looking for work.

Q To your knowledge where did Ms. Guerrero reside?

A She told me that she lived at CAAW, the Committee to Aid Abused Women.

Q To your knowledge was Ms. Guerrero engaged in a romantic relationship?

A It was unclear to me. She mentioned being

separated from the father of her children. She stated that there was a man that was not child protective service material. She told me that he -- that her social worker told her that she felt that he was verbally abusive. It was unclear to me as to whether she was choosing to discontinue that relationship based on that feedback or if she was still involved.

Q And did Ms. Guerrero ever identify this person?

A She did not.

Q She didn't provide a first name or anything?

A No.

Q You indicated previously that you felt that therapy would be beneficial to Ms. Guerrero.

What was the basis for that?

A She definitely identified being dissatisfied with her symptoms and her ability to manage her emotions. She talked about really wanting help with that, and she was very engaged, as I said, in the sessions and believed that she would benefit from continued work in developing specific skills to manage the symptoms she was having.

Q You indicated that you did discuss the attendance policy to Ms. Guerrero with her; correct?

A Yes.

Q And did you provide, at the time Ms. Guerrero became a patient, any sort of written attendance policy to her?

A Sure. We have consents for treatment and also a policy agreement that patients sign.

Q To your knowledge did Ms. Guerrero seek treatment elsewhere?

A Following -- you mean --

Q Following discharge from your office. I apologize.

A I have no knowledge of that.

Q Thank you.

The Court's indulgence. I apologize.

MS. ELCANO: I have no further questions at this time.

THE COURT: Mr. Elkins.

MR. ELKINS: Thank you, Judge.

CROSS-EXAMINATION

BY MR. ELKINS:

Q Good morning.

A Good morning.

Q Ms. Buttacavoli, let me just briefly review your credentials.

You are a licensed social worker?

A A licensed clinical social worker.

Q Clinical social worker, okay.

And you say that you took an online course in dialectical behavioral therapy; is that correct?

A That's correct.

Q When did you take that course?

A Over a year ago.

Q So when you say "over a year ago," do you remember about when last year?

A The summer of last year.

Q Okay.

MR. ELKINS: Can you hear the floor, Judge?

THE COURT: Pardon me?

MR. ELKINS: The floor is squeaking.

BY MR. ELKINS:

Q I'm sorry.

A No problem.

Q And the online course took how long?

A They were recorded live seminar -- recorded, you know, so it's not live, it's recorded from a live seminar, so it's on your own. You can take as long as you want. All together would be a couple days.

Q Okay. And when you completed that course,

did you engage in the practice of dialectical behavioral therapy in the last 12 months?

A Yeah. What happens then -- what happened then is I began -- we have a dialectical behavioral therapy group that runs at Healing Minds, which I conducted in conjunction with another therapist that had been DBT trained for quite some time. We worked together doing the groups, and then following a period of time I began seeing individual patients as well as doing the groups.

Q So when did the groups start after you did the online seminar?

A I started in September of last year.

Q So about a year ago?

A Uh-huh.

Q And how long did you participate in the groups?

A I still do them.

Q Before you began seeing individual clients?

A How long did I facilitate groups before I started seeing --

Q Yes.

A It was a few months, probably.

Q So at the end of last year, about?

A Probably, yeah.

Q So it's really the last six months that you've been seeing individual clients for dialectical behavioral therapy; correct?

A Sure.

Q You found that Ms. Guerrero did not suffer from post-traumatic stress disorder?

A I mentioned in my assessment that she certainly experienced trauma, and there is no doubt about that, multiple traumas. She did not, however, acknowledge that she was suffering from any of the other symptoms or criteria that are required for a diagnosis of post-traumatic stress disorder.

So we can experience a trauma -- probably most everyone in this room has experienced one trauma or another -- but if we don't have reexperiencing or hypervigilance, any other symptoms that are interrupting our day-to-day life, we do not meet criteria for post-traumatic stress.

Q So the answer is you did not diagnose her with post-traumatic stress disorder?

A That is correct.

Q Can you tell me what the difference is between a dependent personality disorder and a borderline

personality disorder?

A Sure. So dependent personality disorder is a person who has often unhealthy attachment with other individuals. They don't have a lot of the same difficulty in interpersonal relationships that individuals with borderline personality disorder do. There's also not the push-pull sort of experience that individuals with borderline personality disorder display. They want connection, they fear abandonment, yet often they act in a way that is difficult to get close to them.

Q Okay. With regard to Ms. Guerrero, she told you she had been in a relationship with the father of her children for 12 years; is that correct?

A That's correct. She did state that she was separated currently.

Q That's a long-term relationship, isn't it, 12 years?

A Sure. She did state that it was on-again, off-again, fraught with domestic violence, periods of separation for him being incarcerated.

Q In other words, she told you that there had been an incident of domestic violence and he was in jail; is that correct?

A She did say that he was arrested for an

incident of domestic violence.

Q Did you take notes, by the way?

A When?

Q During your interview.

A Yes, I did.

Q Do you have your notes with you?

A I do not.

Q Okay.

A I have my assessment.

Q That's all right. I'm just asking if you have your initial notes.

Did she talk about her children?

A She did.

Q And did she speak of them, like, approvingly when she -- did she say anything bad about them?

A She didn't really describe them. She gave me their names and ages. She talked to me about when the older children were initially removed and then when the younger one was removed.

Q Is it fair to say she was upset about her children having been removed?

A She talked about feeling -- the only feelings I recall her talking about were related to the younger child and being anxious about not knowing how he was

being cared for.

Q Okay. Speaking of anxious, did you examine her for anxiety symptoms?

A I did.

Q How did you do that?

A By asking her questions.

Q Okay. And your conclusion was that she did not suffer from an anxiety disorder?

A No. I mean, you and I, we can all get anxious. I'm anxious right now, but that doesn't mean I meet criteria for an anxiety disorder.

Q That's kind of nonresponsive.

So my question is, did you find that she did not meet the criteria for an anxiety disorder?

A Yes, I did.

Q Are you familiar with Dr. Suzanne Aberasturi?

A I know her name.

Q Do you know that she's a doctor of neuropsychology?

A Yes.

Q Has anyone ever shown you an evaluation that she did of Ms. Guerrero?

A No.

Q You never had the opportunity to review it?

A No. It has never been provided to me.

Q Do you think it would have affected your evaluation of Ms. Guerrero if you had learned that Dr. Aberasturi diagnosed her with having post-traumatic stress disorder?

MS. ELCANO: Objection. Calls for speculation.

THE COURT: She can answer yes or no.

THE WITNESS: What was that? I'm sorry. Can you repeat your question?

BY MR. ELKINS:

Q Would it have affected your opinion if you had been informed that Dr. Aberasturi, a doctor of neuropsychology, diagnosed Ms. Guerrero with having post-traumatic stress disorder?

MS. ELCANO: Your Honor, I don't think she's rendered an opinion. I think she's rendered diagnoses.

MR. ELKINS: Judge, I'm not sure I understand the distinction, but I'm happy to use the word "diagnosis."

BY MR. ELKINS:

Q Would it have affected your diagnosis if you had learned that?

A No.

Q Okay. Would it have affected your diagnosis if you had learned that Dr. Aberasturi found that Ms. Guerrero suffers from a generalized anxiety disorder with panic attacks?

MS. ELCANO: Objection. Speculation.

THE COURT: Again, she can answer yes or no.

THE WITNESS: No.

BY MR. ELKINS:

Q So is it your testimony that if you had been informed that a doctor of neuropsychology had found various symptoms and diagnoses of Ms. Guerrero, that would not have had any effect on your opinion?

MS. ELCANO: Objection. Badgering the witness. These are both asked and answered.

THE COURT: She can answer the question.

THE WITNESS: Can I explain?

BY MR. ELKINS:

Q No. I'd like you to answer the question. It would not have affected your diagnosis?

A I am required to diagnose patients based on the symptoms that they're presenting to me at the time.

Q Okay.

A Patients can go to a variety of different professionals, report various symptoms and get various

diagnoses as a result, so, no, in that sense it would not.

Q Well, would you have been curious to know why a doctor of neuropsychology --

A Sure. I'm always interested in reading reports, but I still come to my own conclusions based on what the patient is presenting to me.

Q I understand. Had you been provided with that report, would it have assisted you in making your diagnosis?

A Absolutely.

Q Okay. And do you think it might have improved the quality of the diagnosis if you had had the opportunity to --

A No. I stand behind my assessment, and I believe that I provide my patients with extremely high-quality work.

MR. ELKINS: I have no further questions. Thank you.

THE COURT: Any redirect?

MS. ELCANO: I just have a few questions.

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