

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 RICHARD KILGORE,)

3 Appellant/Cross-Respondent,)

Case No.: 73977

4 vs.)

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Elizabeth A. Brown
Clerk of Supreme Court

5)
6 ELENI KILGORE,)

7 Respondent/Cross-Appellant.)
8

9 **JOINT-APPENDIX**

10 **Volume 5**

11
12 Betsy Allen, Esq.
13 Nevada Bar No. 6878
14 Attorney for Appellant
15 P.O. Box 46991
16 Las Vegas, NV 89144

Fred Page, Esq.
Nevada Bar No. 6080
Attorney for Respondent
6145 Spring Mountain Road, Suite 201
Las Vegas, NV 89146

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1 TRANS

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APR - 3 2018

Alison L. Johnson
CLERK OF COURT

COPY

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

9 RICHARD SCOTT KILGORE,)

10 Plaintiff,)

11 vs.)

12 ELENI KILGORE,)

13 Defendant.)

CASE NO. D-12-459171-D

DEPT. I

14
15 BEFORE THE HONORABLE CHERYL B. MOSS
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: EVIDENTIARY HEARING

17 MONDAY, AUGUST 15, 2016

18 APPEARANCES:

19 The Plaintiff:
For the Plaintiff:

RICHARD KILGORE
BETSY ALLEN, ESQ.
P.O. Box 46991
Las Vegas, Nevada 89114
(702) 368-9700

22 The Defendant:
For the Defendant:

ELENI KILGORE
FRED PAGE, ESQ.
6145 Spring Mountain Road, #201
Las Vegas, Nevada 89146
(702) 469-2378

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1 LAS VEGAS, NEVADA

MONDAY, AUGUST 15, 2016

2

P R O C E E D I N G S

3

(THE PROCEEDINGS BEGAN AT 13:37:57)

4

5 THE COURT: All right. We're on the record, 459171,
6 Kilgore. Counsel, your appearances and bar numbers?

7

MS. ALLEN: Your Honor, Betsy Allen, Bar Number 6878
8 on behalf of Mr. Kilgore, the Plaintiff.

9

THE COURT: Thank you.

10

MR. PAGE: Good afternoon, Your Honor, Fred Page,
11 Bar Number 6080, on behalf of the Defendant.

12

THE COURT: Okay. We have Richard here. We have
13 Eleni. Right. Who else is present in the courtroom? Just
14 family members or what?

15

MS. ALLEN: These are just, yeah, the -- yeah,
16 support.

17

THE COURT: Okay. Any objection?

18

(COUNSEL AND CLIENT CONFER BRIEFLY)

19

THE COURT: Do you want an objection?

20

MR. PAGE: I guess the guy's not a family member,
21 but as long as they're not testifying that's --

22

MS. ALLEN: No.

23

THE COURT: Exclusionary rule invoked. And that's
24 it. Okay.

1 MS. ALLEN: And prior to starting today, I just -- I
2 did want to address one issue with the Court. After we broke
3 last time, my client -- because I guess technically he's still
4 sort of in proper person. I believe I'm -- I'm just appearing
5 in -- as sort of an unbundled capacity.

6 THE COURT: Were you here before on trial?

7 MS. ALLEN: I was.

8 MR. PAGE: I thought she said --

9 THE COURT: Yeah, you were.

10 MR. PAGE: -- well, you said retained.

11 MS. ALLEN: Right. Well -- anyway, he did subpoena
12 some documents --

13 THE COURT: While he was pro per?

14 MS. ALLEN: Well, yeah, but --

15 THE COURT: Okay.

16 MS. ALLEN: -- again in between last time and this
17 time, he -- he subpoenaed some documents.

18 THE COURT: Are you unbundled for purposes of this
19 trial?

20 MS. ALLEN: Yes.

21 THE COURT: We'll note that. Okay.

22 MS. ALLEN: And I apologize if I didn't make that
23 clear last time.

24 THE COURT: Okay.

1 MS. ALLEN: I -- it's been a while since I've been
2 here, Your Honor.

3 THE COURT: Well, we don't have the minutes ready
4 for August 2nd, I don't know why but that's normal.

5 MS. ALLEN: Nonetheless, if I may, there -- I did
6 provide them to Mr. Page on Thursday, the same day that I got
7 his updated financial affidavit, and they are essentially just
8 pay stubs from Ms. -- the Defendant from --

9 THE COURT: Uh-huh (affirmative).

10 MS. ALLEN: -- from the Clark County School
11 District. And her PERS beneficiary sheet actually her PERS
12 documents the same ones that they subpoenaed of my client --
13 the only one I'm interested in is this -- is essentially the
14 PERS beneficiary sheet, I don't care about the rest of it.
15 But I did include all of it.

16 And then some printouts from Transparent Nevada.
17 And I don't recall if you recall, I asked their expert,
18 Mr. Willick, if he used Transparent Nevada, if he found it to
19 be a reputable cite for obtaining information about public
20 employee type salaries. And he indicated yes. As a result of
21 that he went into Transparent Nevada and did download those --
22 those documents.

23 So, I did provide them to Mr. Page as soon as I
24 received them. And I got a letter essentially from Mr. Page

1 saying that he refused to acknowledge service. He refused to
2 review or look at them. And -- because we were outside the
3 scope of discovery he wouldn't --

4 THE COURT: I get it.

5 MS. ALLEN: -- he won't acknowledge them. Which --

6 THE COURT: So, what I'm thinking is when you get to
7 your case in chief and you want to move for their admission,
8 you'd have to have them marked and then he can object at the
9 proper time, and we'll figure out what purpose it comes in.

10 MS. ALLEN: Okay. Thank you, Your Honor. And I
11 just -- I was just giving the Court a head's up as to what was
12 going on. And I just wanted --

13 THE COURT: You want to give us a head's up and give
14 those documents to my court clerk, just to hang onto them?

15 MS. ALLEN: May I approach?

16 THE COURT: I won't review them. Yeah. I don't
17 review anything unless it comes in.

18 MR. PAGE: The --

19 THE COURT: Okay. Any other procedural matters --

20 MR. PAGE: -- the issue that I have is being hit
21 with documents that I've had no chance to prepare for really
22 at the last minute. I don't know how many documents there
23 are, whether it's a few, whether it's a lot, but discovery did
24 close on June 22nd. We had our first day of trial on --

1 THE COURT: And we enforce the rules.

2 MR. PAGE: -- July 25th. And then we're --

3 THE COURT: Right.

4 MR. PAGE: -- we're here on a -- two days before
5 trial I'm getting documents that he subpoenaed outside the
6 discovery deadline. Now, I understand some of these documents
7 if they are what they say they are may be ultimately helpful
8 to you.

9 THE COURT: Yeah.

10 MR. PAGE: To being useful for the Court. But we
11 were in court back on July 25th, we had a piece of paper from
12 Sonya Hellwinkel to which they vociferously objected to coming
13 in --

14 THE COURT: Well, yeah, but she's appearing today.

15 MR. PAGE: Yes.

16 THE COURT: So, that's moot. We're going to have
17 her appear anyway and vouch the document. As far as her
18 recent pay stubs if they weren't available at the time during
19 discovery because they were like the pay stubs from last
20 month, I probably won't have a problem with that, because they
21 didn't exist at the time of discovery.

22 MS. ALLEN: We were --

23 THE COURT: And that's an ongoing process.

24 MS. ALLEN: -- well, I didn't get -- I didn't get --

1 yeah, and I didn't have the financial affidavit --

2 THE COURT: It should be easy.

3 MS. ALLEN: -- obviously until Thursday and so --

4 THE COURT: The PERS beneficiary, I don't know if
5 that's coming in for rebuttal purposes or for whatever purpose
6 but we're not --

7 MS. ALLEN: But here's --

8 THE COURT: -- there yet.

9 MS. ALLEN: -- here's -- the two things I -- I would
10 point out to the Court are that -- well, maybe not for
11 Mr. Page but I'm a trial lawyer and so I frequently -- and as
12 a matter of fact in the middle of a life sentence case, I've
13 received things that where I didn't receive prior to
14 impaneling a jury, and you kind of roll with it. But I
15 understand his concern. So, let me put it like this, if she
16 tells the truth on the stand, I won't need any of those
17 documents.

18 THE COURT: All right. Gotcha. Okay. And we have
19 rules that we can -- that provide us guidance. You want
20 Ms. Hellwinkel first?

21 MR. PAGE: Yes, please.

22 THE COURT: Okay.

23 MS. ALLEN: And then we continue --

24 THE COURT: And now I said video conferencing but

1 now you said phone?

2 MR. PAGE: I've -- I've spoken to Ms. Hellwinkel, I
3 spoke to the general counsel, Chris Nielsen, for PERS.

4 THE COURT: Yeah, they're on standby, that's why I'm
5 trying to push through this.

6 MR. PAGE: They've indicated that they have no video
7 capabilities available to them. They have no --

8 THE COURT: That's the government for you.

9 MR. PAGE: -- they have no laptops with webcams,
10 they have no desktops with web -- webcams.

11 THE COURT: You're kidding me?

12 MR. PAGE: All -- all we have is telephone.

13 THE COURT: Fine.

14 MR. PAGE: And I did address this back on August

15 2 --

16 THE COURT: Okay.

17 MR. PAGE: -- and Mr. Kilgore said it was -- he
18 stipulated.

19 THE COURT: This is your -- still your case in
20 chief. This will be your direct examination. We knew she was
21 going to appear, so give Johnny the phone number and we'll --
22 she's up north, right, Carson City?

23 MR. PAGE: She's in Carson City, yeah.

24 THE COURT: Give --

1 MR. PAGE: May I approach Mr. -- may I approach
2 Johnny?
3 THE COURT: Yes, you can. And we'll get her on the
4 telephone and put her on telephone conference. We'll pause on
5 Dad's cross-exam because we're going to take her. Day two.
6 Is this day two of trial?
7 THE CLERK: Yeah.
8 THE COURT: Day two of trial.
9 THE CLERK: What's the name?
10 MR. PAGE: I'm sorry?
11 THE CLERK: What's the name?
12 MR. PAGE: Sonya.
13 (CLERK PLACES CALL)
14 THE COURT: Sonya Hellwinkel. Yeah. Does she have
15 her standby general counsel with her?
16 MR. PAGE: Yes, she does.
17 THE COURT: Okay.
18 MR. PAGE: Mr. Nielsen indicated --
19 THE COURT: I figured that.
20 MR. PAGE: -- he would be present.
21 THE COURT: What's the general counsel's name?
22 MR. PAGE: Chris Nielsen.
23 THE COURT: Got it. Direct of Ms. Sonya, S-o-n-i-a
24 (sic)?

1 MR. PAGE: N-i-e-l-s-e-n I believe was --
2 THE COURT: No, I mean Sonya's first name. How do
3 you spell it?
4 MR. PAGE: Oh, Sonya, S-o-n-y-a.
5 THE COURT: It's a Y. Okay. H-e-l-l-w-i-n-k-l-e?
6 MR. PAGE: E-l.
7 THE CLERK: Please standby for Judge Moss.
8 THE COURT: She's with PERS.
9 (COURT RECESSED AT 13:44 AND RESUMED AT 13:44)
10 THE COURT: Hello?
11 (COURT RECESSED AT 13:44 AND RESUMED AT 13:44)
12 MS. HELLWINKEL: Hi.
13 THE COURT: Hi, good afternoon. Is this Sonya
14 Hellwinkel.
15 MS. HELLWINKEL: This is Sonya Hellwinkel.
16 THE COURT: Yes, this is Judge Moss in the courtroom
17 here in Las Vegas and you're calling in from Carson City; is
18 that correct?
19 MS. HELLWINKEL: I am call -- I am in Carson City,
20 Nevada, yes.
21 THE COURT: Are you in your office?
22 MS. HELLWINKEL: I am in my office.
23 THE COURT: Is your general --
24 MS. HELLWINKEL: May I put you on speaker?

1 THE COURT: Absolutely. Is your general counsel
2 with you?

3 MS. HELLWINKEL: Yes, he is.

4 THE COURT: And --

5 MS. HELLWINKEL: His name is Chris Nielsen.

6 THE COURT: Okay. Can he make his appearance, bar
7 number.

8 MS. HELLWINKEL: Hold on one -- let me put you on --
9 on speaker and then we can ask him that.

10 THE COURT: That --

11 MR. NIELSEN: Hi, good afternoon.

12 THE COURT: Yes, Mr. Nielsen, your appearance and
13 bar number and who you represent.

14 MR. NIELSEN: Okay. My name is Chris Nielsen and
15 that's C-h-r-i-s; Nielsen, N-i-e-l-s-e-n. My -- my state bar
16 number is 8206. And I am the general counsel for the Public
17 Employees Retirement System of Nevada or PERS.

18 THE COURT: Okay. It's sort of like static-y and
19 it's cutting in and out. I don't know why we don't have a
20 straight phone connection going on here. Hopefully it won't
21 be too much of a burden. Can the lawyers hear them okay?

22 MR. PAGE: Yeah, I can hear him okay.

23 THE COURT: It's sort of like he was kind of fading
24 in and out as he was spelling his name. But we'll do the best

1 we can. All right. Ms. Hellwinkel, if you could stand, raise
2 your right hand, we are recording on our video record and
3 Mr. Page will be asking you questions on direct examination.

4 MS. HELLWINKEL: Okay.

5 THE COURT: Okay.

6 THE CLERK: You do solemnly swear the testimony
7 you're about to give in this action shall be the truth, the
8 whole truth, and nothing but the truth so help you God?

9 MS. HELLWINKEL: Yes.

10 THE COURT: Okay. And you are under direct subpoena
11 from Mr. Page?

12 MR. PAGE: Ms. Hellwinkel --

13 THE COURT: Right? She's subpoenaed -- she's here
14 under subpoena?

15 MR. PAGE: She's here under the court minutes. We
16 talked about that with Ms. Hellwinkel, she asked for the
17 minutes, she said she would appear based upon you and the
18 minutes asking that she --

19 THE COURT: Okay. I just need to know. No subpoena
20 though?

21 MR. PAGE: Right.

22 THE COURT: Okay. So, she's agreed to voluntarily
23 testify.

24 MR. PAGE: Based upon reading the minutes from the

1 July 25 hearing --

2 THE COURT: Right.

3 MR. PAGE: -- she agreed to make herself available.

4 THE COURT: All right. Okay. Make sure you speak
5 directly into the microphone so she can hear you and then I'll
6 -- I'll take notes.

7 THE CLERK: Please be seated.

8 SONYA HELLWINKEL

9 called as a witness on behalf of Defendant, having been first
10 duly sworn, did testify telephonically upon her oath as
11 follows on:

12 DIRECT EXAMINATION

13 BY MR. PAGE:

14 Q Ms. Hellwinkel, can you hear me okay?

15 A Yes, I can.

16 Q What is your position with PERS?

17 A I'm the director of employer and production
18 services.

19 THE COURT: I didn't get that. Director of?

20 THE WITNESS: Employer and production services.

21 THE CLERK: Yeah, it is cutting out.

22 THE COURT: Yeah, it -- it is cutting out. I got
23 something employer something services.

24 THE WITNESS: Is this better?

1 THE COURT: We'll try.

2 THE WITNESS: Okay.

3 THE COURT: Yeah, that sounds good. Okay.

4 Employer?

5 THE WITNESS: So, my title is the director of
6 employer and production services.

7 THE COURT: And production services, okay.

8 Continue.

9 BY MR. PAGE:

10 Q As the director of employer and production services,
11 Ms. Hellwinkel, what are your job duties?

12 A My overall responsibility is to oversee the work
13 completed by the employer, production, and pension services
14 divisions of PERS. In addition, I also respond to subpoena
15 requests for records from participant accounts. I review
16 Qualified Domestic Relations Order in conjunction with our
17 legal counsel to determine if they are compliant with Chapter
18 286 and PERS policies. I also assist in the scoring and
19 presenting of positions for review by our Police and Fire
20 Committee to determine if they are eligible to participate
21 under the Police Fire Fund.

22 Q For how long have you been in that job with PERS?

23 A This September -- around mid-September will be three
24 years in this position.

1 Q Prior to do that, what did you do at PERS or if
2 you're not with PERS, what did you do?

3 A Prior to this position, I was in management
4 analysts. I was responsible for the support services division
5 of PERS.

6 Q What is your highest level of education?

7 A Some college.

8 Q Have you testified in court previously?

9 A Hold on one moment. There we go. Once.

10 Q Do you have access to the retirement benefit
11 information for PERS employees?

12 A PERS' employees or members of the system as a whole?

13 Q Members of the system as a whole?

14 A Okay. I do have access to the retirement files of
15 members of the system.

16 Q So, if we asked you questions about whether someone
17 was eligible to retire and how much their retirement benefit
18 would be, you would be the person to ask?

19 A What -- I'm sorry, what was the question?

20 Q If you were asked if someone was eligible for
21 retirement or how much their retirement benefit was going to
22 be, you would be the person to ask about that information?

23 A I could assist with that. Some things, estimate,
24 may have to be prepared in advance. But yes.

1 Q Have you reviewed the retirement benefit information
2 for Richard Kilgore in preparation for your testimony here
3 today?

4 A I reviewed the records that are on file for him.

5 Q Based upon your review of the records that are on
6 file for Mr. Kilgore, do your records indicate when
7 Mr. Kilgore commenced employment through the PERS system?

8 A Mr. Kilgore was enrolled in the system effective May
9 8th, 1989.

10 Q At the time that Mr. Kilgore enrolled, does your
11 information show if he was part of the police-fire system?

12 A He was enrolled in the police-fire fund.

13 Q Are members of police-fire able to retire with an
14 unreduced benefit after 20 years of service beginning at age
15 50 in the PERS system?

16 A Yes. Members who are in the police-fire fund with
17 20 years of police-fire service credit are eligible to retire
18 at age 50 with an unreduced benefit.

19 Q Based upon your review of the records, does
20 Mr. Kilgore have 20 years in the police-fire system?

21 A Yes.

22 Q Do your records show that when Mr. Kilgore achieved
23 the 20-year mark?

24 A I'm sorry?

1 Q Do -- do your records that you have access to
2 indicate when Mr. Kilgore reached 20 years of service in the
3 PERS system?

4 A It was in June 2009.

5 Q Are members of police-fire able to retire with an
6 unreduced benefit after 20 years of service beginning at age
7 50?

8 A Yes, 20 years of police-fire service at age 50 is
9 when they would be eligible for an unreduced benefit.

10 Q So, Mr. Kilgore, to be specific, was first eligible
11 for retirement with an unreduced benefit at age 50 with 20
12 years of service?

13 A He would have been eligible at age 50 with 20 years
14 of police-fire service. However, it would not have been the
15 maximum benefit he was entitled to had he continued to earn
16 additional service credit after that.

17 Q Understood. But he would have not suffered any
18 early retirement penalty by retiring at age 50 with 20 years
19 of service?

20 A Correct. We would refer to that as the early
21 retirement reduction.

22 Q If he tire -- if he retired before age 50 with 20
23 years of service; is that correct?

24 A Correct. If he had retired before age 50 with 20

1 years of police-fire service, correct.

2 Q What do your records show as to when Mr. Kilgore
3 turned age 50?

4 A Well, based on his date of birth on record with us,
5 his 50th birthday was April 20th, 2011.

6 Q So, Mr. Kilgore, pursuant to Chapter 286 would have
7 been eligible for an unreduced retirement benefit through
8 police-fire on April 20th, 2011?

9 A Correct.

10 Q So, I just want to make sure that we're clear here
11 for the record, at age 50 with 20 years of service,
12 Mr. Kilgore is able to receive a monthly payment from PERS
13 should he elect to retire?

14 A At age 50, he had -- he had the 20 years or more of
15 police and fire service credits and would have been eligible
16 to have retired with an unreduced benefit had he chosen to do
17 that. However, he wouldn't have been at the highest potential
18 benefit he was -- he's eligible to achieve.

19 Q Understood. But he wouldn't suffer from any early
20 retirement penalty, correct?

21 A Correct.

22 Q Now, in March 2013, are you able to calculate what
23 monthly retirement benefit Mr. Kilgore was eligible to receive
24 at that time?

1 A We would have to do that kind of a calculation and
2 get back with you. I wouldn't be able to provide that right
3 now.

4 Q Similar --

5 A It's not on file where he's had an estimate from
6 that time period.

7 Q Okay. So, if you were asked to provide that
8 estimate and a few other dates, you could do so?

9 A We could.

10 Q How long do you think it would take for you to run
11 those calculations?

12 A Well, I guess it would depend on how many estimates
13 are being requested.

14 Q Say if I requested estimates for March 2013,
15 December 2014, and March 2015, so three.

16 A Do you have the specific date?

17 Q We --

18 A March what?

19 Q We could say March --

20 A Of 2013?

21 Q We could say March 15, we could say December 30, and
22 then we could say March 1 of 2015.

23 A So, March 15th, 2013 --

24 Q Yes.

1 A -- December 30th, 2013 --

2 Q 2014.

3 A Oh, 2014?

4 Q Yes. And then March 1, 2015.

5 A So, in order to -- in order to take the request or
6 calculate estimates based on these previous dates, we would
7 either need a court order directing these estimates or the
8 member would need to request them directly from the system.

9 Q Would the working member's spouse be able to request
10 the same as well pursuant to a Qualified Domestic Relations
11 Order authorizing the release of information?

12 A She -- I would have to -- hold on one moment. Do
13 you mind if I look through the certified QDRO language?

14 Q Certainly. Take your time.

15 A Okay. Hold on. (PAUSE) Based on the language from
16 the QDRO, the ex-spouse would be able to request records that
17 we have on file, but since this would be the generating of
18 items that we don't have, these requests would need to come
19 through either a court order or the member.

20 Q I appreciate that clarification. Thank you.

21 A Sure.

22 Q Now, will PERS pay a retirement benefit to the non-
23 working spouse directly -- prior to the working spouse
24 retiring?

1 A No.

2 Q So, if a working spouse decides to keep working
3 until the day they die, that means PERS will never make a
4 payment to the non-working spouse; is that accurate?

5 A There would -- there wouldn't be payment pursuant to
6 the QDRO in the event that the participant continues to work
7 and then passes away as an active member and never retired.

8 Q I want to clarify. If that scenario occurred, the
9 non-working spouse would never receive a payment from PERS?

10 A Are you asking general or specific to this
11 participant's account?

12 Q Well, let's ask -- we can make it specific to this
13 participant's account. If Mr. Kilgore decided to continue
14 working until the day he died, no payment would ever be made
15 by PERS to Ms. Kilgore for her share of the retirement stream
16 -- income stream?

17 A Based on the forms on file, that's correct.

18 Q So, the only way for -- for example, in this case
19 Ms. Kilgore to get her share of the retirement income stream
20 from Mr. Kilgore prior to him actually retiring is to get it
21 directly from Mr. Kilgore; is that accurate?

22 A The system is unable to pay benefits to an ex-spouse
23 prior to the retirement or benefits being paid to the -- to
24 the participant. So, the parties would have to make those

1 arrangements between one another.

2 Q Is Mr. Kilgore based upon your review of the records
3 still a part of the police-fire system for the purposes of the
4 Public Employees Retirement System?

5 THE COURT: Are you talking about presently?

6 MR. PAGE: Yes.

7 THE COURT: Okay.

8 THE WITNESS: Our records were currently posted
9 through June 18th of 2016, and he was being reported through
10 the police-fire fund.

11 BY MR. PAGE:

12 Q And what year was that again, Ms. Hellwinkel?

13 THE COURT: June 18th?

14 THE WITNESS: I'm sorry, May -- June 18th, 2016, is
15 the most recent information posted to his account, and it was
16 under police-fire.

17 BY MR. PAGE:

18 Q Very good. Now, the first eligibility for
19 retirement that you reported to me with 20 years of service
20 and 50 years of age was approximately April 20, 2011. Does
21 that take into account any suspensions or temporary
22 terminations that Mr. Kilgore may have had?

23 A He had over 20 years at the time he turned 50, and
24 yes, it does take into consideration any leave of absences

1 that may have been reported to us.

2 Q And this may be -- fall under the question -- the
3 grounds of asked and answered, but I just want to make sure
4 that we're clear, as long as Mr. Kilgore continues to work,
5 PERS will not make any payments directly to Ms. Kilgore, she
6 must get those payments directly from Mr. Kilgore until such
7 time as he actually retires?

8 MS. ALLEN: And, Your Honor, it was asked and
9 answered about three times.

10 THE COURT: Overruled. You can answer, ma'am.

11 THE WITNESS: Oh. All I can say is that the system
12 is unable to pay benefits until he retired to the -- to the
13 ex-spouse pursuant to the QDRO. What other resources are
14 available, I'm not -- I don't -- I couldn't say.

15 BY MR. PAGE:

16 Q Ms. Kilgore -- Ms. Hellwinkel, I sent you the return
17 we received from you pursuant to the subpoena that was issued.
18 One of those documents was a letter dated February 4, 2016.
19 Do you recall seeing that in the file?

20 A Let's see --

21 THE COURT: A letter from her -- to her from?

22 MR. PAGE: A letter to me from Ms. Hellwinkel --

23 THE COURT: Okay. From her --

24 MR. PAGE: -- dated February 4th.

1 THE COURT: -- from Ms. Hellwinkel to Attorney Page.

2 THE WITNESS: And it's the letter dated February
3 4th, 2016, related to Richard Kilgore's account?

4 BY MR. PAGE:

5 Q Yes. That letter indicates that Mr. Kilgore was
6 eligible to retire with an unreduced benefit at age 50?

7 A Yes.

8 Q That is your signature at the bottom of the letter?

9 A That is.

10 Q You -- you agree -- agree that you drafted this
11 letter?

12 A Yes.

13 Q You also believe that the contents of this letter
14 are true and accurate?

15 A I do.

16 THE COURT: Is this an exhibit, Counsel?

17 MR. PAGE: Yes, that will be Exhibit I.

18 THE COURT: Exhibit I. You move for its admission?

19 MR. PAGE: Yes.

20 THE COURT: Any objection, Ms. Allen?

21 MS. ALLEN: No, Your Honor.

22 THE COURT: No objection. I will be admitted into
23 evidence.

24 (Defendant's Exhibit I admitted)

1 THE CLERK: I don't have it.
2 THE COURT: Oops. We need a copy.
3 THE CLERK: I don't have an I.
4 THE COURT: We'll take one.
5 THE CLERK: I only go up to H.
6 THE COURT: Sorry, our exhibits only go up to H, so
7 we're going to add an I there. Okay. That's in, no
8 objection. Exhibit I. Okay. Continue.
9 BY MR. PAGE:
10 Q Ms. Hellwinkel, do you have any information on hand
11 for Ms. Eleni Kilgore?
12 A I do have her file available.
13 Q Okay. What does her file indicate as to when
14 Ms. Kilgore commenced employment with the Clark County School
15 District?
16 A It looks her enrollment date in the system was
17 February 16th, 1993.
18 Q Now, Ms. Kilgore because she's part of the Clark
19 County School District is not police-fire; is that correct?
20 A Because of her position, she's not police-fire.
21 Q Are there different eligibility rules for retirement
22 for police-fire and for everybody else?
23 A There are different rules between police-fire and
24 regular members.

1 Q Ms. Kilgore would be classified as a regular member?

2 A Yes.

3 Q As a regular member, when would Mr. Kilgore first be
4 eligible to retire with an unreduced benefit?

5 A Based on her enrollment date in the system and the
6 current service credit that she has in the system, she's
7 eligible to retire with an unreduced benefit at age 60.

8 Q I don't have that information in front of me right
9 now, when would Ms. Kilgore turn age 60, if you have that?

10 A It looks like based on her birthday on record with
11 us, her 60th birthday will be August 22nd, 2029.

12 Q Should Ms. Kilgore retire prior to August 22nd,
13 2029, would she suffer an early retirement penalty?

14 A She would unless she completes 30 years of service
15 credit -- of 30 years of service I should say.

16 MR. PAGE: I believe that's everything I have for
17 the moment, I'll pass the witness.

18 THE COURT: Cross examination, Ms. Allen?

19 MS. ALLEN: Thank you.

20 MR. PAGE: Thank you, Ms. Hellwinkel.

21 CROSS EXAMINATION

22 BY MS. ALLEN:

23 Q Ms. Hellwinkel, can you hear me?

24 A I can.

1 Q Okay. So, just to follow up on -- on Mr. Page's
2 questions about Eleni Kilgore, the -- the one you were just
3 talking about.

4 A Yes.

5 Q When would she have 30 years with the Clark County
6 School District?

7 A I don't have that date available.

8 Q You don't know the -- the date that she actually
9 started with the Clark County School District, you're not --
10 that's not part of your file?

11 THE COURT: No, she said --

12 THE WITNESS: Her first --

13 THE COURT: -- 1993.

14 THE WITNESS: -- her first enrollment date in the
15 system was February 16th of 1993.

16 THE COURT: That's what she said.

17 BY MS. ALLEN:

18 Q Okay. And so based upon that then, what would 30
19 years be?

20 A That would depend on if she ends up occurring --
21 accruing any leave without pay or has any breaks in service --

22 Q Okay.

23 A -- in -- in the future.

24 Q So, just based upon the 30 years, it would be what,

1 some time in 2023? 2023, I'm sorry. (PAUSE) Are you there
2 or are you calculating?

3 A I'm -- sorry, I'm reviewing her history.

4 Q Oh, sorry.

5 THE COURT: Yeah, unless it was continuous, yeah.
6 Thirty years continuous, no breaks.

7 THE CLERK: She's checking to see if there's any
8 breaks.

9 (PAUSE)

10 THE WITNESS: Some time in 2023 potentially.

11 BY MS. ALLEN:

12 Q Okay.

13 A And --

14 Q I'm sorry.

15 A -- she may -- she has some part-time history, so she
16 may be eligible prior to that, but that would take a more in-
17 depth review to determine.

18 Q Okay. All right. And with regard to the file that
19 you have in front of her, does it also include the survivor
20 beneficiary designation form?

21 A I -- yes.

22 Q Oh, perfect. With regard to Ms. Kilgore's survivor
23 beneficiary designation form, can you tell me who's listed as
24 her -- the benefi -- who the beneficiaries are on her most

1 recent form?

2 A You mean -- okay, the most recent form?

3 Q Correct.

4 A Let me see here.

5 Q And dates of birth of the people just to be clear.

6 A I'm sorry, I didn't hear that last --

7 Q And could you --

8 A -- part.

9 Q -- could you add in the dates of birth of the people
10 who -- is -- are listed on there just so we're clear on who
11 they are?

12 A Okay. So, you want the most recent survivor
13 beneficiary designation form?

14 Q Yes.

15 A For Eleni Kilgore?

16 Q Yes, please.

17 A Okay. So, she has her children listed.

18 Q And that would be Alexandra, Nicholas, and Richard?

19 A We -- in the dependent child section it's the
20 children under the age of 18 and this is the form that was
21 received by PERS on May 7th, 2014.

22 Q Okay.

23 A And it has Nicholas Kilgore, date of birth, 6-29-
24 2000; Richard Kilgore, date of birth, 6-29-2000, those two as

1 dependent children.

2 Q Okay.

3 A The survivor beneficiary is Tim Rowe, date of birth,
4 1-26-1972. And the additional payees are Alexandra Kilgore,
5 date of birth, 8-22-1995; Nicholas Kilgore, date of birth, 6-
6 29-2000; Richard Kilgore, date of birth, 6-29-2000.

7 Q Okay. And there -- just to be clear, there's not a
8 Richard Kilgore on there with a date of birth of 4-20-61,
9 correct?

10 A Not on this most recent form.

11 Q Okay. And that would be the controlling form if
12 something were to happen, correct?

13 A Yes.

14 Q Okay. Do you have a QDRO in your file for Ms. --
15 Ms. Eleni Kilgore?

16 MS. ALLEN: God, that's awful.

17 THE COURT: I'm sorry.

18 THE WITNESS: A QDRO on --

19 BY MS. ALLEN:

20 Q On file.

21 A -- on the participant's account, Eleanor -- Eleni --
22 I'm sorry, I'm not sure of how to say her name.
23 Mrs. Kilgore's account?

24 Q Yes.

1 A Okay. We do have a certified QDRO on file for her.

2 Q Okay.

3 MS. ALLEN: Court's indulgence if I may?

4 THE COURT: Yes.

5 BY MS. ALLEN:

6 Q If Ms. -- if Mrs. Kilgore were to leave right now
7 the Clark County School District, could she draw on her
8 retirement?

9 A She could subject to an early retirement reduction.

10 Q Okay.

11 MS. ALLEN: Thank you, Your Honor.

12 THE COURT: Redirect, Mr. Page?

13 MR. PAGE: Yes.

14 REDIRECT EXAMINATION

15 BY MR. PAGE:

16 Q Ms. Hellwinkel, if Ms. Kilgore started in the middle
17 of the year for 1993, would that mean that her benefits would
18 not start calculated until 1994?

19 A No.

20 Q Okay. Also --

21 A I'm not sure I followed that one.

22 THE COURT: She didn't understand --

23 MR. PAGE: I'll -- I'll --

24 THE COURT: -- the question.

1 MR. PAGE: -- follow up with my client on that one.

2 THE COURT: Okay.

3 BY MR. PAGE:

4 Q When there's -- sometimes there's breaks in service;
5 is that correct?

6 A There can be, yes.

7 Q Does your review of Ms. Kilgore's file show any
8 breaks or (sic) service -- if there were any breaks for
9 service, would it show breaks in service?

10 A Well, it appears that she was initially enrolled and
11 reported to the system in part-time position. And that there
12 was a possible leave -- period of leave without pay in fiscal
13 year 2000.

14 Q Okay. So, if she had --

15 A And shortly into September 2000 as well, which is
16 fiscal year 2001.

17 Q Okay. So, for example if she took maternity leave
18 when she had Richard, Jr., and Nicholas, that would account
19 for those breaks in service in 2000?

20 A Potentially. I don't know why she would have the
21 break, it could be for a variety of reasons.

22 Q So -- but if Richard and -- and Nicholas were born
23 on June 29, 2000, that would be a plausible assumption?

24 A It's possible, I would only be guessing though.

1 Q Sure. I understand, you don't have firsthand
2 knowledge. So, the -- whenever there's breaks in service,
3 that slows down a person's ability to get to the 30 years of
4 service credits?

5 A Correct. You do not earn service credit when you
6 take leave without pay.

7 Q Okay. So, if she -- Ms. Kilgore started here in
8 1993 and 30 years is 2023, if she took time off for giving
9 birth to children or other things, that might push the 20 --
10 2030 date farther back?

11 A It would delay when she would have a full 30 years
12 if she had leave without pay.

13 Q Based upon the records that you have, are you able
14 to determine how far that 30-year mark has been pushed back?

15 A I would have to review her file in more detail to be
16 able to provide that and possibly confirm information with her
17 employer.

18 Q I'd like to move on to the survivor beneficiary.
19 The survivor beneficiary is something that can be changed at
20 any time?

21 A Yes. Members can submit an updated survivor
22 beneficiary designation form throughout their career until
23 they retire.

24 Q Okay. Then once they retire, they have to designate

1 another survivor beneficiary?

2 A The survivor beneficiary designations stop upon a
3 member's retirement.

4 Q So, a member can change their survivor beneficiary
5 up to any time -- I'm going to say this badly -- to when they
6 retire?

7 A Correct. They can update their survivor beneficiary
8 instructions with the system up until they retire. After
9 that, survivor beneficiaries are no longer pertinent to their
10 account.

11 THE COURT: What'd you mean by pertinent? Can you
12 elaborate?

13 THE WITNESS: When someone retires, they have a one-
14 time opportunity to select an option for their monthly payment
15 and to name one beneficiary to receive a benefit after their
16 death after retirement. Survivor beneficiaries are only in
17 effect prior to retirement. Upon -- as on -- when they're
18 completing their application to retire, they -- they will
19 designate one person to be the beneficiary, and they can never
20 change or replace that person after their retirement.

21 BY MR. PAGE:

22 Q Now, unless say, for example, Ms. Kilgore's listed
23 as the survivor benefit for Mr. Kilgore at the time of
24 retirement, as soon as Mr. Kilgore passes away, should he pre-

1 decease Ms. Kilgore, her benefit stream will be cut off?

2 A I -- I think I need you to state that question a
3 little bit -- again.

4 Q It was --

5 A I'm not sure I followed that.

6 Q It was a bit convoluted. If -- if Ms. Kilgore was
7 not listed as the recipient of the survivor benefit at the
8 time Mr. Kilgore retires, and then Mr. Kilgore does retire,
9 Ms. Kilgore's recieving her community property share of the
10 defined benefit income stream from PERS and then Mr. Kilgore
11 dies before her, would the fact of Mr. Kilgore passing away
12 prior to Ms. Kilgore cut off her ability to receive the income
13 stream because she's not listed as the recipient of the
14 survivor benefit?

15 A The sur -- just to clarify. Survivor benefits are
16 specific to in the event that a participant dies before
17 retirement. The moment someone retires, survivor benefits are
18 no longer applicable.

19 Q What's the term --

20 A Then --

21 Q -- you want to use?

22 A -- when they complete their application to retire,
23 they would name what we call a beneficiary --

24 Q Ah.

1 A -- in the event that they choose to take a reduced
2 payment in order to provide that that one individual would get
3 a benefit after the death of the retiree after they're retired
4 and they pass away.

5 Q If I --

6 A So, survivor benefits and beneficiary benefits at
7 retirement are two completely different things for us. So, if
8 Ms. -- so I guess I'm trying to clarify if the question is
9 that at the time that Mr. Kilgore retired, then if the QDRO --
10 the certified QDRO goes into effect and Ms. Kilgore is
11 receiving a benefit -- are you trying to clarify that after
12 that benefit goes into effect, he then passes away after
13 retirement?

14 Q Yes. And Ms. Kilgore's not listed as the
15 beneficiary. I apologize for the bad terminology.

16 A Then there would be no -- no continuing benefit if
17 she's not the the beneficiary of the pension at retirement
18 under one of our reduced options.

19 Q So, she would be cut off?

20 A Yes. There would be no --

21 THE COURT: Her checks would stop.

22 THE WITNESS: -- continuing benefit to her aft -- if
23 there's -- if he doesn't choose one of the reduced options and
24 name her as the beneficiary of his pension.

1 BY MR. PAGE:

2 Q I understand.

3 A Okay.

4 Q As far as Mr. Kilgore being part of police-fire, is
5 it not correct that there is no reduction in his retired pay
6 by selecting a beneficiary, because he is police-fire?

7 A In order to provide a beneficiary who is not the
8 spouse at the time of retirement, the police-fire retiree
9 would have to take a reduction in their pension allowance to
10 provide beneficiary coverage.

11 Q Okay. But that's something that -- the costs of
12 that can be allocated?

13 THE COURT: Like a premium.

14 MR. PAGE: Like a premium.

15 THE WITNESS: The reduction is based on the life
16 expectancies of the -- of the retiree and the beneficiary at
17 the time of retirement.

18 BY MR. PAGE:

19 Q Right. Okay.

20 A So, it's an actuarial reduction.

21 MR. PAGE: I don't believe I have any additional
22 questions. Thank you very much.

23 THE COURT: Recross, Ms. Allen?

24 MS. ALLEN: If I may?

1 THE COURT: Yes, you can. Okay. Hang on. She's
2 talking to her client right now.

3 (COUNSEL AND CLIENT CONFER BRIEFLY)

4 MS. ALLEN: Nothing, Your Honor.

5 THE COURT: Nothing?

6 MS. ALLEN: No.

7 THE COURT: Just a quick question. Just
8 informational only. You said you have a certified QDRO on
9 file for Mom -- for the Mom in this case?

10 THE WITNESS: We have a certified QDRO on file on
11 Mrs. Kilgore's account, yes.

12 THE COURT: So, Mom's QDRO was lodged when?

13 THE WITNESS: The certified QDRO on file -- let's
14 see. It was signed by the District Court judge on June 23rd,
15 2015.

16 THE COURT: Okay. That's all I wanted to know.

17 THE WITNESS: Oh, I'm sorry, hold on.

18 THE COURT: Okay.

19 THE WITNESS: I was looking at Richard Kilgore's. I
20 apologize.

21 THE COURT: You have one for Dad, for Richard?

22 THE WITNESS: I have a certified QDRO on file for
23 each of them.

24 THE COURT: Okay. So, Richard's was --

1 THE WITNESS: So --
2 THE COURT: -- 6-23-15.
3 (PAUSE)
4 THE WITNESS: The certified QDRO on file for
5 Mrs. Kilgore was signed June 23rd, 2015, by the District Court
6 judge.
7 THE COURT: Same dates. Both of them. Okay. Does
8 Dad have any breaks in service since day one indicated in your
9 chronology?
10 THE WITNESS: There was leave without pay reported
11 in fiscal year 2002. And --
12 THE COURT: Do you know the duration?
13 THE WITNESS: When -- there's -- there's a second
14 one. One moment.
15 THE COURT: So, it won't matter to me if he was
16 eligible on his birthday on 2011.
17 THE WITNESS: Okay. So, there's another period of
18 leave without pay in fiscal year 2014 and fiscal year 2015.
19 So --
20 THE COURT: Do you have a date when he actually was
21 eligible for -- with 20 years? Was it -- I think you
22 confirmed that, right, it was on his birthday?
23 MR. PAGE: It was April 20th --
24 THE COURT: He did have 20 years though --

1 MR. PAGE: -- 2011.

2 THE COURT: -- for sure? Because there was that
3 break in 2002.

4 THE WITNESS: The 20 years?

5 THE COURT: Yeah.

6 THE WITNESS: We were estimating it to be in June of
7 2009.

8 THE COURT: Oh, estimated.

9 THE WITNESS: That's just an -- that's just an
10 estimated.

11 THE COURT: That's before he was 60 years -- 50
12 years old?

13 THE WITNESS: Correct.

14 THE COURT: And for sure when he turned 50 on his
15 birthday in 2011, he already had the 20 years, but he had it
16 as of -- around 2009 estimated?

17 THE WITNESS: Yes.

18 THE COURT: So, that that leave in 2002 was minimal
19 impact?

20 THE WITNESS: Yes.

21 THE COURT: Okay. That's all I needed to know.

22 Anything else, Counsel? Any other questions of the PERS --

23 MR. PAGE: I don't believe --

24 THE COURT: -- representative?

1 MR. PAGE: -- I have anything further.
2 MS. ALLEN: I have one question. Just one question.
3 THE COURT: Yes, Ms. Allen?
4 RE CROSS EXAMINATION
5 BY MS. ALLEN:
6 Q Ms. Hellwinkel?
7 A Yes.
8 Q Can you still hear me?
9 A Yes.
10 Q Okay. Sorry, these microphones sometimes don't
11 work. With regard to Mr. Kilgore, do you -- based upon your
12 -- the paperwork you have or -- or anything you have in front
13 of you, can you estimate when he maxes out his retirement?
14 A Oh --
15 THE COURT: What do you mean max -- define maxed out
16 first.
17 THE WITNESS: Okay. One moment.
18 THE COURT: Yeah.
19 (PAUSE)
20 THE WITNESS: So, it looks like the maximum
21 percentage he's eligible for is 75 percent of his highest
22 average monthly income as a pension benefit. When that will
23 happen, we have not estimated that in the past.
24 THE COURT: Seventy-five percent of his average?

1 THE WITNESS: The average of his highest 36
2 consecutive months of salary.

3 THE COURT: Average of his last three years of
4 highest salary.

5 MS. ALLEN: Right.

6 BY MS. ALLEN:

7 Q Okay. And so you don't have an estimation of when
8 he would actually max out his retirement?

9 A I don't have one that we've prepared, no.

10 (COUNSEL AND CLIENT CONFER BRIEFLY)

11 BY MS. ALLEN:

12 Q Okay. All right. I -- do you have how many --
13 potentially how many years in the system that usually is?

14 A It varies for each person. Members earned -- those
15 who were enrolled prior to 2010, they earn 2.5 percent for
16 every year of service credit they earned prior to July 1 of
17 2001. And then 2.67 percent for each full year of service
18 credit they earned after that date. So, when a person will
19 reach 75 percent is unique to their service credit history and
20 how much service they earned before and after July of 2011.

21 MS. ALLEN: Okay. Okay.

22 THE COURT: Anything else?

23 MS. ALLEN: No, Your Honor.

24 THE COURT: Mr. Page?

1 MR. PAGE: I believe so.

2 THE COURT: Thank you, Ms. Hellwinkel. Do you
3 handle the judges' PERS also? In case I need to call you?

4 THE WITNESS: We do.

5 THE COURT: Appreciate it. Okay. Thank you very
6 much. I appreciate --

7 MR. PAGE: Oh, I guess I do --

8 THE COURT: -- your time.

9 MR. PAGE: -- I guess I do have an additional --

10 THE COURT: Did you have one --

11 MR. PAGE: -- question for her.

12 THE COURT: -- final question, Mr. Page?

13 MR. PAGE: Yes.

14 THE COURT: Okay.

15 REDIRECT EXAMINATION CONTINUED

16 BY MR. PAGE:

17 Q Sorry, I just want to try and follow-up here on this
18 question that was asked by Counsel. When a -- when a retiree
19 maxes out is entirely different as to when they're first
20 eligible to retire?

21 A Yes.

22 MR. PAGE: Okay. I have no further questions.

23 THE COURT: Actually, I just thought of something.
24 Do you have -- you do not have the information available, or

1 do you, of Richard's -- as of today Richard's total years of
2 service credit?

3 THE WITNESS: The information that we have is as of
4 June 18th of 2016.

5 THE COURT: Great.

6 THE WITNESS: And his total service credit is
7 25.9125 years of service credit.

8 THE COURT: 20 -- 25.9125 years of service?

9 THE WITNESS: Correct. As of June 18th of 2016.

10 THE COURT: Wonderful. All right. Thank you very
11 much, appreciate it.

12 MS. HELLWINKEL: You're welcome.

13 THE COURT: Okay. We're going to hang up.

14 (COURT RECESSED AT 14:27 AND RESUMED AT 14:27)

15 THE COURT: -- Counselor. I don't know if he heard
16 that, but that's fine.

17 (COURT RECESSED AT 14:27 AND RESUMED AT 14:27)

18 THE COURT: -- go back to Dad's cross examination.
19 Okay. And any more -- are you going to put the mom on?

20 MR. PAGE: Yeah, I will after I'm done.

21 THE COURT: And then you'll be done with your case
22 in chief and then we're going to go into Dad's case in chief.

23 MS. ALLEN: I think -- wasn't --

24 THE COURT: Were there any other outside witnesses?

1 No. So, just Dad, then Mom, and then whoever you put on in
2 your -- okay. Very good.

3 (COUNSEL AND CLIENT CONFER BRIEFLY)

4 MS. ALLEN: He was on the stand, correct?

5 THE COURT: Yeah.

6 MR. PAGE: Yes, he was.

7 THE COURT: Do you need -- you want to just keep
8 going or do you need a minute or --

9 MS. ALLEN: No, I'm good. I --

10 MR. PAGE: I mean she was -- she --

11 MS. ALLEN: Oh, no, can we have a minute?

12 THE COURT: Yeah. All right. Five minute break.

13 MS. ALLEN: Thanks.

14 THE COURT: On that clock there, I think about --

15 (COURT RECESSED AT 14:27 AND RESUMED AT 14:38)

16 THE CLERK: Okay. You're back on.

17 THE COURT: We're back on. We're going to resume
18 Richard's cross examination. Do you remember where you left
19 off?

20 MS. ALLEN: Nope.

21 THE COURT: All right.

22 MS. ALLEN: I'll do my best.

23 THE COURT: Be careful. Watch your step. It's a
24 new day, we'll have to have him sworn in. Well, I could tell

1 you what I last wrote. Let me see, what did I last write?

2 Where's Dad's redirect? Cross exam -- it's your cross?

3 MR. PAGE: I -- it's -- she's calling it cross, I'm
4 going to object --

5 THE COURT: This is her cross.

6 MR. PAGE: -- if she starts asking leading questions
7 again. Because it's your party, it's not a witness. But it
8 looks like here I have written down that he tried to claim
9 that he was removed from police-fire which Ms. Hellwinkel has
10 just contradicted.

11 THE COURT: In that similar light, I wrote he's not
12 sure if he is still in the police-fire category.

13 MS. ALLEN: Okay.

14 THE COURT: And he verified that now.

15 MS. ALLEN: Okay.

16 THE COURT: Go ahead.

17 THE CLERK: You do solemnly swear the testimony
18 you're about to give in this action shall be the truth, the
19 whole truth, and nothing but the truth so help you God?

20 MR. KILGORE: I do.

21 THE COURT: And we -- Exhibit D was admitted. Can
22 you tell me everything that was admitted so far so the
23 attorneys are on the same page, too?

24 THE CLERK: I can.

1 THE COURT: Take notes.
2 THE CLERK: I have B, C, D, F, H, and I.
3 THE COURT: B, C, D, F, H, I?
4 THE CLERK: Yeah.
5 THE COURT: Plaintiff had no exhibits yet? I don't
6 know.
7 MS. ALLEN: Nope.
8 THE CLERK: Not yet.
9 MS. ALLEN: Doesn't look like we're going to need
10 them either.
11 THE COURT: Okay. Got it. You may proceed,
12 Ms. Allen.
13 MS. ALLEN: Thank you.
14 RICHARD KILGORE
15 called as a witness on his own behalf, having been first duly
16 sworn, did testify upon his oath as follows on:
17 CROSS EXAMINATION CONTINUED
18 BY MS. ALLEN:
19 Q All right. Mr. Kilgore, I'm just going to probably
20 do some ask and answered just to kind of get back on track.
21 THE COURT: Prefatory is fine.
22 BY MS. ALLEN:
23 Q You're employed by the City of Las Vegas, correct?
24 A Yes.

1 Q And what do you do?

2 A I work for the Las Vegas Municipal Court Marshal's
3 Office.

4 Q And what -- what kind of training does that require?

5 A We go to the police academy which at the time I went
6 it was 10 weeks long which I now I believe it's 22 weeks long.

7 Q Okay. What are other qualifications you need in
8 order to hold -- or to -- in order to obtain that position, do
9 you -- I mean background checks, whatever it is, just tell me
10 all about it.

11 A They do an FBI background check on you. They do the
12 fingerprint check run on you. You do a polygraph.

13 THE COURT: Psychological exam?

14 THE WITNESS: Psychological, yeah.

15 MS. ALLEN: I know I always think those --

16 THE COURT: Same as our marshals.

17 MS. ALLEN: -- are effective.

18 THE WITNESS: They do an in-depth background
19 investigation on you.

20 BY MS. ALLEN:

21 Q Okay. And then you begin working as a marshal for
22 the City of Las Vegas?

23 A Correct.

24 THE COURT: Okay. Are you judicial or

1 administrative? Do they have judicials like assigned to a
2 judge?

3 THE WITNESS: We had marshals that are assigned to
4 the courtroom. I work warrant services. So, we execute
5 warrants of arrest issued out of our courts by our judges.

6 THE COURT: Have you always worked warrant services
7 or other --

8 THE WITNESS: Yes, ma'am.

9 THE COURT: -- positions? Always warrant services,
10 okay.

11 BY MS. ALLEN:

12 Q Okay. Based upon --

13 A You --

14 Q -- well, let me ask you this --

15 THE COURT: Did you want to clarify something?

16 THE WITNESS: I was going to say we've -- we will --
17 like your administrative marshals will cover when your
18 judicial marshal's off, we will do the same.

19 THE COURT: You cover, okay.

20 THE WITNESS: We will have to cover for them if
21 they're off.

22 THE COURT: But you're -- are you out in -- out and
23 about --

24 THE WITNESS: I -- I drive --

1 THE COURT: -- making arrests?
2 THE WITNESS: -- a marked patrol unit and a uniform
3 in the field serving warrants of --
4 THE COURT: So, you're out --
5 THE WITNESS: -- arrest.
6 THE COURT: -- in the field?
7 THE WITNESS: Correct, ma'am.
8 THE COURT: Or if a person has a warrant and they're
9 standing before a judge, you're the person, too, that would
10 book them?
11 THE WITNESS: The court marshal will -- will do his
12 own booking in the courtroom.
13 THE COURT: Okay. Makes arrests. Go ahead.
14 MS. ALLEN: Thank you.
15 BY MS. ALLEN:
16 Q Prior to working for the City of Las Vegas, what
17 kind of work did you do?
18 A Before working for that, I was a -- in the food and
19 beverage field, I was a nightclub manager, restaurant manager.
20 Q Okay. And how many years ago was that?
21 A I started with the City in 1998 (sic), so it was
22 prior to that.
23 Q Okay.
24 A You know, so from 2000 -- or sorry --

1 THE COURT: You meant '89?

2 THE WITNESS: -- 1980 -- 1980 through '89 I did
3 restaurant.

4 BY MS. ALLEN:

5 Q So, 30 years ago?

6 A Yes.

7 Q Okay. And basically you've been in the law
8 enforcement industry ever since?

9 A Yes.

10 Q Okay. You did serve in the military, correct?

11 A Correct.

12 Q And did some time over in the Middle East?

13 A The Middle East and in East Africa.

14 Q Okay.

15 MR. PAGE: Your Honor --

16 THE COURT: You went through that.

17 MR. PAGE: -- I'm going to -- I'm going to throw out
18 an objection. This really goes outside the scope of my --

19 THE COURT: Well, we --

20 MR. PAGE: -- direct.

21 THE COURT: -- went through that already, I already
22 wrote that down, too. Anyway, move on. Overruled. Go ahead.

23 MR. PAGE: Okay.

24 BY MS. ALLEN:

1 Q About a year and a half ago, two years ago, did
2 something happen with your employment?

3 A Yes.

4 Q What happened?

5 A I was terminated with -- from the City of Las Vegas
6 when --

7 THE COURT: Dates would help.

8 THE WITNESS: In October of 2014, roughly October
9 13th, 14th, 2014. When Eleni's boyfriend, Tim Rowe, filed a
10 complaint against me.

11 BY MS. ALLEN:

12 Q So, you lost -- you were eventually terminated?

13 A Correct.

14 Q You went -- did you go through all the legal
15 channels?

16 A Yes, I did. All --

17 Q And you got your -- your job back?

18 A -- arbitration and a huge expense.

19 Q Okay. But you did get your job back?

20 A Yes, I did.

21 Q Back pay?

22 A No back pay.

23 Q While you were unemployed, did you seek alternate
24 employment?

1 A Yes, I did.

2 Q Can you name somewhere that you applied?

3 A I applied for Rocky Security Company, I applied for
4 a private investigators jobs throughout the valley with
5 different companies. Things that were within what I could do
6 with my limitation. I have a torn meniscus in both my knees
7 that I'm pending surgery on. And I have an open workman comp
8 claim with the City of Las Vegas for one of them, so nobody
9 really wants to touch you when you have a workman comp injury.

10 Q Okay. Were you ever employed during that time frame
11 that you were terminated from the City?

12 A No, I was not.

13 Q Okay. So, completely without income; is that
14 correct?

15 A Correct.

16 Q But not sitting at home on your hands, you were out
17 looking for employment?

18 A Yes, I was.

19 Q Okay. Was your termination from the City part of
20 the reason why some of the investigative groups wouldn't hire
21 you?

22 A Correct.

23 MR. PAGE: Objection, foundation.

24 THE COURT: Sustained.

1 BY MS. ALLEN:

2 Q You said you have a open workman's comp claim; is
3 that correct?

4 A Yes.

5 Q Okay. What -- is it just your knee or is there
6 other -- are other issues?

7 A I have other issues.

8 Q Can you just briefly describe what they are?

9 A Well, I hate to get into too many of them, because
10 of the HIPAA issue and being a court of record. And I
11 wouldn't want that -- a lot of it to be public.

12 Q Understood.

13 THE COURT: What stage are you in with the worker's
14 comp --

15 THE WITNESS: The workman --

16 THE COURT: -- is it an actual lawsuit? Or just
17 you're in a claim -- administrative claim?

18 THE WITNESS: Administrative claim as I have a -- I
19 had a torn meniscus and cartilage on the right knee, and I
20 still currently have a torn cartilage from work on the right
21 knee -- or meniscus, sorry. And I also have a meniscus torn
22 in the left knee from -- sorry, I screwed that up. Left knee
23 is the workman comp from 2012.

24 THE COURT: Okay.

1 THE WITNESS: I have a more current one on the right
2 knee from three months ago pending surgery on both of them.

3 THE COURT: Got it.

4 BY MS. ALLEN:

5 Q Approximately if you can remember the date, when was
6 your divorce finalized?

7 A I believe March of 2013.

8 Q In your divorce, there -- you and Eleni left out the
9 survivor beneficiary on the PERS?

10 A Yes.

11 Q Was that done intentionally?

12 A It was never discussed.

13 Q Okay. You've heard the testimony from
14 Ms. Hellwinkel that Eleni changed hers; is that correct?

15 A Correct.

16 Q And you've subpoenaed paperwork to that effect?

17 A Yes, I did.

18 Q And you changed yours as well; is that correct?

19 A Yes, I had.

20 Q You were married to Ms. Kilgore for quite some time,
21 correct?

22 A Eighteen years at the time of filing for divorce.

23 Q All right. And you knew her to be a -- an employee
24 of the Clark County School District?

1 A Yes.

2 Q Okay. In your employment you receive like sick pay,
3 (indiscernible) and vacation leave; is that correct?

4 A Yes.

5 Q Do you know if your exwife receives something akin
6 to that as well?

7 A Yes, they receive sick days and flex days and
8 professional days I believe it was.

9 Q All right. Things that they are paid for; is that
10 correct?

11 A Yes.

12 Q All right.

13 A And they're allowed to occur (sic) them also.

14 Q Okay. They're --

15 THE COURT: I'm sorry --

16 MS. ALLEN: -- I'm sorry?

17 THE COURT: -- I missed that one.

18 THE WITNESS: Allowed to occur (sic) their sick
19 leave and all.

20 MS. ALLEN: Okay.

21 THE COURT: Oh, accrue.

22 THE WITNESS: Accrue, sorry.

23 THE COURT: Not user it or -- I don't know, we'll
24 wait until she gets on the stand. Okay. Use it or lose it.

1 MS. ALLEN: I apologize, Your Honor, I'm sort of
2 going thorough my notes. (PAUSE) I think at this point in
3 time, I'll pass.

4 THE COURT: Redirect, Mr. Page?

5 (PAUSE)

6 REDIRECT EXAMINATION

7 BY MR. PAGE:

8 Q Mr. Kilgore, you are still an Army reservist?

9 A What?

10 Q You still participate in the Army Reserves?

11 A I am in the Individual Ready Reserve, I am no longer
12 participating in an active reserve unit.

13 THE COURT: Oh, you don't do the two weekends a
14 month?

15 THE WITNESS: No, ma'am. I'm in the IRR, not
16 required to do them.

17 THE COURT: You just -- if they need you, they call
18 you?

19 THE WITNESS: Yep.

20 BY MR. PAGE:

21 Q As part of your time in the Army Reserves, you
22 accrued retirement benefits?

23 A Yes, you do.

24 Q You would agree that at this point the retirement

1 benefits that have been accrued through the Army Reserves have
2 not yet been divided?

3 MS. ALLEN: And, Your Honor, I would object to
4 outside the scope. This wasn't part of his initial, this
5 wasn't part of mine.

6 MR. PAGE: Yeah, it was.

7 MS. ALLEN: No --

8 MR. PAGE: If you take -- may I -- I have reviewed
9 the video, at approximately 1645 which would have been 4:45,
10 Mr. Kilgore testified as to being an Army reservist, that he
11 was deployed to the Middle East, we all thought it said -- he
12 (sic) said Belize and he said that was an Air Force
13 deployment. But so -- yes, it was brought up.

14 MS. ALLEN: And I appreciate that, but the
15 retirement benefits and things such as that have nothing to do
16 with it and that was not part of any conversation that we've
17 had with Mr. Kilgore since he's been on the stand.

18 MR. PAGE: If we take a look at the order from the
19 February 9 hearing, one of the issues that the Court raised --

20 THE COURT: In your direct exam.

21 MR. PAGE: -- would have been the retirement
22 benefits that are omitted which would include the Army Reserve
23 pay.

24 MS. ALLEN: And, Your Honor, that's never been

1 made --

2 THE COURT: Okay. I don't go back and forth with
3 like triple objections.

4 MS. ALLEN: I appreciate, Your Honor, if I just may
5 be --

6 THE COURT: I'm just reviewing my notes.

7 MS. ALLEN: -- heard briefly though? That's --

8 THE COURT: So, I can rule. Yeah, I'm looking at
9 his direct examination, let me see. We didn't talk about his
10 military. First of all, that's not -- is that an issue?

11 MS. ALLEN: It's not an issue, but here's my
12 problem.

13 THE COURT: Offer of proof, why are you going there?
14 Well, it is trial unless they find -- discover another -- they
15 believe they discover another -- it was on cross exam -- you
16 asked him about his deployment to the Middle East.

17 MS. ALLEN: All I -- yes, and all I asked him about
18 was --

19 THE COURT: But nothing about his --

20 MS. ALLEN: -- whether --

21 THE COURT: -- military benefits.

22 MS. ALLEN: I never asked about military benefits.
23 That was never the subject either with Mr. Page or myself.
24 And I don't believe it was the subject of any motion that's

1 been filed.

2 MR. PAGE: Actually --

3 THE COURT: Not the subject but I might learn
4 something in the middle of trial, I don't know. Why ask about
5 his military then?

6 MS. ALLEN: It was context with regard to his
7 employment and what he --

8 THE COURT: Chronology?

9 MS. ALLEN: -- is capable of doing, Your Honor.

10 THE COURT: Yeah.

11 MS. ALLEN: Since he was terminated from the City.

12 THE COURT: Fair enough, yeah. Well, the fact that
13 military was discussed, kind of broad about that. I'll
14 overrule it. You can ask -- he was -- yeah, asking you about
15 military benefits. I believe you were about to say you had
16 accrued something with the military?

17 THE WITNESS: I have 12 years good credit within the
18 military.

19 THE COURT: You didn't do 20?

20 THE WITNESS: No, I have not.

21 THE COURT: Is that active and -- active reserves --

22 THE WITNESS: Active and --

23 THE COURT: -- and active duty?

24 THE WITNESS: Correct.

1 THE COURT: Combined? Okay.

2 THE WITNESS: And I will not occur (sic) 20 years
3 within the mandatory retirement year period.

4 THE COURT: So, there's just nothing there. No --
5 but IRR, you don't get that towards the 20?

6 THE WITNESS: No, I do not.

7 THE COURT: Right.

8 BY MR. PAGE:

9 Q There are currently 12 years that you have accrued
10 in the military reserves?

11 A Correct.

12 Q Those military retirement benefits that are a
13 potential expectancy have not yet been addressed or divided,
14 correct?

15 A I don't get anything from the military.

16 Q Okay. I didn't ask you how much you got, I'm asking
17 if those haven't been addressed yet and --

18 MS. ALLEN: And, Your Honor, I'm going to object
19 again --

20 THE COURT: Your objection -- basis for the
21 objection?

22 MS. ALLEN: It's irrelevant. There's no -- there's
23 no benefit there.

24 THE COURT: I'll sustain it, because it draws a

1 legal conclusion.

2 MS. ALLEN: Thank you.

3 MR. PAGE: Let me rephrase.

4 THE COURT: Okay.

5 BY MR. PAGE:

6 Q The benefits have not yet been divided in any
7 order --

8 MS. ALLEN: Objection --

9 MR. PAGE: -- correct?

10 MS. ALLEN: -- calls -- it's -- it's -- foundation
11 at this point. Because he hasn't even asked him if he is
12 entitled to anything. We don't even know if there's anything
13 there. So, foundation.

14 MR. PAGE: I can always the question as to whether
15 somebody has acquired pension benefits and they haven't --

16 THE COURT: Any other --

17 MR. PAGE: -- yet been vested.

18 THE COURT: -- basis for the objection?

19 MS. ALLEN: Foundation and relevance again.

20 THE COURT: I think I'd sustain it on relevance.

21 Unless you have 20 years, there's no military checks
22 forthcoming.

23 MS. ALLEN: Right.

24 THE COURT: And he's not accruing anymore from being

1 in the IRR.

2 MR. PAGE: What I would do is ask the Court to allow
3 my client to have access to that --

4 THE COURT: So, it's not rel --

5 MR. PAGE: -- information. Because right now at
6 this point, we're just saying -- Mr. Kilgore's saying I have
7 12 years in --

8 THE COURT: You have to kind of --

9 MR. PAGE: -- because I say I do. There's been no
10 -- an independent verification of his --

11 THE COURT: Yeah.

12 MR. PAGE: -- bare claim.

13 THE COURT: Procedure would be to file a motion if
14 you believe there's some omitted asset. You've handled a lot
15 of military clients before, you don't get anything below 20
16 years. I mean I can't take judicial notice, it's not like a
17 fact or anything, but everybody knows that.

18 MS. ALLEN: Well, I would ask the Court --

19 THE COURT: If you're military and you don't have 20
20 years --

21 MS. ALLEN: -- to take judicial notice that he's not
22 entitled to anything --

23 THE COURT: I have never --

24 MS. ALLEN: -- under the 20 years --

1 THE COURT: -- known a military member with 12 years
2 of service and stopped at (sic) 20 years to ever have a
3 retirement check.

4 MR. PAGE: I've just had a case where the member had
5 about 16 years in, and then he basically got riffed (ph) and
6 they cut him a check for \$45,000. Because he was severed from
7 the service early.

8 THE COURT: Severed from the service early?

9 THE CLERK: That's a special -- that's a special
10 thing though.

11 MR. PAGE: Right. He didn't get his 20 but they did
12 give him --

13 THE COURT: That's a special circumstance?

14 MR. PAGE: -- a substantial check.

15 THE CLERK: Yes. Well, and -- and I know somebody
16 personally --

17 THE COURT: Well --

18 THE CLERK: -- who did that. So --

19 (COUNSEL AND CLIENT CONFER BRIEFLY)

20 MS. ALLEN: Can we just proceed, Your Honor?

21 THE COURT: File a motion if you believe it's -- has
22 legal merit. You want to inquire if he had that special
23 circumstance? You -- you just kind of did -- fulfilled your
24 contract with the government?

1 THE WITNESS: Correct.

2 THE COURT: With no special circumstances like you
3 got --

4 THE WITNESS: No, ma'am.

5 THE COURT: -- fired for no reason or something?
6 We'll leave it at that. That's his testimony. Okay. So, no
7 military retirement. So, sustained on relevance.

8 MR. PAGE: Yeah, I'll move on.

9 THE COURT: Okay.

10 BY MR. PAGE:

11 Q Mr. Kilgore, you've testified that you have some
12 issues with your knees?

13 A Correct.

14 Q I believe you testified you have a -- a torn
15 meniscus in your right knee and some cartilage?

16 A Yes.

17 Q And then --

18 A That's in the left knee, I'm waiting for the MRI on
19 the right knee. Sorry.

20 Q And then there's also some issues with your left
21 knee as well?

22 A Yes.

23 Q All right. You would agree that if you're having
24 these sorts of physical issues you could retire?

1 MS. ALLEN: Objection.
2 THE COURT: What was the question again? Repeat
3 that.
4 MR. PAGE: I indicated to Mr. Kilgore that if he's
5 having these physical issues that he could retire.
6 MS. ALLEN: Objection to -- that's just --
7 THE COURT: That's speculation.
8 MS. ALLEN: -- relevance, I don't even -- I --
9 THE COURT: Are we trying to find out --
10 MS. ALLEN: -- now we're forcing people to retire?
11 THE COURT: -- when he -- when he could or he should
12 be forced to retire? I don't know.
13 MR. PAGE: Well, he --
14 THE COURT: I don't know.
15 MR. PAGE: -- he's indicating now I'm not sure --
16 THE COURT: Sustained. Rephrase.
17 MR. PAGE: -- what the rel -- I'm not sure what the
18 relevance was for that line of questioning about these alleged
19 physical problems that Mr. Kilgore claims that he's having --
20 MS. ALLEN: It had to do --
21 MR. PAGE: -- but if he is --
22 MS. ALLEN: -- with employment.
23 MR. PAGE: -- he may retire and that way my client
24 may begin receiving her percentage of the retirement benefits

1 directly from PERS.

2 MS. ALLEN: Your Honor, it had to do with employment
3 and whether or not he was able to get gainful employment
4 during the 14 months or so --

5 THE COURT: I don't like speaking objections too
6 much.

7 MS. ALLEN: I'm explaining that I -- my --

8 THE COURT: Yeah.

9 MS. ALLEN: -- he -- he's asking what the relevance
10 was, and so I'm explaining why I --

11 THE COURT: Oh, you're trying to be helpful.

12 MS. ALLEN: -- asked it.

13 THE COURT: Okay. Do you understand the question?
14 He's asking you because of this are you -- you going to retire
15 sooner?

16 THE WITNESS: He's telling me that I should retire
17 so she can get money.

18 THE COURT: No.

19 THE WITNESS: Is that what the question is? Because
20 that's what I hear.

21 THE COURT: Sort of. Maybe we can read between the
22 lines, I don't know. But do you understand the question?

23 THE WITNESS: Yes.

24 THE COURT: I'll overrule it. Go ahead, you can

1 answer. You're going to retire any time sooner?

2 THE WITNESS: I can retire any time I want.

3 THE COURT: Okay.

4 BY MR. PAGE:

5 Q You also agree you can retire -- you can keep
6 working for as long as you feel like you're physically capable
7 of doing so, correct?

8 A That I could.

9 Q You agree that if you continue working until the day
10 you die that PERS will never pay any monies directly to her
11 that she's entitled to receive under the terms of the
12 Qualified Domestic Relations Order?

13 A That was a long-winded question. So, you're saying
14 if I keep --

15 Q You agree that --

16 THE COURT: Was that also a legal question or --

17 MR. PAGE: No.

18 MS. ALLEN: Well, then I'll object as to calls for a
19 legal conclusion.

20 THE COURT: That's why we had Marshal Willick on the
21 stand.

22 MS. ALLEN: And Sonya Hellwinkel.

23 MR. PAGE: I'll -- I'll --

24 THE COURT: It might sound like --

1 MR. PAGE: -- I'll rephrase the question.

2 THE COURT: Okay. You'll rephrase.

3 BY MR. PAGE:

4 Q You listened to Ms. Hellwinkel testify today, right?

5 A Yes, I did.

6 Q You understand from Ms. Hellwinkel's testimony that
7 if you continue working until -- until the day you die that
8 Ms. Kilgore will not receive any monies from PERS directly?

9 A Yes.

10 Q Okay. You agree that pursuant to the terms of the
11 decree of divorce, Ms. Kilgore's interest in the income stream
12 from the pension is her community property?

13 A Yes.

14 Q You agree that by you continuing to work beyond your
15 first eligibility for retirement that you're not allowing
16 Ms. Kilgore to receive property that she would otherwise
17 receive?

18 THE COURT: Do you understand that question?

19 THE WITNESS: Not really. That's drawing a legal
20 opinion. Ask me for legal --

21 THE COURT: He doesn't understand the question.
22 He's only a lay person.

23 BY MR. PAGE:

24 Q Mr. Kilgore, as -- as long as you keep working, PERS

1 will never pay anything to Ms. --

2 MS. ALLEN: And asked and answered. We've -- we've
3 been through this.

4 THE COURT: Loaded question.

5 MS. ALLEN: Well, but asked and answered.

6 THE COURT: You're talking in the context -- I'm
7 trying to streamline this case. Private arrangements of
8 payment between the parties if the Court orders -- and I
9 haven't decided yet and under the law if the Court orders or a
10 Court order changes all of that.

11 MR. PAGE: I'm sorry?

12 THE COURT: The PERS lady was -- was saying -- I'll
13 just read it right from my notes. PERS system doesn't have
14 the logistics or capability or its their regulation not to
15 make direct payments to an ex-spouse.

16 MR. PAGE: Right.

17 THE COURT: There was testimony from Ms. Hellwinkel
18 was that if there is, it would have to be private arrangements
19 between the exhusband and the exwife to pay directly if they
20 have to comply with a court order. That's what we're trying
21 to get to the bottom of.

22 MR. PAGE: Uh-huh (affirmative).

23 THE COURT: So, like I said --

24 MR. PAGE: I think we're both on the same page, so

1 I'll go --

2 THE COURT: I think we --

3 MR. PAGE: -- ahead and move on.

4 THE COURT: -- all including Ms. Allen. Right?

5 MS. ALLEN: Pardon?

6 THE COURT: Okay. Right?

7 MS. ALLEN: Maybe.

8 THE COURT: I just rephrased what Ms. Allen has said

9 -- I mean not Ms. Allen, what Ms. Hellwinkel --

10 (PAUSE)

11 MR. PAGE: I'll go ahead and move on.

12 BY MR. PAGE:

13 Q Mr. Kilgore, could you turn to Exhibit A, please?

14 THE COURT: A as in --

15 THE WITNESS: I have nothing.

16 THE COURT: -- apple?

17 MR. PAGE: Apple.

18 MS. ALLEN: He has no exhibits --

19 THE COURT: Do you have --

20 MS. ALLEN: -- up there.

21 THE COURT: -- a book for the witness?

22 THE CLERK: It's not in yet.

23 THE COURT: I know. This book? Is that the right

24 one?

1 MR. PAGE: No, that's for you.
2 THE COURT: Well, we share, that's fine.
3 MR. PAGE: Because so much time has passed, I just
4 made an extra copy.
5 MS. ALLEN: Well --
6 THE COURT: Huh?
7 MR. PAGE: It's not the -- it's not the bound one,
8 but I can give him my extra --
9 MS. ALLEN: He can use mine.
10 MR. PAGE: I made an extra copy.
11 THE COURT: Would you like the Court's official one?
12 MS. ALLEN: I would prefer that, Your Honor, thanks.
13 THE COURT: Okay. It's formalities.
14 MR. PAGE: I'll give you mine -- this one extra one.
15 THE COURT: I got mine. No, I got mine. Give him
16 the Court's official. A.
17 THE CLERK: I don't like to do that though.
18 THE COURT: You have to, that's -- we're taught
19 that. Judges are taught that.
20 THE CLERK: Yeah, but I don't always get them back
21 and that's --
22 THE COURT: Some lawyers prefer --
23 THE CLERK: -- the problem.
24 THE COURT: We will get them back. Okay. He's got

1 the Court's official copy. It's not in yet.

2 MR. PAGE: I'm sorry, I need to give him Exhibit B.
3 Plaintiff's financial disclosure form.

4 THE COURT: I was wondering why --

5 THE CLERK: B is in.

6 THE COURT: B's in.

7 MR. PAGE: Yeah.

8 THE COURT: Wrong affidavit, FDF.

9 MR. PAGE: Sorry.

10 THE COURT: I was wondering. Okay. Exhibit B.

11 BY MR. PAGE:

12 Q Mr. Kilgore, would you agree that that is your
13 financial disclosure form?

14 A Not my most current one. That is my one from March
15 13 -- 16th in 2016.

16 THE COURT: It's already in, Mr. Page, so you don't
17 need to lay any foundation.

18 BY MR. PAGE:

19 Q You indicated in that particular financial
20 disclosure form that your gross monthly income is \$7,217.68?

21 THE COURT: Is that your handwriting, sir?

22 THE WITNESS: Yes, it is.

23 THE COURT: Okay.

24 THE WITNESS: Okay. I see where you're looking at.

1 Your Honor, sorry.

2 BY MR. PAGE:

3 Q Could I have you turn to what's Bates labeled
4 Defendant's 7, please.

5 THE COURT: 007. Okay.

6 MS. ALLEN: I'm sorry to what?

7 MR. PAGE: Defendant's 7.

8 MS. ALLEN: Page seven?

9 THE COURT: Bates number.

10 MR. PAGE: Yes.

11 THE COURT: Bates number.

12 MR. PAGE: Bates labeled seven.

13 BY MR. PAGE:

14 Q Are you there?

15 THE COURT: It says certification at the top.

16 THE WITNESS: With Janice Javocovich (sic)?

17 MR. PAGE: Yes.

18 THE COURT: Jacovino.

19 THE WITNESS: Jacovino, sorry.

20 THE COURT: Uh-huh (affirmative). She's got a tough
21 name.

22 BY MR. PAGE:

23 Q Mr. Kilgore, did you -- is that your initials where
24 it says that you swear or affirm under penalty of perjury?

1 A Yes.

2 Q That the statements contained therein are true and
3 correct?

4 A Yes. To the best of my knowledge.

5 Q Is that your signature there at the bottom?

6 A Yes, it is.

7 Q And is the date February 4, 2016, is that your
8 handwriting?

9 A Yes, it is.

10 Q Mr. Kilgore, could I have you turn back to what's
11 Bates labeled Defendant 3, please?

12 A Page three?

13 Q Yes. Are you there?

14 A Yes.

15 Q Okay. You see that on -- where it says line seven
16 where it says retirement, pension, IRA, or 401(k)?

17 A Yes.

18 Q You see where that is -- you're having a deduction
19 being taken out of \$498.61?

20 A Yes.

21 Q Do you recall your testimony on July 25 wherein you
22 claim that the deferred compensation account was cashed out?

23 A Yes.

24 Q Is that still your testimony?

1 A Yes.

2 Q I'd like to turn to Exhibit C, please.

3 MR. PAGE: May I approach the clerk?

4 THE COURT: Yes, you can. That one's in also. It's
5 already in.

6 BY MR. PAGE:

7 Q Mr. Kilgore, you agree that this is your final check
8 stub before you were terminated in October of 2014?

9 A Yes, it is.

10 Q You agree that your terminal sick leave was
11 \$8,510.45?

12 A Yes.

13 Q You also agree that there -- your terminal vacation
14 leave was \$6,808.36?

15 A Yes, it was.

16 MR. PAGE: I'll pass the witness.

17 THE COURT: Okay. Any -- what do we want to call
18 this -- recross?

19 MS. ALLEN: Not right now, no.

20 THE COURT: Okay. Thank you, sir, you may step
21 down. You can just leave the exhibits there. We'll get it.
22 Next witness, Mr. Page?

23 MR. PAGE: Next I'd like to call Eleni Kilgore,
24 please.

1 THE COURT: Yes, the mom, okay. We'll have her up
2 there and have her sworn in.

3 THE CLERK: You do solemnly swear the testimony
4 you're about to give in this action shall be the truth, the
5 whole truth, and nothing but the truth so help you God?

6 MS. KILGORE: I do.

7 THE COURT: Okay.

8 THE CLERK: I'm done.

9 THE COURT: Yeah.

10 ELENI KILGORE
11 called as a witness on her own behalf, having been first duly
12 sworn, did testify upon her oath as follows on:

13 DIRECT EXAMINATION

14 BY MR. PAGE:

15 Q Could you state your name for the record, please,
16 and spell your name, please?

17 A Eleni Kilgore, E-l-e-n-i K-i-l-g-o-r-e.

18 Q Are you the Defendant in this action?

19 A Yes.

20 Q We're here on a number of issues. One issue is that
21 Mr. Kilgore was to pay you \$1,200 per month for your share of
22 the PERS pension that was on page two lines one through two of
23 the order from the February 9, 2016, hearing.

24 A Uh-huh (affirmative).

1 Q Has Mr. --
2 MS. ALLEN: And I would object just to leading, Your
3 Honor.
4 THE COURT: It's just prefatory, overruled.
5 THE WITNESS: Court ordered.
6 THE COURT: What was the date of the order?
7 February 9th?
8 MR. PAGE: From the February 9 hearing.
9 THE COURT: 2000 and --
10 MR. PAGE: '16.
11 THE COURT: Continue.
12 BY MR. PAGE:
13 Q What payments has Ms. Kilgore made to you in
14 compliance with the court's order?
15 A None. He never pays anything by court order.
16 MS. ALLEN: And, Your Honor, I would object.
17 THE COURT: What's the basis for the objection?
18 MS. ALLEN: Unresponsive.
19 THE COURT: Over --
20 THE WITNESS: I responded.
21 THE COURT: Overruled.
22 MS. ALLEN: I would ask that she --
23 THE COURT: Is there something that you were --
24 MS. ALLEN: -- she maybe not address me personally,

1 Your Honor.

2 THE COURT: Yeah. Wait. If the attorneys are
3 objecting with me, I have to --

4 THE WITNESS: Okay.

5 THE COURT: -- rule.

6 THE WITNESS: No worries.

7 BY MR. PAGE:

8 Q What payments has Mr. Kilgore made in compliance --

9 THE COURT: Hold on --

10 MR. PAGE: -- with that court order?

11 THE COURT: -- hang on. Overruled. And her answer
12 is on the record. You could pick it up on cross exam.

13 BY MR. PAGE:

14 Q Also in the order from the February 9, 2016, hearing
15 on page two lines 12 through 13, we were to deal with the
16 beneficiary designation for the Nevada Public Employees
17 Retirement account. Was the beneficiary designation ever
18 discussed at any point during your divorce proceedings with
19 Mr. Kilgore?

20 A No, it was not.

21 Q What knowledge did you have that the beneficiary was
22 ever going to be a divisible benefit?

23 A What do you mean?

24 Q What knowledge if any did you have that the

1 beneficiary designation was an asset to be divided?

2 A I didn't. I -- I just assumed I guess that when he
3 dies I would get it, and he would get mine. It was not
4 discussed.

5 THE COURT: That was what you thought?

6 THE WITNESS: Uh-huh (affirmative).

7 BY MR. PAGE:

8 Q Another issue that was supposed to be addressed from
9 the February 9, 2016, hearing on page two lines 14 through 15
10 was the vacation and sick pay that Mr. Kilgore received when
11 he was terminated from the City of Las Vegas.

12 A Uh-huh (affirmative).

13 Q During the divorce proceedings, was the
14 vacation/sick pay ever raised by anybody?

15 A No, it was not.

16 Q What knowledge did you have that the vacation/sick
17 pay was a asset to be divided?

18 A I didn't. It was never discussed.

19 Q At any point were there ever any discussions about
20 it?

21 A No.

22 Q Now, the pension benefits that are available through
23 the defined benefits plan in Mr. Kilgore's name, was that
24 awarded to you as your community property in the decree of

1 divorce?

2 MS. ALLEN: And I'm still going to object as to
3 leading, Your Honor. All of his an -- literally every
4 question is yes or no. That's the -- that is the definition
5 of a leading question.

6 MR. PAGE: It's foundational.

7 THE COURT: Yes, but some questions are what I call
8 like background questions, prefatory. If he really goes to
9 the heart of the matter, yes, I sustain those types of
10 questions. This one was just -- what was that last question?
11 If it was substantive, I would sustain it. If it was just do
12 you recall something happened or didn't happen. Then, you
13 know, then you don't lead them as to how the details happened.
14 Okay. Repeat the question so I can --

15 MR. PAGE: At the decree --

16 THE COURT: -- rule on it.

17 MR. PAGE: -- of your divorce, were you awarded your
18 community property share of the defined benefit plan that was
19 in Mr. Kilgore's name?

20 THE COURT: That'll I'll overrule. She can answer
21 that -- see that one yes or no.

22 THE WITNESS: Yes, his retirement.

23 THE COURT: Okay.

24 BY MR. PAGE:

1 Q Have you ever received your -- your sh -- that share
2 of the community property?
3 A No.
4 Q Would you like to receive that share of the
5 community property?
6 A Yes.
7 THE COURT: What -- what are we calling this?
8 MR. PAGE: Community property.
9 THE COURT: No, I mean which one are you referring
10 to?
11 MR. PAGE: The defined benefit plan in Mr. Kilgore's
12 name.
13 THE COURT: Deferred comp?
14 MR. PAGE: No, defined benefit plan, not the comp.
15 THE COURT: Oh. I'm trying to keep --
16 MR. PAGE: I know, too many --
17 THE COURT: -- these straight. Who are we talking
18 about?
19 MR. PAGE: -- D's in there.
20 THE COURT: Defined --
21 MR. PAGE: I could just say --
22 THE COURT: That would --
23 MR. PAGE: -- pension.
24 THE COURT: -- be his regular retirement?

1 MR. PAGE: Yeah, his pension.

2 THE COURT: Because there's deferred comp and then
3 you have his pension?

4 MR. PAGE: Right. I -- I --

5 THE COURT: Oh.

6 MR. PAGE: -- can say pension to make it -- the
7 record clearer.

8 THE COURT: Gotcha. Okay. Right.

9 BY MR. PAGE:

10 Q Would you like to receive your share of the pension?

11 A Yes.

12 Q What would happen if Mr. Kilgore continues working
13 and never retires?

14 MS. ALLEN: Objection. Calls for a legal
15 conclusion. I --

16 THE COURT: Sustained.

17 MS. ALLEN: -- foundational, leading.

18 THE COURT: Right. Anything she would be told might
19 be hearsay as well.

20 BY MR. PAGE:

21 Q Would you like to receive your share of the pension?

22 A Yes.

23 Q Did you listen to Ms. Hellwinkel's testimony earlier
24 today?

1 A Yes, I did.

2 Q What will happen according to Ms. Hellwinkel if
3 Mr. Kilgore never retires.

4 MS. ALLEN: And objection hearsay. She's -- he's
5 asking her to state an out-of -- basically a statement from
6 another person calling for the truth of the matter asserted.

7 THE COURT: She was subject to cross examination at
8 that time.

9 MS. ALLEN: I understand, Your Honor, but hearsay is
10 not negated by cross examination.

11 THE COURT: Not asked to repeat it, she's just asked
12 about her understanding based on hearing somebody's testimony.
13 I think that's --

14 MS. ALLEN: He asked her --

15 THE COURT: -- reliable.

16 MS. ALLEN: -- what she said. He said what did
17 Ms. Hellwinkel say with respect --

18 THE COURT: Sustained.

19 MS. ALLEN: -- to X.

20 THE COURT: Rephrase. You can ask her what she
21 heard and then what she believes.

22 BY MR. PAGE:

23 Q You listened to Ms. Hellwinkel's testimony?

24 A Yes, I did.

1 Q Based upon what Ms. Hellwinkel testified to, what is
2 your understanding if Mr. Kilgore never retires?
3 A That I will never receive the benefit.
4 Q And is that benefit your community property?
5 A Yes, it is.
6 Q Is Mr. Kilgore the only one in control as to if and
7 when you will receive your community property?
8 A Yes.
9 Q Does that leave you in a vulnerable position?
10 A Absolutely.
11 Q What would you like the Court to do to ensure that
12 you receive your share of the community property?
13 A Follow the law when he was first eligible, start
14 paying me benefits.
15 Q Would you like to be designated the beneficiary of
16 the retirement that is in Mr. Kilgore's name?
17 A As the survivor --
18 Q Yes.
19 A -- beneficiary? Yes.
20 THE COURT: SBP or beneficiary?
21 MR. PAGE: The beneficiary.
22 THE COURT: There's two -- yeah --
23 MR. PAGE: And until she testified to that, I never
24 fully appreciated the distinction.

1 THE COURT: Neither did I. Now we know. Makes
2 sense. So, you're talking about the beneficiary?

3 BY MR. PAGE:

4 Q So, how long were you and Mr. Kilgore married to
5 each other?

6 A By the time the divorce was actually filed or when
7 we first separated?

8 Q When it was filed, when the divorce -- decree of
9 divorce was filed.

10 A I think it was like 22 years.

11 Q How many children did you have with Mr. Kilgore?

12 A Three.

13 Q Because you spent 22 years with Mr. Kilgore, you
14 spent the majority of your adult life with him?

15 A I did.

16 Q Because you spent the majority of your adult life
17 with Mr. Kilgore, is that the reasoning why you would want to
18 have you be named the beneficiary of the retirement?

19 A Absolutely.

20 Q Has Mr. Kilgore ever written you a check for the
21 terminal vacation and sick leave that he received?

22 A No, he has not.

23 Q Would you like to receive your community property
24 share of the vacation and sick leave?

1 MS. ALLEN: And, Your Honor, this was asked and
2 answered.

3 THE COURT: Was this ruled upon already?

4 MS. ALLEN: No, I didn't -- I didn't even -- no.
5 And -- and -- but I believe this was asked and answered.

6 THE COURT: It's not an issue for me at trial.

7 MS. ALLEN: I didn't think so either, but --

8 MR. PAGE: Your Honor, the order from the February
9 9th hearing indicates that --

10 THE COURT: It's temporary without prejudice, he's
11 paying her --

12 MR. PAGE: -- the omitted vacation and sick pay that
13 Plaintiff received when he was terminated from the City of Las
14 Vegas that was --

15 THE COURT: I thought I ruled --

16 MR. PAGE: -- never divided.

17 THE COURT: -- on that already that she would get
18 half.

19 MR. PAGE: Okay.

20 THE COURT: I don't know.

21 MR. PAGE: If you ruled upon it, then I'm -- I'm
22 fine with the ruling, because that's --

23 THE COURT: I got -- I got that from --

24 MS. ALLEN: My client's indicating --

1 THE COURT: -- Richard's --
2 MS. ALLEN: -- you didn't.
3 THE COURT: I didn't?
4 MS. ALLEN: No.
5 THE COURT: Why is it not listed as an issue on
6 trial? Double-check that.
7 MR. PAGE: Page two lines 14 and 15.
8 THE COURT: So, what's the 12 -- the \$1200 for?
9 MR. PAGE: The \$1200 was for the PERS -- you're --
10 to give her something for the PERS retirement.
11 THE COURT: Sort of like -- okay, yeah. Without
12 prejudice. No prejudice.
13 MR. PAGE: Which he never paid.
14 THE COURT: Okay. I'm -- I'm going to double-check
15 on that vacation and sick pay. Double-check that.
16 MR. PAGE: I could show you my computer screen, I
17 don't really keep paper that much anymore.
18 THE COURT: Would you -- you two lawyers believe
19 that wasn't finalized as an issue?
20 MR. PAGE: It's -- it's an order. It's your order
21 you signed off on it.
22 THE COURT: That's what I thought. And I thought
23 Richard testified to that, too --
24 MR. PAGE: He did.

1 THE COURT: -- at the last hearing.
2 MR. PAGE: He did. I asked him specifically about
3 it.
4 THE COURT: I thought Richard --
5 MR. PAGE: He's --
6 THE COURT: -- if I recall, Richard testified to
7 that and that's a done deal.
8 MS. ALLEN: I'm sorry, Your Honor, I apologize, I
9 was talking --
10 THE COURT: Half of his 8500 and 6800, I thought
11 that was already ruled upon --
12 MR. PAGE: If you want to --
13 THE COURT: -- in a interim hearing.
14 MS. ALLEN: I -- now I haven't been here --
15 THE COURT: Yeah, you haven't been at all --
16 MS. ALLEN: -- obviously --
17 THE COURT: -- the hearings, but I'm --
18 MS. ALLEN: So, he's --
19 THE COURT: -- going to double-check.
20 MS. ALLEN: -- indicating it was not. That that --
21 that --
22 THE COURT: I didn't have it for trial. His PERS
23 payments, survivor beneficiary or beneficiary designation,
24 child support; those three issues.

1 MR. PAGE: But we also have the --
2 THE COURT: That means to me --
3 MR. PAGE: -- vacation/sick pay.
4 THE COURT: -- that was a done deal already.
5 MR. PAGE: The -- I -- it's Black letter law.
6 THE COURT: I -- I mean I could be wrong. But we'll
7 check.
8 THE CLERK: I'm looking and I haven't found it in
9 the settlement.
10 THE COURT: This is after the settlement judge.
11 Financials.
12 THE CLERK: I've got --
13 THE COURT: December 1st, 2015?
14 THE CLERK: I'm not seeing it on --
15 MR. PAGE: February 9, 2015.
16 THE CLERK: Nope, it's not in there.
17 MR. PAGE: The order would have been in filed in
18 March.
19 THE COURT: It's not in the minutes. If it's --
20 THE CLERK: It's not in the (indiscernible).
21 THE COURT: -- not in the minutes, it probably
22 wasn't dealt with then. Huh?
23 THE CLERK: It's not in there.
24 THE COURT: What does it say in the December?

1 THE CLERK: It was -- it was the one that was
2 continued.

3 THE COURT: Oh, it was a continuance? So, they had
4 the senior judge settlement conference, right? Then we had a
5 hearing on --

6 THE CLERK: It would have been about --

7 THE COURT: -- September --

8 THE CLERK: -- May.

9 THE COURT: -- 16th and nothing was really done
10 there. Then December 1st, continued. Then we had February
11 9th. 1200 was for the PERS without prejudice payment. Yeah.
12 For some reason --

13 THE CLERK: I'm not seeing it.

14 MR. PAGE: Discovery is open on omitted assets, the
15 omitted asset that was op -- that was -- that's omitted is
16 the --

17 THE COURT: Did you --

18 MR. PAGE: -- vacation-sick pay. But --

19 THE COURT: -- Ms. Allen believes it's --

20 MR. PAGE: -- Ms. Jacovino signed off on the order,
21 so I assumed that we were both in agreement.

22 THE COURT: I don't see anything that says it is
23 hereby ordered that Mom shall receive one-half of the 85 --
24 8400 and the 6800.

1 MR. PAGE: It doesn't say that yet. That's why --
2 that's why we're here at trial.

3 THE COURT: Did you plead that in your motion for
4 omitted assets?

5 MR. PAGE: Yes.

6 THE COURT: Which mot -- what -- what motion, when
7 was that motion filed?

8 MR. PAGE: Let me look.

9 THE COURT: Yeah. I hate to be a strickler, but we
10 got to make sure I'm ruling on something I'm supposed to rule
11 on.

12 THE CLERK: It says on August 28th, 2015.

13 MR. PAGE: I always include those things.

14 THE COURT: Yeah, I didn't go -- maybe I didn't go
15 back far enough.

16 THE CLERK: It says --

17 THE COURT: Judge Gloria O'Malley. Yeah.

18 THE CLERK: At the end of the minutes it says the
19 IRS debt and the omitted asset debt (indiscernible) closed,
20 final child support, da-da-da-da-da, deferred from this
21 hearing. Those are the remaining issues. So --

22 THE COURT: IRS debt?

23 THE CLERK: That's what it says.

24 THE COURT: Oh, omitted asset, dad's sick leave and

1 pay. So, it is -- it's un -- unadjudicated yet.

2 THE CLERK: Those are not my notes.

3 THE COURT: Okay. Whether you had it in a motion or
4 not, the parties clearly understood they didn't have a final
5 resolution on that. So, Mom's claiming half of that and Dad
6 is claiming whatever, some Doan v. Doan situation or -- I
7 don't know if the new statute applies, I'll have to double-
8 check that. Okay. That has to be, you know, allege fraud and
9 all that.

10 MR. PAGE: Or mistake.

11 THE COURT: Or mistake. Well, I don't know. Check
12 the statute.

13 MR. PAGE: And Marshal --

14 THE COURT: We'll get to that.

15 MR. PAGE: -- Marshal testified as to what the
16 mistake would be, and then I just basically -- he didn't know
17 about it.

18 THE COURT: Right. Not ready -- not ready for
19 decision yet. Okay. We're just gathering testimony. Okay.
20 Continue. Thank you for clarifying.

21 BY MR. PAGE:

22 Q What awareness did you have that the vacation and
23 sick pay was an assert of the marriage?

24 A I didn't.

1 Q Was that a mistake on your part?

2 A I think it was a mistake on the attorney's part. I
3 did not know about it.

4 Q Would you like to receive your community property
5 share of the vacation and sick pay?

6 A Yes.

7 Q Does Mr. -- what checks have Mr. -- has Mr. Kilgore
8 ever written to you for your community property share of the
9 vacation and sick pay?

10 MS. ALLEN: And objection, it --

11 THE WITNESS: None.

12 MS. ALLEN: -- relevance. He has never been ordered
13 to. So, why would he -- why would that be relevant to this
14 proceeding?

15 MR. PAGE: Because he could do the right thing when
16 he was terminated --

17 THE WITNESS: He will never --

18 MR. PAGE: -- and write her a check for her share.

19 MS. ALLEN: Your Honor, that's absolutely --

20 THE COURT: Sustained as to relevance. That's for
21 me to decide --

22 MS. ALLEN: That's completely --

23 THE COURT: -- and on the table for decision.

24 MS. ALLEN: -- uncalled for.

1 MR. PAGE: So, I can ask her -- so we can establish
2 a foundation for your order whether he's actually paid her --

3 THE COURT: It's futile, they're in the middle of --

4 MR. PAGE: -- they're trying to prevent that
5 evidence --

6 THE COURT: -- litigation.

7 MR. PAGE: -- to come in. It's foundation.

8 THE COURT: They just saw Senior Judge O'Malley,
9 they knew it was going to be an issue, she brought it up, and
10 O'Malley couldn't resolve it -- they couldn't resolve it
11 amongst themselves so she said we'll just leave it for Judge
12 Moss to -- to rule on. So, it is what it is. Sustained as to
13 relevance. I mean that's why we're here. When two parties
14 don't agree, then they don't pay -- they don't pay each other.
15 All right.

16 BY MR. PAGE:

17 Q As to Nicholas and Richard, what are the current
18 custody arrangements?

19 A I have full custody of Nicholas, and I've had full
20 custody of Nicholas for over a year and a half now. And
21 Richie has teenage discretion and he still goes back and
22 forth.

23 THE COURT: You still got joint of Richard, right?

24 THE WITNESS: Yes.

1 THE COURT: But he has teenage discretion?

2 THE WITNESS: Uh-huh (affirmative).

3 BY MR. PAGE:

4 Q What amount of time is Nicholas spending at
5 Mr. Kilgore's residence?

6 A He's not.

7 Q So, you basically have sole physical custody of
8 Nicholas?

9 A Yes.

10 Q Are you requesting that the Court continue the order
11 that Mr. Kilgore pay child support based upon you having
12 primary physical custody of Nicholas and shared physical
13 custody of Richard?

14 A Yes, I am.

15 Q Have you incurred attorney's fees in trying to
16 recover your share of the PERS pension benefit, the survivor
17 beneficiary, the omitted vacation-sick pay, and child support?

18 A Yes.

19 Q Did you have to pay Mr. Willick to come in and
20 testify as to the law?

21 A I haven't paid it -- I'm going to pay him.

22 Q How much were you charged by Mr. Willick?

23 A I think it was \$2300.

24 Q Have you also incurred attorney's fees with me?

1 A Yes, I have.

2 Q And if I suggested to you that the total amount
3 that's been charged over the past year --

4 MS. ALLEN: Objection, leading.

5 MR. PAGE: -- and a half --

6 THE COURT: It's just attorney's fees. I'm sure he
7 has statements.

8 BY MR. PAGE:

9 Q Is about \$5,000, would that sound about right?

10 A Yes.

11 Q Are you requesting that Mr. Kilgore be ordered to
12 pay the attorney's fees that you've incurred in having to
13 recover these items?

14 A Yes.

15 Q I'm going to jump around here just a little bit. Do
16 you have any vacation or sick days through your employment
17 with the Clark County School District?

18 A We -- we don't get vacation days. We don't get like
19 what he gets. We don't get any of that. The only thing that
20 we get at the beginning of every year --

21 THE COURT: Wait, you don't get vacation days?

22 THE WITNESS: No.

23 THE COURT: Teachers don't get vacation days?

24 THE WITNESS: No. In fact --

1 THE COURT: Your vacation is the summertime?
2 THE WITNESS: Well, like even for all these
3 hearings --
4 THE COURT: If you're in a nine-month school.
5 THE WITNESS: -- I have to tell my principal and I
6 have to call in sick. That's the only thing we have.
7 THE COURT: She has to call in sick in order to get
8 paid --
9 THE WITNESS: Yes.
10 THE COURT: -- so it's a sick day?
11 THE WITNESS: Right. And I've had a few that are
12 unpaid, because I've pretty much run out of -- we only get
13 15 --
14 THE COURT: So, are you here today on a sick day?
15 Well, no --
16 THE WITNESS: Well, today is summer.
17 THE COURT: -- because school hasn't started yet.
18 THE WITNESS: Right. Today is summer. But at any
19 given time, I usually only have on average two or three sick
20 days, because I use them between here, the kids, they're
21 getting sick, whatever, me getting sick.
22 THE COURT: Two to three times per --
23 THE WITNESS: No, two to three days. That's -- we
24 only get 15 days a year. And they give us -- they give us

1 five or six in September, and then we have to earn the rest at
2 a day and a half per month.

3 THE COURT: 1.5 days accrued per month?

4 THE WITNESS: Yeah.

5 BY MR. PAGE:

6 Q Do your sick days accrue?

7 A They do accrue. But --

8 Q What is your understanding as to when you are first
9 eligible to retire with an unreduced benefit?

10 THE COURT: Is her retirement at issue?

11 MS. ALLEN: Pardon?

12 THE COURT: Is her retirement at issue?

13 MS. ALLEN: Yes.

14 THE COURT: It is? Oh, gosh.

15 MR. PAGE: It's not but they're -- they're claiming
16 an offset is what -- is what I was -- why I'm bringing it up.

17 THE COURT: Offset?

18 MR. PAGE: Yeah, they're claiming, well, she's
19 eligible to retire now so I shouldn't have to pay her as much
20 because she's not paying me her share of her retirement.
21 That's the argument that was being made. I'm trying to
22 point --

23 THE COURT: She has a --

24 MR. PAGE: -- that she --

1 THE COURT: -- they have a similar claim if she is
2 eligible to retire.

3 MR. PAGE: It was just an equitable defense they
4 brought up, and I'm trying to address that --

5 THE COURT: No, it's --

6 MR. PAGE: -- but if you don't think I --

7 THE COURT: -- a fair question.

8 MR. PAGE: -- need to based on Ms. Hellwinkel's
9 testimony, I won't.

10 THE COURT: We'll take it up at closing argument.
11 Okay. Continue then. So -- okay. I need to print these
12 O'Malley minutes.

13 BY MR. PAGE:

14 Q One of the exhibits that we showed Mr. Kilgore was
15 Exhibit H. Exhibit H was a schedule of arrears that was
16 filled out by you for the \$1200 a month he was supposed to pay
17 you through to the present. Was that schedule true and
18 accurate?

19 A Yes.

20 Q And so if that schedule shows that Mr. Kilgore never
21 made you any payments from February through to the present,
22 that would be accurate?

23 A Yes.

24 MR. PAGE: I will pass --

1 THE COURT: So, yes, she has --
2 MR. PAGE: -- the witness.
3 THE COURT: -- a schedule of arrears on file or no?
4 MR. PAGE: Ah --
5 THE WITNESS: Yes.
6 THE COURT: No?
7 MR. PAGE: It's -- I hadn't done -- I was
8 considering doing a motion for an order to show cause but
9 because of the press of other work and the nearness of the
10 hearing, we never got that motion for an order to show cause
11 on file. And that was going to be the basis of why we're
12 doing this schedule of arrears.
13 THE COURT: You should cure that and file a schedule
14 of arrears forthwith. Rules require it.
15 MR. PAGE: If we do the OSC, sure.
16 THE COURT: These --
17 MR. PAGE: Well, I'll do it --
18 THE COURT: -- and you know --
19 MR. PAGE: -- regardless because you ordered it.
20 THE COURT: -- yeah, I know it's temporary order
21 without prejudice so we don't know how the numbers are going
22 to work out, but you should still file it.
23 MR. PAGE: Yes. Okay. I will --
24 THE COURT: I guess I'm ordering that Mr. Page to

1 file a schedule of arrears on the 1200 a month. What's his
2 child support, five something?

3 MR. PAGE: His child support's 1500.

4 MS. ALLEN: 1500.

5 MR. PAGE: 1500.

6 THE COURT: That might -- that was changed then.

7 MS. ALLEN: No.

8 THE COURT: No?

9 MR. PAGE: You made the calculation on February 9
10 based upon the primary for Nicholas and the shared for
11 Richard.

12 THE COURT: And Richard wrote it wrong then on his
13 FDF, he wrote -- what'd he write, he wrote child support 522,
14 was that every --

15 MR. PAGE: I don't know why he --

16 THE COURT: -- on Bates number 3, he wrote 522.

17 MR. PAGE: That's what Mr. Kilgore wrote. I -- I
18 believe he wrote it because it was written -- it was filled
19 out prior to your --

20 THE WITNESS: Yeah.

21 MR. PAGE: -- February 9 order.

22 THE COURT: That's when I changed it?

23 MR. PAGE: Yes.

24 MS. ALLEN: Oh.

1 THE COURT: Why? It was filed March -- March --
2 after February.

3 MR. PAGE: But you signed it February 4.

4 THE COURT: Ah, gotcha. Okay. Is that by voluntary
5 or wage assignment?

6 MR. PAGE: Right now it's by wage assignment through
7 the Office of the District Attorney.

8 THE COURT: Got it.

9 MR. PAGE: I will pass the witness.

10 THE COURT: Okay. Ms. Allen, cross exam?

11 MS. ALLEN: Thank you.

12 CROSS EXAMINATION

13 BY MS. ALLEN:

14 Q Ms. Kilgore, you -- Mr. Page, your attorney, asked
15 you a lot of questions about your divorce and you -- that was
16 a couple years ago; is that right?

17 A Yes.

18 Q Three? Three and a half years ago? It was 2013?

19 A '13. About.

20 Q Did you have an attorney?

21 A I did.

22 Q What was his name?

23 A At that time, I think --

24 Q Ron Giuliani?

1 A -- it was Roger Giuliani.

2 Q Roger Giuliani, I apologize. Roger Giuliani, as a
3 matter of fact I think his wife is a judge in here; is that
4 right?

5 A Yes.

6 Q And how long did you employ Roger Giuliani as your
7 attorney? Do you remember?

8 A I really don't remember.

9 Q Did you pay him money?

10 A I did.

11 Q Okay. And did he get you divorced?

12 A It took a long time, but he did.

13 Q Okay. And in your divorce decree you talk about
14 custody of your children; is that right?

15 A Yes.

16 Q And you talk about time-share?

17 A What do --

18 Q Who --

19 A -- you mean?

20 Q -- the children are going to spend time with?

21 A Yes, yes.

22 Q And you talked about your retirement, right?

23 A Yes.

24 Q And a QDRO was done, correct?

1 A After that.

2 Q Right. Splitting up the retirements, correct?

3 A Yes.

4 Q Did you address things like alimony?

5 A She -- the judge asked me about alimony and I said

6 no.

7 Q But it was addressed in -- in -- with your attorney,

8 right, your attorney -- that was put in your decree; is that

9 right?

10 A Yes.

11 Q And you talked about child support, correct?

12 A Yes.

13 Q And you probably divided up assets, right?

14 A Yes.

15 Q Like your -- things in your home, things that you

16 would take, things he would take, cars, such as that; is that

17 right?

18 A Not really. Richard never let me back in the house,

19 he wouldn't let me back in with the cops to get --

20 Q That actually wasn't the --

21 A -- my stuff.

22 Q -- question I asked you. The question I asked

23 you --

24 A Well --

1 Q -- was you divided up --

2 A -- I'm trying to explain it to you.

3 Q -- certain assets -- but I'm just asking you if
4 divided up certain assets. It calls for a yes or no, your
5 attorney can follow up with you.

6 THE COURT: Yeah, actually, she -- that's what I
7 would say.

8 THE WITNESS: Okay. Well, then --

9 THE COURT: Just yes or no. Yeah, cross exam --

10 THE WITNESS: Technically I would say no then.

11 BY MS. ALLEN:

12 Q Okay. So, no assets were divided in your decree at
13 all? Is that correct?

14 A What do you mean by assets?

15 Q Furniture, clothing, did you take your jewelry, did
16 you get a car?

17 A Furniture, we were supposed to do A and B lists, he
18 didn't do that, he threw my stuff out on the lawn and said
19 come get it.

20 Q Did you get stuff in the decree?

21 A Was I supposed to? I was supposed to.

22 Q Okay. But your attorney addressed that, right?

23 A Well, as far as like the A and B lists, uh-huh
24 (affirmative).

1 Q Okay. And you hired an attorney at the time because
2 you wanted to make sure you were represented correctly; is
3 that right?

4 A Yes.

5 Q All right. And they were thorough in all the other
6 aspects of your decree; is that correct?

7 A Um --

8 Q You knew where your children were supposed to be at
9 any given moment, correct?

10 A Well, as far as I know.

11 Q Okay. So, your -- you -- today you testified that
12 you want part of my client -- or you want the beneficiary
13 designation for my client's PERS; is that correct?

14 A Like the survivor beneficiary?

15 Q Yes.

16 A Yes.

17 Q You in fact have not made him the survivor
18 beneficiary on yours; is that right?

19 A Yes.

20 Q Okay. So, you -- and in fact you purposely changed
21 him in 2014 twice, you -- you redid it; is that right?

22 A I --

23 Q You filled out these forms?

24 A -- don't know if I did it twice, but I did change it

1 to --

2 Q You put your fiancé or boyfriend, Tim Rowe?

3 A Yeah, and my children.

4 Q And your children, okay. So, you've changed yours
5 and -- and you -- let me ask you this: Back in 2010 or some
6 -- some time prior to your divorce you filled these out; is
7 that right?

8 A Yes.

9 Q How many times did you fill these out throughout the
10 course of your employment with the -- the Clark -- with Clark
11 County School District?

12 A I really don't know.

13 Q Four, five?

14 A I -- I don't know.

15 Q At least once to take Richard off, right?

16 A At least once.

17 Q Okay. If I told you I had two sitting in front of
18 me from 2014, that's at least two, right?

19 A Well, I'd have to look and make sure that it was my
20 signature and I did it.

21 Q Would you like to see the signature on these?

22 A I would.

23 MS. ALLEN: May I approach, Your Honor?

24 THE COURT: You may approach the witness.

1 MS. ALLEN: Those are what I provided to you.

2 MR. PAGE: Yeah, what I got on Thursday?

3 THE COURT: What are we on, temporary orders on
4 custody? The parties --

5 MS. ALLEN: Right now.

6 THE COURT: -- haven't resolved the final custody
7 designations so then I can rule on the child support?

8 MR. PAGE: It's been a year and a half with Nicholas
9 being with Mom.

10 THE WITNESS: I'm not sure why it was done twice.

11 THE COURT: We've got to talk about that, when's the
12 custody designation going to be? Because this is a child
13 support issue here.

14 THE WITNESS: I guess I did. I don't really
15 remember doing it twice, but --

16 BY MS. ALLEN:

17 Q And you heard Ms. Hellwinkel testify about your
18 survivor designations or the beneficiaries, you -- she
19 specifically named off the people that were on your
20 designation, correct?

21 A Yes, I have --

22 Q And those are on file --

23 A -- my three kids.

24 Q -- up in Nevada PERS -- the PERS system; is that

1 right?

2 A Yep.

3 Q Okay. So, you obviously knew about this at least in
4 2014; is that correct?

5 A Well, I don't know what you mean by knew.

6 Q Well, you knew about survivor beneficiaries back in
7 2014; is that right?

8 A Not in the way you're asking the question.

9 Q Okay. You --

10 A I -- I --

11 Q -- so you -- you had the sense to -- to get a form
12 and fill it out removing my client as the beneficiary --

13 A Yes.

14 Q -- correct?

15 A Yes, I did.

16 Q But as you sit here today, you're asking this court
17 to order him to reestablish you as beneficiary, right?

18 A Well, I did not know or understand --

19 Q I'm asking you a question, the question I'm asking
20 you is --

21 A I'm trying to answer your question.

22 Q -- you're asking the Court to reestablish you in his
23 survivor beneficiary; is that right? You want him to be
24 ordered to do that, right?

1 A So, if he dies, I get it? Yes.
2 THE COURT: SBP or beneficiary?
3 THE WITNESS: Yeah, I'm like --
4 THE COURT: Let's make sure we're on the same page.
5 MS. ALLEN: Sorry, Your Honor, I apologize, I --
6 THE COURT: You can only get one beneficiary but
7 SBP's can be changed any time --
8 MR. PAGE: No, there's a pre --
9 MS. ALLEN: Okay. S --
10 THE COURT: -- up until --
11 MS. ALLEN: -- what is it, SBP?
12 MR. PAGE: No, there's a --
13 THE COURT: Survivor beneficiary -- SBP -- provision
14 but SB -- SB --
15 MS. ALLEN: Right. Provision, right, okay. Okay.
16 The survivor beneficiary.
17 THE COURT: You only get -- but when you retire and
18 you say I'm going to retire, you only get one beneficiary and
19 you cannot change that. That's what Ms. Hellwinkel said.
20 MR. PAGE: Uh-huh (affirmative).
21 MS. ALLEN: Right.
22 THE COURT: So, let's make sure you're using the
23 right deter -- determination.
24 BY MS. ALLEN:

1 Q At the time of your divorce, you were represented by
2 counsel; is that correct?

3 A Yes.

4 Q And all of the things that were put in your divorce
5 decree you signed off on; is that right?

6 A Yes.

7 Q And you had filled these out before, correct?

8 A Tho -- those are actually filled out after our
9 divorce.

10 Q These were filled out after, but that's not the
11 first time you've filled them out? Right? You've been --
12 you'd filled these out throughout the course of career at
13 Clark County School District; is that correct? I'm sure PERS
14 has them on record.

15 A I don't know. I'm not sure what you're really
16 asking.

17 Q So --

18 A Have I done it before this?

19 Q Right. And but you -- this -- so your -- your
20 testimony would be that 2014 would've been the --

21 A I did --

22 Q -- first time you ever filled this out, you ever
23 knew anything about survivor beneficiaries or survivor -- any
24 of that?

1 A Are you asking -- like I had one before that?

2 Q Correct.

3 A I -- I probably did, I don't know.

4 Q So, this was -- this -- this survivor beneficiary is
5 something you knew about at the time of your divorce, because
6 you'd filled out the forms?

7 A I didn't in the terms of what she had testified to
8 today or how it worked, no. I didn't know that.

9 Q But you were represented by counsel and that's why
10 you paid him; is that correct?

11 A It was not brought up.

12 Q Likewise with the sick leave, you knew about my
13 client's sick leave at the time of your divorce, correct?

14 A Yes.

15 Q Okay. You had full knowledge of what kind of
16 benefits he got at his job, correct?

17 A I didn't have full knowledge, I didn't know all of
18 his benefits at his job.

19 Q You had -- so you didn't know he -- that he had sick
20 leave?

21 A No, I knew he had sick leave.

22 Q And that it accrued and --

23 A Uh-huh (affirmative).

24 Q -- he'd had that accruing for however many years,

1 correct?

2 A Yes.

3 Q And again you had an attorney at the time of your
4 divorce, correct?

5 A Yes.

6 Q With regard to the Clark County School District, you
7 get sick days that do accrue, correct, like if you don't use
8 all 15 of them, they go --

9 A Yes.

10 Q -- they go to next year? Okay. You also have
11 something called flex days; is that right?

12 A We don't have flex -- I know he testified to flex
13 days and some personal day stuff, we don't have those.

14 Q You don't get any flex days?

15 A No. We -- if you miss less than -- I think now they
16 -- they -- it was five and they changed it to three, if you
17 miss less than three days of work -- if you don't call in sick
18 or you miss less than three days of work, then the next year
19 you can have like two personal days.

20 Q Okay.

21 A But I've never had that so -- because I never miss
22 less than three days of work.

23 Q So, I just want to be clear with regard to the --
24 the financial aspect of this.

1 A Okay.

2 Q Well, let me go to your most recent AFC -- or I
3 apologize I still refer to it as that --

4 A What is AF --

5 Q -- financial disclosure form.

6 A -- I don't know what AFC is.

7 THE COURT: FDF's.

8 BY MS. ALLEN:

9 Q And your annual salary is approximately \$70,000 a
10 year; is that right?

11 A I think that's what it was as of July.

12 Q 70,000 -- approximately 58 -- 5800 a month, 5884.60
13 a month is what you put on your --

14 A For gross.

15 Q -- financial disclosure -- okay, that's your gross.
16 And you want Mr. Kilgore to continue paying you 1,500 in child
17 support, correct?

18 A Well, whatever she deems appropriate, but I would
19 like full custody child support for Nicholas since I've had
20 him for a year and a half.

21 Q And you want the 1200 from his PERS; is that
22 correct?

23 A Actually I'd like my full -- she ruled on half, I
24 would like all of my retirement beneficiary.

1 Q No, it -- it was 1200 was the temporary order and
2 you want the 1200 from that, is that right, every month?

3 A Well, he never paid it.

4 Q You want this court to order him to pay that though,
5 correct?

6 A Absolutely.

7 Q Okay. So, that then 5884 plus approximately 1200 --
8 my math is terrible -- but that brings you up to about 7,000
9 with the PERS and your -- and your gross monthly income,
10 that's about 7,000; is that correct?

11 A If he was to pay it.

12 MR. PAGE: By (indiscernible).

13 Q Okay. And then another 1500 in child support I
14 think that brings you up to 9500 a month; is that right?

15 A Well, 420 of that is insurance that we pay for.

16 Q That brings you again up to about, what 8500 or 9500
17 a month; is that right?

18 A I don't know. I don't have the math in front of me.

19 Q Meanwhile if he pays that to you, he -- according to
20 his financial affidavit, he makes 7300 a month, and if you
21 subtract 2700 from that, what does that come out to?

22 A I don't know, I don't have a calculator in front of
23 me.

24 Q Would you like a pen and a piece of paper?

1 A No, I'd like a calculator.
2 Q You can't do math?
3 A I can.
4 THE COURT: Here I got a --
5 THE WITNESS: But I would like to be accurate --
6 THE COURT: -- calculator.
7 THE WITNESS: -- and make sure it's correct.
8 MS. ALLEN: Thank you, Your Honor.
9 THE COURT: Uh-huh (affirmative).
10 THE WITNESS: So, what do you want me to subtract?
11 MR. PAGE: What was the number you gave for him?
12 BY MS. ALLEN:
13 Q 7362 a month.
14 A Uh-huh (affirmative).
15 Q Minus 2700. What does that come out to?
16 A \$4,662.
17 Q So, you'd be making about double -- with what he'd
18 pay you, you'd be -- in -- your income would be double what
19 his is; is that correct --
20 MR. PAGE: Objection --
21 MS. ALLEN: -- is that what you want?
22 MR. PAGE: -- relevance.
23 THE COURT: Offer of proof.
24 MS. ALLEN: Equitable argument.

1 THE COURT: The parties' financial conditions?
2 MS. ALLEN: Correct.
3 THE WITNESS: Well, he --
4 THE COURT: Overruled.
5 THE WITNESS: -- he didn't put down his guns on
6 there --
7 THE COURT: All right. Did you get an --
8 THE WITNESS: -- and he didn't put down --
9 THE COURT: -- answer?
10 THE WITNESS: -- his military --
11 MS. ALLEN: Ma'am --
12 THE COURT: Slow down.
13 THE WITNESS: -- he didn't put down any --
14 MS. ALLEN: -- ma'am --
15 THE WITNESS: -- of that stuff.
16 THE COURT: Slow down.
17 BY MS. ALLEN:
18 Q Ma'am, I appreciate you want to talk and your
19 attorney can --
20 THE COURT: Ms. Allen, I'm speaking now. Overruled.
21 Did she answer your question before you ask your next
22 question?
23 MS. ALLEN: No, she did not.
24 THE COURT: Okay. So, ask it again.

1 THE WITNESS: What was your question?

2 THE COURT: I overruled it.

3 BY MS. ALLEN:

4 Q My question is what you want is double what my
5 client would be -- would be pulling in every month? Basically
6 when -- after he's paid you, your income will be double what
7 his is; isn't that correct?

8 A I don't know if would be double, but he still has
9 almost \$5,000.

10 Q 8500 a month versus -- what was it?

11 A Or double, I don't have it anymore but it was like
12 4600.

13 Q Right. So, almost double; is that right?

14 A A little less than double.

15 Q Your fiancé lives with you; is that correct?

16 A Yes, he does.

17 Q In your exhibits that your attorney lodged with the
18 Court he filed -- or he -- he put in the exhibits an AFC from
19 2014?

20 MR. PAGE: It's not an AFC.

21 MS. ALLEN: Sorry, financial disclosure.

22 BY MS. ALLEN:

23 Q Financial disclosure form from 2014; is that
24 correct?

1 A I just did one.

2 Q Right. You just did one but the exhibits --

3 MS. ALLEN: If I may? It's Exhibit A. May -- may I
4 approach, Your Honor?

5 THE COURT: You may approach.

6 THE WITNESS: Okay.

7 BY MS. ALLEN:

8 Q Is that yours? You can take a look at it.

9 A Are you asking if this is the one I filled out in
10 2014?

11 Q Correct.

12 A Well, I -- I think it is.

13 Q Is that --

14 A I think it is.

15 Q -- is that yours? Okay. And in that financial
16 disclosure form --

17 MS. ALLEN: Was A admitted, Your Honor? I
18 apologize.

19 THE CLERK: No.

20 THE COURT: No. Because that's her FDF.

21 MR. PAGE: There's a more current one.

22 THE COURT: No objection? It's your client's FDF.

23 MR. PAGE: I know. It's -- it's -- I --

24 THE COURT: Do you want it in?

1 MR. PAGE: -- I understand where she's going, it's
2 going to be objected to.

3 THE COURT: A lot of attorneys ask, some judges
4 don't admit pleadings. I do to make a record.

5 MR. PAGE: I mean --

6 THE COURT: Yes?

7 MS. ALLEN: I'm requesting it be admitted.

8 MR. PAGE: I'll --

9 THE COURT: Objection?

10 MR. PAGE: -- I'll object on grounds of relevance,
11 because my client submitted a more recent --

12 THE WITNESS: Yeah, I just did one.

13 MR. PAGE: -- one to opposing counsel.

14 THE COURT: Fair enough, but I will admit it.

15 (Defendant's Exhibit A admitted)

16 THE COURT: You can get the recent one in. I'm sure
17 Ms. Allen won't --

18 MS. ALLEN: With regard to your --

19 THE COURT: -- object. Overruled as to relevance.
20 I've got to look at the --

21 MS. ALLEN: With regard to your --

22 THE COURT: -- form after.

23 MS. ALLEN: -- financial disclosure of 2014, you
24 list that there are other people living with you, adults

1 living -- other adults living with you. And one of them's
2 your daughter; is that correct?

3 THE WITNESS: Yes.

4 BY MS. ALLEN:

5 Q The other one's Mr. Rowe; is that right?

6 A Rowe, Mr. Rowe.

7 Q Mr. Rowe. Okay. Mr. Rowe. And according to this
8 in 2014, he was contributing approximately \$2,000 a month; is
9 that right?

10 A Is that what I put there? I don't --

11 Q Would you like to look at it.

12 A -- know actually.

13 Q Page five.

14 MR. PAGE: I'll object under the grounds of
15 relevance under Rogers and Jackson.

16 THE COURT: Overruled. Child support has all those
17 factors and --

18 MS. ALLEN: Um --

19 THE COURT: -- it goes to weight, whatever weight I
20 want to give it.

21 MS. ALLEN: Now, currently is Mr. --

22 THE COURT: The first one -- the first one she said
23 a 2,000 contribution --

24 MS. ALLEN: Yes.

1 THE COURT: -- from her significant other?
2 MS. ALLEN: Yes, Your Honor.
3 THE COURT: Okay.
4 MS. ALLEN: May I proceed?
5 THE COURT: You may.
6 MS. ALLEN: Thank you.
7 BY MS. ALLEN:
8 Q Does Mr. Rowe still live with you?
9 A Yes.
10 Q Is he still employed with the Clark County School
11 District?
12 A Yes, he is.
13 Q In your most recent financial disclosure form, you
14 indicate that he lives with you but does contribute anything?
15 A He does not pay for any of my bills. No.
16 Q Okay. So, back in 2014, he was paying \$2,000 of
17 your bills every month?
18 A He was helping -- he was helping with the household.
19 Q So, he -- as to -- as of today, he pays nothing
20 towards anything in the home, he just lives there with you?
21 A No, he pays his bills, I pay my bills.
22 Q He doesn't --
23 A He was actually in a very bad car accident a little
24 over --

1 Q I just --
2 A -- a year ago --
3 Q -- asked if he paid your bills, ma'am. Does he --
4 A Well, I'm telling you why he's not -- no, he does --
5 Q But I didn't --
6 A -- pay my bills.
7 Q But I didn't ask why, I just asked you if he did.
8 A No, he's not paying --
9 Q Okay.
10 A -- the bills. He does -- he does not pay my bills,
11 I pay my bills, he pays his bills.
12 Q Do you own the home --
13 THE COURT: I'm sorry, when did that change?
14 THE WITNESS: He got in a really bad car accident it
15 was a little over a year ago and he's had several surgeries,
16 he had a shoulder reconstruction surgery, he had an anterior-
17 posterior back fusion, very intensive --
18 THE COURT: You'd say about like --
19 THE WITNESS: -- back fusion.
20 THE COURT: -- a year ago, he's not -- he stopped
21 contributing?
22 THE WITNESS: Yeah, because he's paying all the
23 medical bills and everything else. His -- his surgeries --
24 his -- one surgery on his back was --

1 THE COURT: Okay. I just --
2 THE WITNESS: -- like 7- or 800,000.
3 THE COURT: -- time frame. Just trying to get a --
4 MS. ALLEN: So --
5 THE COURT: -- time frame.
6 MS. ALLEN: Oh, I apologize, Your Honor.
7 THE COURT: About a year ago he stopped doing the
8 2,000 a month?
9 THE WITNESS: Yes.
10 THE COURT: Okay.
11 BY MS. ALLEN:
12 Q You -- he's still employed though; is that correct?
13 A Yes.
14 Q He still goes to work?
15 A Yes.
16 Q So, he still brings an income?
17 A Well, except for when you take off all the time he
18 took for his surgeries and everything else, yes.
19 Q Okay. So, but again, he's still employed?
20 A Yeah.
21 Q And do you own your home?
22 A No, it's a rental.
23 Q It's a rental. So, you alone pay all of the home --
24 the expenses of the home, the power, the gas, the rent, all of

1 it? He contributes --
2 A I do.
3 Q Pardon?
4 A It -- it's in my -- it's -- it's my house, I pay it.
5 (COUNSEL AND CLIENT CONFER BRIEFLY)
6 THE COURT: Does Alexandra live with you?
7 THE WITNESS: Yes. She does. I pay for her, too,
8 and her college and --
9 THE COURT: She don't pay you rent?
10 THE WITNESS: No. No. She's only 20.
11 THE COURT: Goes to college.
12 THE WITNESS: Yeah. She goes to --
13 THE COURT: UNLV?
14 THE WITNESS: She goes to CSN right now because --
15 THE COURT: CSN?
16 THE WITNESS: -- I can't afford UNLV.
17 THE COURT: Does she work?
18 THE WITNESS: She works part time at 24 Hour
19 Fitness. She works about 10 -- between 10 to 15 hours a week.
20 THE COURT: That's her spending money.
21 THE WITNESS: Pretty much like her -- she'll pay for
22 her gas a little bit sometimes.
23 THE COURT: Right.
24 MS. ALLEN: Now, you said --

1 THE WITNESS: But school comes first with her I told
2 her.

3 BY MS. ALLEN:

4 Q One of your -- one of your sons -- is it Nicholas
5 goes back and forth; is that correct?

6 A No, no --

7 THE COURT: Unh-unh (negative). Richard.

8 THE WITNESS: -- Richard goes back and forth.

9 BY MS. ALLEN:

10 Q Richard goes back and forth. And he spends equal --
11 or equal time with both parents; is that correct?

12 THE COURT: He has teenager discretion.

13 THE WITNESS: He has teen discretion, but a lot of
14 times he's at my house.

15 BY MS. ALLEN:

16 Q Okay. But the -- your other son, he won't go to see
17 his dad; is that right?

18 A No.

19 Q And your son is mildly autistic; is that right?

20 A Well, he -- he was never diagnosed with that.

21 Q Okay. But you -- you and Mr. Kilgore both have
22 always maintained he was mildly autistic; is that right?

23 A We never maintained that, it was never on any
24 documents or anything. He -- he has some special needs, he

1 was born with immature lungs, he asthma, allergies.

2 Q So, he is -- he is -- you do designate him as
3 special needs then -- you in fact just used the -- the words.

4 (COUNSEL AND CLIENT CONFER BRIEFLY)

5 BY MS. ALLEN:

6 Q Is that correct?

7 A He actually is not designated special needs on
8 anything.

9 Q Does he have an IEP at school?

10 A Yes. He has learning disabilities. That does not
11 make him special needs.

12 Q I didn't use those words; you did, ma'am.

13 A No, you just did.

14 THE COURT: What grade's he in now?

15 MS. ALLEN: Pardon, Your Honor?

16 THE COURT: What grade is Nicholas in -- incoming?

17 THE WITNESS: They are both going in as juniors.

18 They get A's and B's, they're great students, they just got
19 the scholar athlete awards, they got varsity letters. They
20 went to wrestling nationals, a college coach has even
21 approached me about them.

22 THE COURT: Juniors?

23 THE WITNESS: Yes. My babies are going to be
24 juniors.

1 THE COURT: Two more years.
2 MS. ALLEN: Do you encourage --
3 THE WITNESS: I know.
4 BY MS. ALLEN:
5 Q -- your -- your son to have a relationship with his
6 father?
7 A Absolutely, I do.
8 THE COURT: Wait which son?
9 THE WITNESS: Oh. I encourage --
10 THE COURT: Are we on Nicholas still?
11 THE WITNESS: -- all my kids to have a relationship.
12 MS. ALLEN: Pardon, Your Honor?
13 THE COURT: Are we still on Nicholas?
14 MS. ALLEN: Correct.
15 THE COURT: Which son?
16 MS. ALLEN: The -- the -- the one who doesn't go
17 back and forth.
18 THE WITNESS: That'd be Nicholas.
19 THE COURT: That would be Nicholas.
20 MS. ALLEN: So, you encourage --
21 MR. PAGE: Actually I thought we were just on the
22 financial issues --
23 THE WITNESS: Yeah, actually --
24 THE COURT: No, no, I mean I -- I had -- the --

1 Judge O'Malley the -- the clerk that wrote the minutes was one
2 long -- this is what I did, I put it in 16 font and I broke
3 down every paragraph of everything that they agreed and
4 everything that was left out is an issue. I'll tell you what,
5 so it's easier for you guys so you know what -- this is the
6 judge, they got to do clean-up stuff. I'm the clean-up
7 person. So, I'm going to make a photocopy so you guys can see
8 what I have and what I got to rule on. There's more. And I
9 want to make sure --

10 MR. PAGE: I can probably pull it up.

11 THE COURT: -- you guys get all the testimony in. I
12 don't think we'll finish today. Now that I realize what I got
13 -- I got to rule on IRS debt, maybe that property and debts --

14 THE WITNESS: Well, the IRS --

15 THE COURT: -- we've got more. And custody of
16 Nicholas, a final custody determination --

17 MS. ALLEN: Yeah, and --

18 THE COURT: -- whether it remains in the old decree
19 or there's a modification and it's been pending for quite some
20 time. And then I've got to rule on the child support, and I
21 need back constructive child support, and I mean they had a
22 lengthy settlement thing but it all starts -- here, I'll start
23 here, here's the remaining issues here. Can I get two -- can
24 I get two copies of this, please? I'm like OCD so I want to

1 make sure I have to rule on everything so these parties don't
2 have to come back to court and make sure I -- I give closure
3 on everything.

4 MR. PAGE: Yeah, I got --

5 THE COURT: So, yes, custody of Nicholas is at issue
6 still.

7 MS. ALLEN: May I continue?

8 MR. PAGE: I've got the minutes here.

9 THE COURT: Where were we? IEP, now they're juniors
10 in high school.

11 MS. ALLEN: Thank you.

12 BY MS. ALLEN:

13 Q You said you do everything to encourage Nicholas'
14 relationship with his father?

15 A Absolutely, I do.

16 Q Do you tell him to call his dad?

17 A I do.

18 Q At some point in time, Judge Hardcastle was sitting
19 in for Judge Moss, do you remember a hearing in which there
20 was a different judge in here?

21 A Yeah. Vaguely, but I --

22 Q And Judge Hardcastle ordered that my client pick up
23 Nicholas from school, do you recall that?

24 A You know what, this has been so long and going back

1 and forth, I -- I don't really recall --

2 Q And --

3 A -- I don't know what --

4 Q -- do you recall --

5 A -- who was supposed to do what.

6 Q -- rushing out of court and picking Nicholas up
7 superceding the judge's order so that he couldn't see his
8 father?

9 A Absolutely, not, I don't remember.

10 Q And do you recall my client having to get an order
11 -- an emergency order with the Court to come back in because
12 of your actions?

13 A No, actually that never happened. I would never
14 supercede or do that. He had a pick-up order signed at --

15 Q No, I --

16 A -- Christmas and --

17 Q -- appreciate it. Thank you very much. And just to
18 be clear, you -- Mr. Page asked you all these -- all these
19 questions about PERS and -- and all these various things and
20 you -- you specifically said I want the Court to follow the
21 law, right?

22 A Yeah.

23 Q Just to be clear?

24 A Yeah.

1 MS. ALLEN: Thank you.

2 THE COURT: Oh, you've completed?

3 MS. ALLEN: I have, Your Honor. Thank you.

4 THE COURT: Let us go back to redirect. I know I
5 just sprung you on the O'Malley order, I just want to make
6 sure you guys get a copy of that. There might have been then
7 -- because now you realize what's on the table, you might have
8 to ask a few more questions to make sure you get their
9 testimony in. Because we've got -- like I said, there's IRS
10 debt mentioned in there, there's -- it's all in the August
11 2015 minutes.

12 MR. PAGE: Also, I used the --

13 THE COURT: And I actually broke it down. Because I
14 like numbered paragraphs so that definitely wasn't my court
15 clerk that wrote those.

16 MR. PAGE: I used the February 9 order as the basis
17 for my preparation here for today just -- I assumed that was
18 the basis, because that was the last order.

19 THE COURT: Well, whatever O'Malley put on the
20 record -- I'm sorry Senior Judge O'Malley put on the record is
21 -- she says it's an outstanding issue, I feel it's my duty to
22 rule on other issues that may not have been contained maybe in
23 the other motions. It did --

24 MR. PAGE: Well, we certainly --

1 THE COURT: -- preserve the rights.
2 MR. PAGE: -- should try and wrap up this --
3 THE COURT: Yeah.
4 MR. PAGE: -- wrap this up.
5 THE COURT: I'm not trying to add more to
6 everybody's plate here, but you don't want -- want this coming
7 back, you know? We should try to finish it all up for them.
8 Okay. So, we're on redirect. In other words, I'll give you a
9 little leeway once you get the -- the photocopies --
10 MS. ALLEN: Thank you, Your Honor.
11 THE COURT: -- there in case you --
12 MS. ALLEN: Yeah, because I wasn't here.
13 THE COURT: -- you don't miss anything. And, yeah,
14 and I'm sure your client knows his case very well like she
15 does so he might --
16 MS. ALLEN: But it -- yeah --
17 THE COURT: -- have an issue with that. One for
18 each attorney? We have to staple it. I'm a very visual
19 judge, so I like things in like big paragraphs to make sure I
20 know what I got to rule on.
21 THE CLERK: Is there two copies here? I only see
22 one.
23 THE CLERK: That's what I asked the machine to give
24 me.

1 THE COURT: Give it to them. That's --
2 THE CLERK: They're not separated.
3 THE COURT: -- fine. No, I have it here --
4 THE CLERK: They're not separated --
5 THE COURT: -- I'll print it.
6 THE CLERK: -- then. It just -- you did two, two,
7 two, two, two.
8 MR. PAGE: There's a button called collate. I'm
9 just kidding.
10 THE COURT: I'm laughing, we're like Archie and
11 Edith Bunker.
12 THE CLERK: (Indiscernible)
13 THE COURT: Is that my copy? My original there?
14 Thank you.
15 MR. PAGE: Thank you.
16 THE COURT: If you go to page two, that's where I
17 started breaking these things down. Because I mean -- they're
18 supposed -- I'm going to -- I'm sure you're going to ask him
19 about the male therapist for Nicholas, I want to follow up on
20 that, too, and how they're doing the Wizard, you're not going
21 to go through all those factors. Because neither parent is
22 going to concede or neither parents are on the same page as to
23 the custody of Nicholas. Or is it? I should just ask that
24 two cent question there. Is -- is Dad -- I have to ask, is

1 Dad conceding custody of Nicholas or he wants to retain I
2 guess the -- the old order that gives him joint physical and
3 he thinks he still has a shot at the joint physical maybe?
4 Because I have to apply all the factors under the new statute
5 125(c).

6 MS. ALLEN: Right.

7 THE COURT: So, don't even quote to me 125.480.
8 That got repealed with the same factors. Yeah.

9 MR. PAGE: He's 16 with good grades, and he's, you
10 know, great behaviorally, so I'm not sure --

11 THE COURT: I look forward to your --

12 MR. PAGE: -- what else you're going to do besides
13 give --

14 THE COURT: -- closing arguments on that.

15 MR. PAGE: -- let him do what he wants to do.

16 THE COURT: Do your closings, you better run through
17 the factors real quick on those.

18 MR. PAGE: And, you know, if --

19 THE COURT: Here you go, yeah, this is a kitchen
20 sink type -- anyway --

21 MR. PAGE: -- if we have to go through the dog
22 and --

23 THE COURT: Uh-huh (affirmative).

24 MR. PAGE: -- pony show of doing a trial, they're

1 looking at more fees that we're going to be asking for.

2 MS. ALLEN: Your Honor, and --

3 THE COURT: And that's why both sides are turning
4 attorney's fees against each other.

5 MS. ALLEN: And, Your Honor, if I may, I hate to do
6 this to you, but we're almost at 4:00 o'clock.

7 THE COURT: Right.

8 MS. ALLEN: I have kids at home and while one of
9 them is 13 and old enough to watch the other two, on Friday
10 when I did that, I was at CCDC, the baby --

11 THE COURT: You want this on the record or off the
12 record?

13 MS. ALLEN: Off.

14 THE COURT: Turn it off, please.

15 (PROCEEDINGS CONCLUDED AT 16:00:22)

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ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.



Tami S. Ondik, CET

1 **TRANS**

2 **COPY**

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APR - 3 2018

Alana L. Johnson
CLERK OF COURT

3
4
5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**

8
9 RICHARD SCOTT KILGORE,)
10 Plaintiff,) CASE NO. D-12-459171-D
11 vs.) DEPT. I
12 ELENI KILGORE,)
13 Defendant.)

14
15 BEFORE THE HONORABLE CHERYL B. MOSS
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: EVIDENTIARY HEARING

17 MONDAY, OCTOBER 31, 2016

18 **APPEARANCES:**

19 The Plaintiff: RICHARD SCOTT KILGORE
20 For the Plaintiff: BETSY ALLEN, ESQ.
629 S. 6th St.
21 Las Vegas, Nevada 89101
(702) 386-9700
22 The Defendant: ELENI KILGORE
23 For the Defendant: FRED PAGE, ESQ.
500 N. Rainbow Blvd., #300
24 Las Vegas, Nevada 89107
(702) 469-3278

1	<u>I N D E X O F W I T N E S S E S</u>				
2	<u>PLAINTIFF'S</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	<u>WITNESSES:</u>				
4	RICHARD KILGORE	90	99	111/120	117/131/136
5	<u>DEFENDANT'S</u>				
6	<u>WITNESSES:</u>				
7	ELENI KILGORE	--	--	24/60/84	40/71
8	ELENI KILGORE (rebuttal)	153	--	--	--
9	* * * * *				

10	<u>I N D E X O F E X H I B I T S</u>	
11		
12	<u>PLAINTIFF'S</u>	<u>ADMITTED</u>
13	<u>EXHIBITS:</u>	
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16	<u>DEFENDANT'S</u>	
17	<u>EXHIBITS:</u>	
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1 LAS VEGAS, NEVADA

MONDAY, OCTOBER 31, 2016

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 09:33:29)

4

5 THE COURT: Do we go on now?

6 THE CLERK: Yeah, it's okay.

7 THE COURT: D-459171, Kilgore. Counsel, your
8 appearances and bar numbers.

9 MS. ALLEN: Betsy Allen, bar number 6878, on behalf
10 of the Plaintiff who is present.

11 MR. PAGE: Good morning, Your Honor. Fred Page, bar
12 number 6080, on behalf of the Defendant who is present as
13 well.

14 THE COURT: All right. Any procedural matters
15 before we hopefully try and finish up this evidentiary
16 hearing?

17 MS. ALLEN: Well, Your Honor, what -- I know that we
18 have agreed at least in part to one thing.

19 THE COURT: You have? It's --

20 MS. ALLEN: Shockingly, I know.

21 THE COURT: -- stipulation? Okay. What -- what
22 will that be?

23 MS. ALLEN: With regard to the physical custody of
24 Nicholas, there's twins, obviously, Nicholas being one of

1 them. My client is willing to stipulate to give Mom primary
2 physical custody --

3 THE COURT: Okay.

4 MS. ALLEN: -- at this point in time just based upon
5 the fact that he doesn't have any contact with his son and he
6 hasn't for how long?

7 MR. KILGORE: Over -- over a year and a half.

8 MS. ALLEN: A year and a half since he's had any
9 contact with his son.

10 THE COURT: Are they in counseling, therapy?

11 MS. ALLEN: No.

12 THE COURT: Does he have teenage discretion?

13 MS. ALLEN: He has teenager discretion, but
14 obviously there is some serious issue here. He won't even
15 talk to his own father. What the --

16 THE COURT: Do you need me to order anything as far
17 as --

18 MS. ALLEN: Well, that's what I'm --

19 THE COURT: -- the counseling or --

20 MS. ALLEN: -- that's what I'm getting to and this
21 is where we disagree. While we're willing to stipulate to the
22 custody issue, we are asking for reunification and we're
23 asking that the parties split the cost of the reunification.
24 So that's one of the issues the Court would need to decide is

1 cost of reunification.

2 We are further requesting if the Court orders
3 reunification which I think is totally appropriate in these
4 circumstances that it not just be -- you know, you're --
5 you're to embark on reunification. We -- we want kind of a
6 specific order from the Court.

7 THE COURT: Does Nicholas have his own individual
8 counselor?

9 MS. KILGORE: He had been.

10 THE COURT: Does he have an in counseling?

11 MR. PAGE: Not anymore. No.

12 MS. KILGORE: No, he had been going to a male
13 counselor because you wanted me to take him to a male
14 counselor.

15 THE COURT: Yeah, who was that? Did you do that?

16 MS. KILGORE: David Gossley (sic) -- Goss -- and --

17 THE COURT: What's his name?

18 MS. KILGORE: Dr. David Gosse.

19 THE COURT: Okay. He's a, what, psychologist or --

20 THE COURT: Yeah, he was a counselor. And actually,
21 Nicholas liked him a lot and they were doing very well. And
22 he went for a few months and he finally said at the end he
23 said I don't have anything to work on Nicholas with because he
24 was doing very well. He gave him like two or three different

1 types of like emotional aptitude tests and things and he said
2 this child is getting good grades, he's a varsity wrestler, he
3 got a scholar athlete award. So he said he -- he does have
4 some anger towards his dad. He didn't deny that, but he said
5 that as far as --

6 THE COURT: It's an unresolved issue. He may have
7 to go back to be checked out by that individual counselor who
8 would then consult with a reunification counselor that the
9 parents can mutually selected off of our list.

10 MS. ALLEN: I honestly don't know that the Court --
11 honestly, I -- Your Honor, the -- these two people can't agree
12 on very much of anything. I would ask the Court to pick
13 someone.

14 THE COURT: You have -- do you guys have some names
15 you want to throw out? I mean, I've done a few cases. I
16 mean, there's Nicholas Ponzio, Donna Gosnell, Claudia Schwartz.
17 Anybody? Any name ring a bell?

18 MR. PAGE: They've tried with Donna Gosnell before.
19 She wasn't so good. They could try --

20 THE COURT: That leaves us Ponzio and Claudia
21 Schwartz or one of the psycholog -- well, I don't know if
22 they --

23 MR. PAGE: Claudia Schwartz is down in Henderson and
24 these folks are up in North Las Vegas.

1 THE COURT: They're in northwest, yeah.
2 MR. PAGE: Yeah, Donna could --
3 THE COURT: Where's my Court approved list?
4 MR. PAGE: Donna could -- Donna Wilburn would be
5 the --
6 THE COURT: Johnny, can you give them the list
7 against for the outsource providers?
8 MR. PAGE: Keisha Weiford if she has availability is
9 always fine.
10 THE COURT: Okay. Third column from the right.
11 There's Sarah Ahmad on Flamingo. That's too far. Here, I
12 don't know where's some of these other names. Let me see.
13 Diane D'Amore. She's up in Centennial, West Azure Drive.
14 MR. PAGE: D'Amore?
15 THE COURT: Diane D'Amore? Or do you want a male?
16 MR. PAGE: I don't --
17 THE COURT: There's Diane D'Amore --
18 MR. PAGE: It doesn't -- doesn't matter to me.
19 THE COURT: -- on Page 2. She's on West Azure.
20 That's Centennial.
21 MS. KILGORE: Yeah.
22 THE COURT: There is Johnny Gozno (ph) is on South
23 -- oh, you had done work with her. Michelle Gravley, I --
24 she's in Summerlin. There is also Heidi Hanusa on Page 3.

1 She's in -- like off of Cheyenne and Durango. Cheyenne -- no,
2 Buffalo and Rainbow, maybe. Let's see, Stephanie Holland.
3 Okay. So I think there were two ladies. There's -- oh, Gary
4 Lenkeit does them, but he's on East -- West Warm Springs.
5 He's too far for them.

6 MS. ALLEN: I know. He's lovely though. He's such
7 a good doctor. And my client seems to think he might respond
8 better to a male.

9 THE COURT: See Nic -- Nicolas Ponzo, he's really
10 good and he is in Summerlin on Park Run Drive.

11 MS. ALLEN: I'm fine with that.

12 THE COURT: I think he would be your best bet and
13 he's a male counselor.

14 MS. ALLEN: Sounds good to me. Yeah, we're good.

15 THE COURT: He's very effective on the strong cases.
16 You want somebody strong, maybe. So I think Ponzo would be
17 the best. Maybe the other option, the strong option, would be
18 Keisha Weiford. She's on West Lake Mead. Yeah. All right.
19 First choice -- first choice, Nicolas Ponzo. Second choice,
20 Keisha Weiford. Give me a referral form. What is the income
21 ratio in terms of reunification costs?

22 MR. PAGE: Well, right now Dad's responsible for it,
23 but Dad's the one --

24 THE COURT: Well, and Dad has to pay now.

1 MR. PAGE: Dad's --

2 THE COURT: Do they have 50/50 custody of Richard?

3 MS. ALLEN: Yeah, they did.

4 THE COURT: So what's the Wright vs. --

5 MS. ALLEN: They do. Well, they technically do,

6 because I mean, we just stipulated --

7 THE COURT: And the order was joint physical of

8 Richard and he has teenager discretion.

9 MR. PAGE: Richard has teenage discretion.

10 MS. ALLEN: Correct.

11 MR. PAGE: He does -- comes and goes --

12 THE COURT: All right.

13 MR. PAGE: -- as he pleases.

14 THE COURT: So you -- you would take 18 percent of

15 Dad's income, 18 percent of Mom's income and look at the

16 difference and then we're going to do the 20 -- the 18 percent

17 from Dad to Mom for Nicholas. And I want to see what that

18 number will come out to be.

19 MR. PAGE: We already -- I'm sorry, I don't mean to

20 interrupt, Your Honor, but we already -- we did this before

21 back in February and you set the order.

22 THE COURT: Oh, what's the number?

23 MR. PAGE: It's like 1500.

24 THE COURT: It was a temporary order?

1 MR. PAGE: Yes.

2 THE COURT: With the joint and then primary?

3 MS. ALLEN: Yeah, it was --

4 THE COURT: Temporarily.

5 MS. ALLEN: Do you mean the child support?

6 MR. PAGE: Yes.

7 THE COURT: Yeah, it was joint of Richard and --

8 MS. ALLEN: Right.

9 THE COURT: -- primary to Mom temporarily. Now

10 they're agreeing --

11 MS. ALLEN: Right.

12 THE COURT: -- to a permanent.

13 MS. ALLEN: Right. And -- but that -- and that was

14 a temporary order. But Your Honor -- and with regard to the

15 reunification --

16 THE COURT: You're looking at about anywhere from a

17 hundred to a hundred and fifty a session for a one hour

18 session. Intense, it would be one -- one time a week if he

19 can go with school and everything.

20 MS. ALLEN: Correct. And we're just asking the

21 parties split the cost. I think that's completely appropriate

22 in this -- in this --

23 MR. PAGE: It's -- it's not --

24 MS. ALLEN: -- discussion.

1 MR. PAGE: It's not --
2 MS. ALLEN: And --
3 MR. PAGE: It's not Mom's fault.
4 MS. ALLEN: Can I --
5 THE COURT: Okay. Hang on.
6 MS. ALLEN: Wait a second.
7 THE COURT: Hang on, Mr. Page.
8 MS. ALLEN: Thank you, Mr. Page. Your Honor, if I
9 may, I -- I -- again, I haven't been here in a long time. But
10 you have been doing this a long time and when things like this
11 happen, both parties are at fault. I'm sorry.
12 THE COURT: What is your severe gross disparity in
13 income? Let's say he has to pay the 1500, take that off the
14 -- the top of his net monthly income, then he's got to pay his
15 living expenses. I mean --
16 MS. ALLEN: Correct.
17 THE COURT: -- how much would he have leftover at
18 the end of the day?
19 MR. PAGE: It's not equitable for Mom to have to pay
20 for something that she didn't cause. It's not --
21 THE COURT: Well, how much is --
22 MR. PAGE: It's -- it's Nicholas.
23 THE COURT: What would he end up with?
24 MR. PAGE: It's an issue between Nicholas and Dad

1 and -- and Dad needs to be responsible. If -- he needs to
2 take responsibility it.

3 THE COURT: I don't like to play the blame game and
4 it's just if a child needs help, then typically we start with
5 the 50/50.

6 MS. ALLEN: Doesn't Mom want him to --

7 THE COURT: But is there such --

8 MS. ALLEN: -- reunify?

9 THE COURT: -- a gross disparity income? She's
10 going to receive 1500, supposedly. And some of that maybe can
11 go towards that. And 1500 a month and you -- and you're doing
12 -- splitting a hundred and fifty a session, hypothetically. I
13 don't know what -- what either of them would charge, but
14 that's the average. And if they go minimum, you know, two,
15 three, four would be preferred, one time a week, at most like
16 600 a month. So 300 a month coming off the top.

17 MR. PAGE: We should keep in mind that Richie --

18 THE COURT: And that's --

19 MR. PAGE: I mean, Nicholas stays with her
20 exclusive. She has -- she has far more expenses for Nicholas
21 than she does --

22 THE COURT: I understand that too.

23 MR. PAGE: -- for Ric -- then -- then Dad has
24 absolutely zero. And Richie actually spends most of his time

1 with Mom rather than Dad. So she really --

2 THE COURT: And that's one factor --

3 MR. PAGE: -- essentially has --

4 THE COURT: -- that household incomes, but what is
5 the ratio?

6 MR. PAGE: Well, he makes -- he makes probably \$7300
7 a month. She makes \$5800 a month. That's gross.

8 THE COURT: How much?

9 MR. PAGE: He makes \$7300 a month.

10 THE COURT: And Mom?

11 MR. PAGE: 58.

12 THE COURT: 58? That's not --

13 MS. ALLEN: And he -- he's --

14 THE COURT: -- a two-to-one ratio.

15 MS. ALLEN: And he pays her 1500 for the child
16 support.

17 THE COURT: All right. If you want me to do a 60-40
18 percent split, that's -- I don't know what the ratio is.
19 5873.

20 MS. ALLEN: Well, and Your Honor --

21 THE COURT: Divided by 7300 --

22 MS. ALLEN: -- Mr. Page makes the argument that
23 Richard -- or that Nicholas lives with her full-time, but
24 that's the point of child support. So I mean, he pays her the

1 child support every month.

2 MR. PAGE: Well, there -- they're --

3 THE COURT: He does too.

4 MR. PAGE: It makes the child more meaningless if he
5 won't pay for the cost of the reunification.

6 MS. ALLEN: At the end of the day --

7 MR. PAGE: It's about an -- it's about 80 -- he
8 makes --

9 THE COURT: Yeah, it's about 8.

10 MR. PAGE: -- she makes 80 percent of what he does.

11 MR. KILGORE: She's makes more than I do with child
12 support.

13 MS. ALLEN: Yeah.

14 THE COURT: She's getting the child support too
15 though. How about 6535 percent? All right. Just to kind of
16 even it out a little bit.

17 MR. PAGE: Fine.

18 MS. ALLEN: Your Honor --

19 MR. PAGE: My client says --

20 MS. ALLEN: -- I --

21 MR. PAGE: -- fine.

22 MS. ALLEN: -- I would ask for at least 60-40. My
23 client is already paying an exorbitant amount of child
24 support. He has arrears in this case which is part of the

1 reason that we --

2 THE COURT: We're fighting over five percent?

3 MS. ALLEN: 1640. She -- this -- Mom should want
4 this -- as a matter of fact, she testified she wanted this
5 just as much as Dad did.

6 MR. PAGE: I've never had an attorney say the
7 statutory amount of child support is exorbitant.

8 THE COURT: I believe I made my ruling. 6535, five
9 percent -- five percent of a hundred and fifty is what? 10
10 bucks difference? Due to time constraints, let's just keep
11 track of the bill and let me know how that's all --

12 MR. PAGE: Okay.

13 THE COURT: -- working out and we can always revisit
14 it. And I'll make that a temporary order while we proceed
15 with the reunification. This is what you do. You have to
16 take Nicholas back to the Dr. David guy, have him -- have him
17 kind of prepared, have him advise the doctor that we're
18 starting reunification.

19 MS. KILGORE: Okay.

20 THE COURT: Then whoever we choose, Ponzo or
21 Weiford, will consult with that doctor, sign HIPAA releases so
22 that they can obtain records. They can have a one hour
23 consultation on the phone and then Nicholas will likely meet
24 with the reunification counselor first alone, take him to that

1 appointment and he'll couns -- the reunification therapist can
2 get him going as far as having a first meeting with Dad at the
3 clinic at their office. And that's how it progresses and
4 proceeds and we'll just keep --

5 MS. ALLEN: Can I request Your Honor the Court order
6 that this be done -- this -- this -- we initiate this within
7 30 days of today?

8 THE COURT: Mom has to start that first with the --
9 the child's individual counselor.

10 MS. ALLEN: That's fine.

11 THE COURT: And then notify -- have the attorneys
12 notify -- have the attorneys notify whoever you select, that
13 once you lock in either Ponzo or Weiford to get the -- get the
14 ball going -- going on that one.

15 MS. ALLEN: Can I ask the Court order it within 30
16 days of today?

17 THE COURT: Actively work it in the next 30 days.

18 MS. ALLEN: Thank you.

19 THE COURT: Lawyers need to assist their clients.
20 How -- how it all works.

21 MS. ALLEN: And Your Honor, can I also request that
22 whoever this child ends up seeing, Mr. Ponzo or the other
23 lady, I'm not sure her name --

24 MR. PAGE: Weiford.

1 MS. ALLEN: -- that we have -- that she keep copious
2 notes of -- of the meetings and things like that?

3 THE COURT: Write a joint letter to --

4 MS. ALLEN: Okay.

5 THE COURT: -- who your -- they select.

6 MS. ALLEN: Thank you. And Ponzo is number one, is
7 that correct?

8 THE COURT: Yeah. I'll -- I'll just write here
9 Ponzo or Weiford. We have -- we have them on the list and
10 it's -- I understand -- do you want a return date? Or you can
11 just request a hearing with me anytime. I don't want to bog
12 up my calendar.

13 MS. ALLEN: That's fine.

14 THE COURT: Or you can file a notice of hearing.
15 Any other stipulations?

16 MR. PAGE: That's the only one.

17 THE COURT: Well, it's been awhile since they --
18 well, we have their financial disclosure forms. 1500 will
19 remain kind of a temporary order because maybe the decision on
20 the -- the pension and all that may impact on their household
21 income. So best to leave it temporary and then you can always
22 go back retroactively to make it the amount, you know, plus or
23 minus and take a look at the final orders on that. So keep
24 that in mind on the 1500 child support.

1 Okay. And let me get my notes up. Do you
2 remember --

3 MR. PAGE: I'm sorry.

4 THE COURT: -- where we --

5 MR. PAGE: What --

6 THE COURT: -- left off?

7 MR. PAGE: What did you say about retroactive?

8 THE COURT: Modification. My first order, the 1500.
9 We go back to that date and take a look. We were here last in
10 August 15th? That was our last day of trial, yes.

11 MS. ALLEN: And Your -- I submitted an order to the
12 Court. I don't know if the Court got it.

13 MR. PAGE: Order from what?

14 THE COURT: Proposed order?

15 MR. PAGE: You signed an order?

16 MS. ALLEN: You and I signed it already.

17 MR. PAGE: Oh, that thing.

18 MS. ALLEN: And I -- and I did leave it in your box,
19 but apparently someone took my box from downstairs. So I
20 don't know what happened to it.

21 THE COURT: I'll have my clerk try and locate it.
22 This is day three of trial. Any -- let's see. We had Sonya
23 Hellwinkle. Was she supposed to go back or --

24 MR. PAGE: She --

1 MS. ALLEN: No.

2 MR. PAGE: She was the first witness. We -- when we
3 left off and I re --

4 THE COURT: Dad testified.

5 MR. PAGE: I reviewed the video yesterday. My
6 client was on the stand.

7 THE COURT: I had -- we -- we resumed the redirect
8 of Mom by Mom's attorney for day three. That's where we're
9 at. But is there any other witnesses that need to be taken
10 out of turn?

11 MR. PAGE: No.

12 THE COURT: We just have whom left?

13 MS. ALLEN: Well, the -- I believe Mr. Page has sort
14 of -- this was his -- still his case in chief. And so --

15 THE COURT: It is.

16 MS. ALLEN: -- I -- technically, I would still
17 have --

18 THE COURT: You can call back the parties on --

19 MS. ALLEN: Right.

20 THE COURT: -- the stand, if you want.

21 MS. ALLEN: If Mr. Page is willing to let me examine
22 his client and sort of openly without constriction --

23 THE COURT: Going beyond any kind of --

24 MS. ALLEN: Beyond the scope --

1 THE COURT: -- scopes of directs? Yeah.

2 MS. ALLEN: -- then we can probably not be here all
3 day.

4 MR. PAGE: Well, I don't think we're going to be
5 here all day anyway because we resolved the custody issue. We
6 did have some additional items that Your Honor said we need to
7 deal with based upon the minutes from Judge O'Malley. I've
8 tried to prepare for those today regarding IRS debt, some
9 medical bills, and things like that.

10 THE COURT: Still unresolved?

11 MR. PAGE: Yeah, the -- there was a -- something
12 about a thing about dresses and coat, IRS debts, and some
13 medical arrears.

14 THE COURT: Date of that --

15 MS. ALLEN: So I have --

16 THE COURT: Senior judge settlement conference
17 August 28th, 2015. I will print those minutes.

18 MS. ALLEN: Here. This -- you have this --

19 THE COURT: And take a look at that.

20 MS. ALLEN: -- from the D.A.'s Office. That has the
21 most current on the medical and child support.

22 MR. PAGE: That shows child -- it should be just
23 child because there's --

24 MS. ALLEN: No.

1 MR. PAGE: -- two --
2 MS. ALLEN: There's medical.
3 MR. PAGE: -- two separate ones.
4 THE COURT: It was logged out two different times,
5 your order, it should be back in your attorney folder.
6 MS. ALLEN: That's what I just told the Court. I
7 don't know what happened to my attorney folder.
8 THE COURT: Oops.
9 MS. ALLEN: Because the last time -- the last time I
10 was here and went and looked for it and there's -- my name's
11 not there anymore.
12 THE COURT: Oops.
13 MS. ALLEN: Which --
14 THE COURT: The Clerk's Office lose her document?
15 THE CLERK: I'm not -- no, because I'm the one that
16 puts the orders out there.
17 MS. ALLEN: It was like oh,
18 (indiscernible*09:48:58). Yay.
19 (COURT AND CLERK CONFER BRIEFLY)
20 MR. PAGE: Unless that is the health insurance
21 premium.
22 (COUNSEL CONFER BRIEFLY)
23 THE COURT: Okay. I have the minutes from August
24 28th. Let's finish up the redirect of Mom and then we can

1 just keep Mom on the stand and then have Ms. Allen go into her
2 -- kind of her direct testimony -- or cross exam, whatever you
3 want to call it. Ready, Mr. Page?

4 MR. PAGE: Ready.

5 THE COURT: Okay. So we'll have Mom up on the
6 stand. It's a new day. We'll have her sworn in and just go
7 into the questions.

8 (WITNESS SUMMONED)

9 THE COURT: I can tell from her testimony previously
10 we talked about the 1200 per month. Go ahead. Swear her in.

11 THE CLERK: You do solemnly swear the testimony
12 you're about to give in this action shall be the truth, the
13 whole truth, and nothing but the truth, so help you God?

14 MS. KILGORE: Yes, I do.

15 THE CLERK: You may be seated.

16 THE COURT: And we just had her discussion on her
17 opinions about her benefits, just some historical stuff, A/B
18 list, her financial disclosure form was discussed. She was
19 living in a rental home. Their daughter Alexandra I guess
20 lives with her.

21 THE WITNESS: Yes.

22 THE COURT: Goes to college.

23 THE WITNESS: Yes.

24 THE COURT: And then a little bit about Nicholas.

1 Okay. Mr. Page, you may resume.

2 MR. PAGE: Are you going to go, Ms. Allen?

3 MS. ALLEN: I -- I thought she said -- I thought --
4 are you done?

5 THE COURT: No, we were going to continue with his
6 redirect.

7 MS. ALLEN: Right.

8 THE COURT: Because you crossed.

9 MS. ALLEN: That's what I thought. But if you're
10 not --

11 THE COURT: You did the cross.

12 MS. ALLEN: -- done -- if you're done, then I'll get
13 up and --

14 MR. PAGE: No. What I want to go -- what I'd like
15 to get to, excuse me, is the additional items you put on our
16 plate today. Even at the last hearing you want us to clean
17 everything up. We're going to attempt to do so here now. And
18 what I'm looking here, Your Honor, I'm just -- I'm not going
19 to question (indiscernible*09:51:31). I'm just going to make
20 sure we're all the same page.

21 THE COURT: Yeah.

22 MR. PAGE: And that is issues that we're -- we've
23 dealt with, I had asked my client about is the payment of the
24 PER -- PERS pension to her, the -- when the payment should

1 have commenced, the amount of payment, the
2 (indiscernible*09:51:45) beneficiary, the designation of the
3 beneficiary. We've -- we have -- we've questioned everyone on
4 all of those issues.

5 THE COURT: Yeah.

6 MR. PAGE: And we've questioned about the division
7 of the vacation and sick pay. We've now gone ahead and just
8 dealt with child support by going back to the February 9
9 order. custody has been resolved. So now we really have just
10 the cleanup items, I believe.

11 ELENI KILGORE
12 called as a witness on her own behalf, having been first duly
13 sworn, testified upon her oath as follows on:

14 REDIRECT EXAMINATION CONTINUED

15 BY MR. PAGE:

16 Q Ms. Kilgore, at the settlement conference in front
17 of Judge O'Malley, one of the issues that we were unable to
18 resolve was the IRS debt. What is the IRS debt for?

19 A It was for when we were married and we owed the IRS
20 like \$10,000.

21 THE COURT: How much?

22 THE WITNESS: \$10,000.

23 THE COURT: Okay.

24 Q For that, how much of that would you estimate that

1 you have paid?

2 A Well, they took -- they took one of my income tax
3 refunds for 3600 and then he and I have both made several
4 payments. I paid a hundred and he paid a hundred to the IRS
5 for several months.

6 Q How much would be estimate that you have paid to the
7 IRS in total for that tax debt?

8 A I would say maybe about 4500.

9 THE COURT: That's in addition to the 3600 tax
10 refund check they took?

11 THE WITNESS: No. No. That's with the tax refund.

12 THE COURT: The total.

13 Q Was there also an issue of some dresses and coats
14 that you had in the formal marital residence?

15 A Yes.

16 Q What happened to the dresses?

17 A I don't know, because I never received them.

18 Q Okay. What happened to the coats?

19 A He was supposed to give it to me and he had told his
20 last attorney and my attorney that he was going to bring it,
21 he was going to bring it, he was going to give it to me. And
22 then he never and I never got it. And then he told his
23 attorney that if I brought it up again, that he would never
24 divorce me and he would never sign the papers.

1 Q Where do you believe the dresses and coat are today?

2 A I think he probably sold them, pawned them. I
3 really don't know.

4 Q What is the number of the dresses that we are
5 talking about that her was supposed to return to you?

6 A It was 10 dresses.

7 Q Have you conducted an investigation as to what those
8 dresses might be worth?

9 A I did. I googled and I tried to find dresses
10 similar.

11 Q What sources did you look at to try and determine
12 the value of those items?

13 A The two places where I usually brought my dresses
14 which were mainly Macy's and Dillard's. So I went to Macy's
15 and Dillard's and tried to find the dresses that were pretty
16 comparable to the ones that I had.

17 Q What did you conclude based upon your investigation
18 as to what the value of those 10 dresses in total were?

19 A I think it was like around \$2,000.

20 Q Okay.

21 THE COURT: Of retail price.

22 THE WITNESS: Yes.

23 THE COURT: Brand new.

24 THE WITNESS: Yes. Some of them were on sale. Some

1 were -- I just tried to find dresses that were the most
2 similar to the ones I had.

3 Q What investigation did you conduct to try to
4 determine what the value of the fur coat was?

5 A I actually had a picture of me and the fur coat and
6 actually one of my formal dresses which is a black one. So I
7 at least have one picture. And I knew what it was made of and
8 I went online and I just tried to find fair market value.

9 Q What type of fur coat was this?

10 A It was a mink and blue fox fur coat.

11 Q What was the color?

12 A A white and like a white color with a little --

13 Q What was the length?

14 A It was in between my -- my hip and my knee. Like I
15 don't know what you call it. It wasn't short, but it wasn't
16 full length. It was the medium one.

17 Q What investigation have you conducted to determine
18 the value of this item?

19 A It took me a long time, because people now are very
20 anti fur. So to try to find my fur coat was difficult. But I
21 did end up finding two that kind of matched it the best I
22 could.

23 Q What is the value you were able to determine as to
24 what the coat is worth?

1 A Between 7 and \$8,000.

2 MR. PAGE: May I approach the witness?

3 THE COURT: You may approach the witness.

4 Q I'm handing you two pieces of paper. Could you
5 identify the first page, piece of paper?

6 A It's the one where I did the estimate of my dresses.

7 Q Can you identify the second piece of paper?

8 A It's the one of me wearing my fur coat and then the
9 two estimates.

10 Q Okay. How old is the photograph of you wearing the
11 fur coat?

12 A Oh, my gosh. Probably about 18 years old, 17, 18
13 years old.

14 Q So you've had -- you had the jacket -- you had the
15 coat for a long time.

16 A Yes.

17 Q Okay. Is there any factual dispute that the coat
18 was in Mr. Kilgore's possession?

19 A No, he had it?

20 Q Are you asking the Court award you the value of the
21 dresses that were never returned to you?

22 A Yes.

23 Q Are you asking the Court award you the value of the
24 fur coat that was never returned to you?

1 A Yes.

2 MR. PAGE: I would like to move for admission of the
3 photographs and estimates as Exhibit I.

4 THE COURT: It's J.

5 MR. PAGE: J.

6 THE COURT: Okay. Any objection? Do you have a
7 copy, Ms. Allen?

8 MS. ALLEN: He just handed me one. No.

9 THE COURT: Okay.

10 MS. ALLEN: Nevermind.

11 THE COURT: That's admitted.

12 (DEFENDANT'S EXHIBIT J ADMITTED)

13 THE COURT: How much did you pay for your fur coat?

14 THE WITNESS: I didn't pay for it.

15 THE COURT: It was bought during marriage?

16 THE WITNESS: No, my friend gave it to me.

17 THE COURT: It was a gift?

18 THE WITNESS: Yes.

19 THE COURT: Okay. And I see here it was -- you saw
20 something similar for 7,995?

21 THE WITNESS: That one I think was like 7500. The
22 other one was like 79.

23 THE COURT: A friend gave it to you as a gift?

24 THE WITNESS: Uh-huh (affirmative). Yes, it was

1 mine. And it meant a lot to me.

2 BY MR. PAGE:

3 Q Who was the person that primarily takes the children
4 to the physician?

5 A Me.

6 Q As a result of you taking the children to -- to the
7 position, are there prescriptions you have to get filled?

8 A Yes.

9 Q Are there physician visits that you are charged for?

10 A Yes.

11 Q What are the co-pays?

12 A Well, depending on whether we went to the regular
13 doctor or a specialist. They can range anywhere from 20 to
14 like \$50. And the hospitals are different. Quick cares are
15 different.

16 Q Who has paid for the co-pays?

17 A Me.

18 Q What communications have you had with Mr. Kilgore
19 regarding him paying you one-half of those co-pays?

20 A Well, Judge Moss ordered us in -- she ordered us to
21 use FamilyWizard and then in January of 2013 she -- my
22 attorney had handed him like \$1500 that he hadn't paid for.
23 And then she absolutely ordered us to use it especially
24 regarding medical bills because she said she wanted to keep

1 track of and monitor all the medical bills and what he was
2 paying and not paying.

3 Q What payments has Mr. Kilgore made to you for those
4 unreimbursed medical expenses?

5 A None.

6 Q What have you done to communicate -- how -- let me
7 -- let me rephrase it. How have you communicated these
8 requests for reimbursement to Mr. Kilgore?

9 A On FamilyWizard. We put them on and they're
10 supposed to be paid within 30 days.

11 THE COURT: Was there a 30/30 rule?

12 MR. PAGE: Yes, I believe so.

13 THE COURT: For the children medical bills?

14 MR. PAGE: Yes.

15 Q Did you attach receipts as well or upload receipts?

16 A Yes, I did.

17 MR. PAGE: May I approach the witness?

18 THE COURT: You may approach.

19 Q Can you identify this document, please?

20 A It's all the stuff from FamilyWizard about medical
21 bills.

22 Q What is the most recent medical bill?

23 A 10/8/2016.

24 Q Has Mr. Kilgore paid that?

1 A No.

2 Q Let's turn to the document Bates labeled Defendant
3 4. What is that date?

4 A 7/11/16.

5 Q Has Mr. Kilgore ever paid that?

6 A No.

7 Q Let's turn to document Bates labeled --

8 MS. ALLEN: Your Honor, if we're going to go through
9 every single sheet in this stack, that's ludicrous. If she
10 just wants to say he hasn't paid any of these, that's fine,
11 but we don't need to go through every single sheet.

12 MR. PAGE: I am not --

13 MS. ALLEN: It would take us --

14 MR. PAGE: -- going --

15 MS. ALLEN: -- four hours.

16 MR. PAGE: I am -- obviously, I am not going through
17 every -- simply a misrepresentation of the record to suggest
18 that I am. I am going through samples. I -- I went through
19 one --

20 MS. ALLEN: Yeah.

21 MR. PAGE: -- I went through five, I went through
22 10, I'll go through 20, I'll go through 40.

23 THE COURT: Okay. Is there any kind of
24 demonstrative chart where she did a full accounting and then

1 made her --

2 MR. PAGE: Yes, I do have --

3 THE COURT: -- total claim?

4 MR. PAGE: She did prepare a summary.

5 THE COURT: Okay. We'll hopefully get to that.

6 Thank you, Counsel.

7 MS. ALLEN: And I just received these today, Your
8 Honor.

9 MR. PAGE: These are part of --

10 THE COURT: Okay.

11 MR. PAGE: -- OurFamilyWizard --

12 THE COURT: Duly noted.

13 MR. PAGE: -- so -- so his client has had full
14 access -- her client's had full access to it.

15 BY MR. PAGE:

16 Q What is the date on this, the one that's circled --
17 that's Bates labeled 10.

18 A 2/29/2016.

19 Q Has Mr. Kilgore ever paid that?

20 A No.

21 THE COURT: Let me just add here. I'm reading the
22 minutes from Judge O'Malley. The unreimbursed medical
23 arrearages from the UIFSA which was heard on 2/25/14 indicated
24 medical arrears at 1496.24. This figure came from the decree.

1 Both parties had stipulated previously that Dad had paid the
2 1496.24 already. Those arrearages were established January
3 10, 2013 and anything after is open for claims by Mom or Dad
4 for unreimbursed medical expenses and it needs to be resolved.

5 MR. PAGE: Yes. So that's what we're doing now.

6 THE COURT: Thank you.

7 Q What is the date on the document Bates labeled
8 Defendant 30?

9 A 9/21/2015.

10 Q Has Mr. Kilgore ever paid that?

11 A No.

12 Q Turn to Defendant's Bates labeled 40. What is the
13 date of that service?

14 A 1/28/15.

15 Q What is the amount?

16 A \$20.

17 Q Has Mr. Kilgore ever paid that?

18 A No.

19 Q I'm going to turn to the last one here and that's
20 Bates labeled --

21 A 1/15/2013.

22 Q Okay. And that amount is \$25? Has Mr. Kilgore ever
23 paid that?

24 A No.

1 MR. PAGE: Move for admission of this as Exhibit K.
2 THE COURT: Any objection to K?
3 MS. ALLEN: Well, based on the fact that my client
4 had access to it, I guess not.
5 THE COURT: Okay. That will be admitted.
6 (DEFENDANT'S EXHIBIT K ADMITTED)
7 THE COURT: So these are additional bills? You're
8 not double dipping, Mom, right? That --
9 THE WITNESS: No, it's all --
10 THE COURT: -- this is not part of the 1496.24.
11 THE WITNESS: No, those start on the 15th of
12 January.
13 THE COURT: And --
14 THE WITNESS: Which was after that date.
15 THE COURT: -- they're only for this year -- or last
16 year?
17 THE WITNESS: No, they're for the last three years.
18 THE COURT: So that's what --
19 THE WITNESS: Two years, whatever.
20 THE COURT: -- Judge O'Malley said, anything after
21 January 10th --
22 THE WITNESS: Yes.
23 THE COURT: -- 2013, you -- those are your bills.
24 THE WITNESS: Yeah. So they're --

1 MR. PAGE: The first one is from January --
2 THE WITNESS: -- from '13 to now.
3 MR. PAGE: -- 15, 2013.
4 THE WITNESS: Yeah.
5 THE COURT: Okay. Did I get a grand total?
6 MR. PAGE: I'm going to get to that right now.
7 THE COURT: Okay. Go ahead.
8 BY MR. PAGE:
9 Q Could you identify this document, please?
10 A It's the report I printed off of FamilyWizard.
11 Q What is the report?
12 A It's the date -- what the money was for, like a
13 doctor's appointment, the status, the category of medical,
14 dental, the total, and then his half.
15 Q Who prepared this?
16 A I did.
17 Q Okay. How many pages are there?
18 A 14.
19 Q The first date is what?
20 A 1/15/2013.
21 Q The last date is what?
22 A 10/8/2016.
23 Q What is the total unreimbursed medical expenses that
24 you had paid for?

1 A \$6,225.59.

2 Q What is Mr. Kilgore's one-half?

3 THE COURT: Can I get that number again? 6,200 --

4 THE WITNESS: \$25.59.

5 Q What is Mr. Kilgore's responsibility?

6 A \$3,202.89.

7 Q Has Mr. Kilgore ever paid you a penny for that?

8 A No.

9 I'd like to move for this as an -- admission of Exhibit L.

10 A Any objection to L?

11 MS. ALLEN: No, Your Honor.

12 THE COURT: Thank you. It's admitted.

13 (DEFENDANT'S EXHIBIT L ADMITTED)

14 BY MR. PAGE:

15 Q You requested that Mr. Kilgore be ordered to pay for
16 his one-half share responsibility?

17 A Yes.

18 THE COURT: Did you say half of all?

19 MR. PAGE: Half.

20 THE COURT: 3202.89 --

21 Q Have you incurred attorney's fees as a result of
22 getting Mr. Kilgore to try and -- try and have Mr. Kilgore pay
23 those arrears?

24 A Yes.

1 Q Would you like to be reimbursed for the attorney
2 fees that you have incurred?

3 A Yes.

4 Q At the February 9 order, Mr. Kilgore -- I'm sorry.
5 At the February 9 hearing, Mr. Kilgore was ordered to pay you
6 \$1200 per month as preliminarily for your share of the pension
7 benefits. Do you recall that?

8 A Yes.

9 Q Okay. Has Mr. Kilgore ever made you -- made -- made
10 any payments to you?

11 A No.

12 MR. PAGE: May I approach the witness?

13 THE COURT: You may approach.

14 Q Could you identify this document, please?

15 A It's the schedule of arrears for the retirement.

16 Q And what is the date on this -- on the document?

17 A I signed it October 30th, 2016.

18 Q Is that your signature?

19 A Yes.

20 Q On Page 2, what is the total amount of the arrears
21 for the pension payments in the interim Mr. Kilgore has never
22 made to you?

23 A 10,800.

24 Q Are you requesting that Mr. Kilgore be ordered to

1 makeup these arrears owed to you?

2 A Yes, the Judge ordered it and he never paid. He
3 never pays.

4 MR. PAGE: I move for the schedule of arrears to be
5 admitted as Exhibit L.

6 THE COURT: That would be M.

7 MR. PAGE: M.

8 THE COURT: Any objection? Did you get a copy?

9 MS. ALLEN: He just handed it to me.

10 THE COURT: Is it admitted or --

11 MS. ALLEN: No, it's fine.

12 THE COURT: No objection?

13 MS. ALLEN: I'm getting used to it. Yes.

14 THE COURT: Yes, no objection?

15 MS. ALLEN: No objection.

16 THE COURT: Okay. No objection. M is admitted.

17 (DEFENDANT'S EXHIBIT M ADMITTED)

18 MR. PAGE: I'll pass the witness.

19 THE COURT: Okay. Ms. Allen.

20 MS. ALLEN: Thank you.

21 THE COURT: We'll call this your recross, I guess,
22 if you want to do it that way.

23 MS. ALLEN: Thank you, Your Honor.

24 THE COURT: Recross.

RECROSS EXAMINATION

BY MS. ALLEN:

Q Okay. So let's talk about your dresses. How long have you had these dresses?

A Well, I don't have them anymore.

Q How long have you had them?

A When we got divorced?

Q Yes.

A A few years.

Q Okay. So -- and you were divorced in what year, I apologize?

A March 13th of 2013.

Q So you had your dresses for some time at least; is that correct?

A A few years.

Q Okay. All of them? Like did you buy them all at once or was it successive purchases?

A Well, different -- different times for different events.

Q So did you had some of them for three to four years, 10 -- 10 to 11 years? I mean, were they -- some were older than others.

A Not -- not 10 years, but probably like five years ago or -- but yes, like different times.

1 Q And then this fur coat -- but it's like \$8,000 is
2 that right?

3 A Well, according to what I googled, yes.

4 Q And you didn't pay for that.

5 A No.

6 Q But you did have possession of it. And -- is that
7 correct, when you divorced?

8 A No, I did not have --

9 Q At the time you --

10 A -- possession.

11 Q At the time you got divorced, you -- you had -- it
12 was in your home, is that correct?

13 A Yes, it was in my home.

14 Q Okay. Do you recall in 2010 declaring bankruptcy?

15 A Yes.

16 Q Okay. You and Richard filed for bankruptcy, is that
17 right?

18 A Yes.

19 Q And that's a federal action, is that correct?

20 A Yes.

21 Q Okay. And in your bankruptcy proceedings, you're
22 required to list the amount of your personal property. Do you
23 remember that?

24 A I'm sure we did. I don't really remember, but --

1 Q You have to list things like what you have in your
2 checking account, household goods and furnishings. You have
3 to list your home and your home and your cars. Do you
4 remember that?

5 A Yeah, sure.

6 Q And do you remember -- well, do you not remember
7 declaring bankruptcy?

8 A No, I remember declaring bankruptcy. I don't
9 remember every little like number.

10 Q Okay. Do you remember that you had to declare
11 clothing and the approximate value of your clothing in your
12 federal bankruptcy paperwork.

13 A If it says that, then I guess we did.

14 Q And you required -- you were required to sign all
15 kinds of paperwork swearing under per -- the penalty of
16 perjury that you were telling the truth, right? Because you
17 want a bankruptcy court, a federal judge, to discharge your
18 debt, correct? And so you want to get out of a whole bunch of
19 debt at that point, is that right?

20 A Yes.

21 Q And so you're supposed to be really honest on these
22 -- on these documents, is that correct?

23 A Yes.

24 Q Okay. Do you recall listing \$3,000 as the total

1 amount of clothing that you had in your home at the time?

2 A I don't remember, but if that's what it said, then
3 that's --

4 Q Would you like to look at the paperwork to refresh
5 your recollection?

6 A If -- if it says it on there, then that's what we
7 put, I guess. Okay.

8 Q And that would have encompassed you, is that
9 correct?

10 A Yes.

11 Q And Richard, correct?

12 A Yes.

13 Q And you had three children living in the home at the
14 time?

15 A Yes.

16 Q So five people, correct?

17 A Yes.

18 Q And you listed \$3,000 as the total amount and it
19 says furs and jewelry, wearing apparel. Those are actually
20 listed out on your bankruptcy paperwork. Would you like to
21 look again?

22 A No, that's fine.

23 Q And that would be \$3,000, correct?

24 A Yes.

1 Q So that clearly doesn't include all of these
2 expensive dresses and the furs, is that right?

3 A I guess I underestimated.

4 Q So you -- you're -- you lied on your bankruptcy
5 paperwork?

6 A No, I didn't try to lie on my bankruptcy paperwork.
7 At the time, I put I guess what I thought.

8 Q So today you're testifying that you want Mr. Kilgore
9 to pay you \$10,000 for dresses and a fur coat that was given
10 to you, correct?

11 A Yes.

12 Q But when you filed your federal bankruptcy paperwork
13 under the penalty of perjury, you listed for five people
14 \$3,000.

15 A I did.

16 Q You understand that lying on federal paperwork like
17 this can subject you to federal charges and jail time?

18 A Obviously. Yeah, I do.

19 Q Do you recall during the course of your bankruptcy
20 proceed -- or the course of your divorce proceedings your
21 attorney was made aware that you had claimed that number when
22 you tried to talk about your dresses being part of the
23 settlement negotiations. Do you recall that?

24 A I actually don't recall that.

1 Q And your attorney, Mr. Giuliani, isn't that right,
2 we established --

3 A Uh-huh (affirmative).

4 Q -- that, Mr. Giuliani said no, no, no, we're not
5 going there.

6 MR. PAGE: Objection, hearsay.

7 THE COURT: Sustained as to hearsay.

8 BY MS. ALLEN:

9 Q Do you recall your attorney refused to address that?

10 A Actually, I don't.

11 Q Because he was concerned about your federal
12 bankruptcy proceeding and lying on that?

13 MR. PAGE: Objection, foundation --

14 A Actually, what my --

15 MR. PAGE: -- speculation.

16 A -- attorney --

17 THE COURT: Hang on.

18 A -- told me --

19 THE COURT: Your attorney is objecting. You should
20 stop if your attorney --

21 THE WITNESS: Okay.

22 THE COURT: -- objects. Basis for the objection?

23 MR. PAGE: She is speculating as to what Mr.
24 Giuliani was thinking.

1 MS. ALLEN: Actually, I'm not. I'm -- I'm asking
2 her about things that she would absolutely know about. These
3 were proceedings --

4 THE COURT: How about I'll sustain --

5 MR. PAGE: But she asked her what --

6 THE COURT: -- and rephrase --

7 MR. PAGE: -- she knows, not what her attorney
8 knows.

9 THE COURT: -- the question. Rephrase it.

10 BY MS. ALLEN:

11 Q These things were not addressed in your bankruptcy
12 -- or in your divorce proceeding because they were concerns
13 about your federal bankruptcy paperwork, isn't that right?

14 A No, that's not what my attorney told me.

15 Q Okay.

16 A Actually, what he told me was --

17 Q Yeah, thank you very much.

18 A -- not to bring it up.

19 Q Now with regard to FamilyWizard, you said that
20 you've posted all of these things on FamilyWizard and Mr.
21 Kilgore hasn't paid you any of them, is that correct?

22 A Yes.

23 Q But in fact the D.A.'s Office removes money from his
24 paycheck to pay for medical expenses, isn't that correct?

1 A No, they do not.

2 Q Okay. So the Medical Cash that the D.A.'s Office
3 keeps track of with the balance of 1389 isn't correct.

4 A They do not take out -- the only thing they take out
5 is what is listed as his part of the premium which usually
6 goes a hundred and ninety-three dollars. Now it's 220. They
7 do not take out co-pays or anything else.

8 Q Mr. Kilgore also posts things on medical Wizard,
9 isn't that right?

10 A Yes.

11 Q Had you paid any of them?

12 A No, he posted -- he has -- he posted a few
13 prescriptions that I had him pick up. Half of which don't
14 have receipts for them.

15 Q Okay. I'm going to --

16 A And --

17 Q -- have you take a look at these. These are medical
18 Wizard that he's posted.

19 A And I had told him when he pays me what he owes me,
20 we'll just subtract that.

21 Q Is that how it's supposed to be?

22 A I don't know if that's how it's supposed to be.
23 That's what I told him.

24 THE CLERK: Oh, I'm sorry.

1 MS. ALLEN: It's okay.

2 MR. PAGE: Some of these are from 2012, Counsel.

3 THE WITNESS: Yeah. And if you go through his, the
4 majority of them do not have receipts on them and put in like
5 Donna Gosnell, reunification --

6 Q Let me ask you --

7 A -- therapy --

8 Q -- a question bef -- wait, wait. Because you're not
9 supposed to give a random commentary. But on FamilyWizard,
10 you have the option to reject the receipts, isn't that right,
11 to reject the -- the things that he post? Like if he posts
12 something and you look at it and you say that's not
13 legitimate, you have the option to reject it, right?

14 A Well, I --

15 Q Do you or don't you?

16 A I don't know actually about that.

17 Q Okay. So you don't know how to use FamilyWizard.

18 A No, I know how to use Family -- I know how to put in
19 the stuff and -- but as far as rejecting, I haven't rejected
20 anything, I guess, because I didn't do it.

21 Q Okay. So you have -- you haven't rejected to any of
22 the receipts he's posted, is that right?

23 A I -- I don't know.

24 MR. PAGE: Objection.

1 A I couldn't tell you.
2 MR. PAGE: Foundation.
3 A It's been five years of hell.
4 THE COURT: Hang on.
5 A I couldn't tell you.
6 THE COURT: Objection to foundation?
7 MS. ALLEN: I'm asking her about rejecting things on
8 FamilyWizard.
9 THE COURT: You're going too fast, Counsel. Mr.
10 Page, you have an objection?
11 MR. PAGE: Objection, foundation.
12 THE COURT: I -- I forgot the question raised.
13 MS. ALLEN: The question was --
14 THE COURT: Start again. You're too fast.
15 MS. ALLEN: My -- my question was --
16 THE COURT: And I'm trying to write notes here too,
17 you see.
18 MS. ALLEN: So you haven't rejected anything on
19 FamilyWizard. It's something she would absolutely know or not
20 know, because she's either --
21 MR. PAGE: I --
22 MS. ALLEN: -- done or not --
23 THE COURT: She previously --
24 MS. ALLEN: -- done it.

1 MR. PAGE: That's a foundation --
2 THE COURT: -- testified she wasn't --
3 MR. PAGE: -- she may or may not know.
4 THE COURT: -- aware of the concept of objecting --
5 or rejecting a bill.
6 MS. ALLEN: Correct.
7 THE COURT: So it's --
8 MS. ALLEN: And so then I --
9 THE COURT: The relevance is not tied in there.
10 Maybe rephrase the question so we don't lose track here. You
11 asked her if she knew --
12 MS. ALLEN: No. No. No.
13 THE COURT: -- about rejecting and she said no, I
14 didn't know I could do that.
15 MS. ALLEN: Okay. All right.
16 BY MS. ALLEN:
17 Q So I'm going to have you look at Proposed Exhibit 1.
18 That was something you got -- or this morning. But it's from
19 the D.A.'s Office, is that right? It says at the bottom on
20 the right.
21 A It says child support web dwss.nv.gov.
22 Q Okay. Right here.
23 A Oh. Okay.
24 Q The bottom on --

1 A Yes.

2 Q -- the right.

3 THE COURT: Is that an exhibit or are you just
4 showing it to her?

5 MS. ALLEN: That's an exhibit. I had it marked.

6 THE COURT: What's the number?

7 THE CLERK: Number 1.

8 MS. ALLEN: That's Exhibit 1.

9 THE COURT: Exhibit 1.

10 Q Okay. Up at the top, it says Medical Cash.

11 A Uh-huh (affirmative).

12 Q Is that right?

13 A Yes.

14 Q That's what it says up there. Okay. And so you
15 have received money from the D.A.'s Office with regard to
16 medical expenses, is that correct?

17 A No. The only thing that was taken out is his part
18 of the premium.

19 Q Okay. Up here at the top, it talks about a monthly
20 obligation of 4243. Do you see that at the very top?

21 A I do.

22 Q It's a pretty high number, is that right?

23 A Yes.

24 Q So your -- your testimony is that it's simply for

1 never handed them anything else with regard to medical bills.

2 A Just my portion of what my insurance pays, like my
3 premium for insurance.

4 (COUNSEL AND CLIENT CONFER BRIEFLY)

5 Q You recently received a pay raise, is that correct,
6 from the Clark County School District?

7 A Yes, we went over this last time.

8 Q Pardon me?

9 A Yes, we went over this last time.

10 Q 2.25 percent, is that correct?

11 A I have no idea. Whatever it was on my paycheck.

12 Q Has there -- there's been a new one since the last
13 court date, is that correct?

14 A I don't know to be honest with you.

15 Q You don't know if you've gotten a pay raise?

16 A I don't.

17 MR. PAGE: Objection.

18 A I --

19 MR. PAGE: Asked and answered. This has been
20 addressed previously.

21 THE COURT: Overruled.

22 (COUNSEL AND CLIENT CONFER BRIEFLY)

23 BY MS. ALLEN:

24 Q Pursuant to the Clark County School District and

1 Clark County Educational Association, it was your contract --

2 A Okay.

3 Q -- you were entitled for this year 2016-17, so that
4 would be encompassing this school year, a 2.25 percent raise.

5 A I thought that's what they gave us in July -- I --
6 July. I don't know.

7 Q Do you have a recent -- have you provided a recent
8 copy of your pay stubs or updated your --

9 A When I did my financial statement, you wanted me to
10 do my financial statement, so I did.

11 Q Have you updated it since then?

12 A Whatever the most recent one I just did a couple
13 months ago.

14 Q You said the IR -- you have the IR -- the IRS --
15 there was an IRS bill for approximately 10,000 is that
16 correct?

17 A Yes.

18 Q And then you said you paid approximately 4500?

19 A Yeah.

20 Q Okay. And you're aware my client has paid
21 approximately 4,000 as well.

22 A I actually didn't know what he paid, but --

23 Q Do you -- have you ever provided any sort of
24 receipts or any sort of documentation either to Mr. Kilgore or

1 I guess to your attorney to provide to me with regard to the
2 IRS debt?

3 A No, I talked to my accountant, but that was about
4 it.

5 Q Okay. So you -- as you sit here today, you have no
6 proof that you've paid anything to the IRS, is that correct?

7 A That's true.

8 MS. ALLEN: May I approach, Your Honor.

9 THE COURT: You may approach.

10 Q I'm showing you a document from the IRS.

11 A Okay.

12 Q And who is it addressed to?

13 A Richard.

14 Q And it lists an approximate -- like a billing
15 summary and an amount that it was paid. Well, let me ask the
16 date. What's the date on that?

17 A February 18th, 2013.

18 Q Okay. So as of February 18th, 2013, according to
19 the IRS, approximately -- he paid approximately \$3600. It was
20 an overpayment. I'm assuming that's a -- like a return, is
21 that correct?

22 A I don't know if -- if it went to him. I wouldn't
23 know.

24 Q Overpayment for 2012 --

1 A I see that.

2 Q -- 3629, correct?

3 A Yes.

4 Q Amount paid to tax owed for 2011, 3629.

5 A Uh-huh (affirmative).

6 Q Correct?

7 A Yes.

8 Q Remaining balance, how much -- what's the remaining

9 balance?

10 A 4846.

11 Q Okay. So he paid 3629 in 2012. And you've paid

12 like you said 4500. The balance of this would be about \$300,

13 is that right?

14 A Yes.

15 Q So you haven't paid 4500 to the IRS, is that

16 correct?

17 A I don't know. You're going by his word and --

18 Q No, I'm talking about an IRS statement.

19 A Okay. But that's made out to him. It's not with

20 me.

21 (COUNSEL CONFER BRIEFLY)

22 MS. ALLEN: May I approach?

23 THE COURT: You may approach.

24 Q Can you look at the date of -- of that one?

1 A This one is May 12th, 2014.

2 Q Okay. And who is the letter addressed to?

3 A Richard.

4 Q Okay. And it's from the IRS, correct?

5 A Yes.

6 Q Okay. And can you -- can you read the por --

7 portion where it says amount applied to taxes owed for 2011.

8 A 2,091.80.

9 Q Okay. So according to that statement, he paid --

10 paid approximately \$2091 to the IRS, is that correct?

11 A It's what it says on here.

12 Q And what's the balance owed?

13 A \$4,788.

14 Q Okay. Assuming they -- they've added interest and

15 penalties since then, would it count for the -- for the amount

16 of that here today?

17 A Yes.

18 Q Okay. So according to at least statements from the

19 IRS in 2014 and 2012 -- 2013, I apologize, you haven't paid

20 anything towards the IRS, is that correct?

21 A No, they took my tax refund.

22 Q Do you have proof of that today?

23 A No, I -- I don't have proof of it today.

24 Q Theoretically, they would have sent you the same

1 type of letter, correct?

2 A They sent me -- they had sent me a letter saying
3 they were taking my tax refund. They took like \$3600 and I
4 made payments.

5 Q Okay. But again, you didn't bring this up?

6 A I didn't. That's my fault. I --

7 Q Okay.

8 A I had a lot going on. I didn't bring it.

9 Q But at least according to these two statements, Mr.
10 Kilgore has paid approximately \$7,000 towards the \$10,000
11 bill, correct?

12 A I don't know if that's what he actually paid or not.
13 If that's what the IRS said, I don't know. I don't know if
14 they're applying mine towards that. I don't know what they're
15 doing, because they lumped us together.

16 Q Well, it's not addressed to you, is that right?

17 A No, it's not --

18 Q And it's --

19 A But none --

20 Q This is --

21 A -- of it was ever addressed to me.

22 Q And this was post-divorce, is that correct?

23 A Yes, but you're --

24 Q So at this point, you're paying separate taxes,

1 correct? You're not filing together in 2014, are you?

2 A No, but the debt was never -- it always went to him.

3 Q You realize that the federal IRS debt cannot be
4 taken by one party or the other. It always -- the parties
5 will always split that. You understand that?

6 MR. PAGE: Objection, foundation.

7 MS. ALLEN: I'll withdraw the question.

8 THE COURT: Okay.

9 (COUNSEL AND CLIENT CONFER BRIEFLY)

10 BY MS. ALLEN:

11 Q You -- you do acknowledge you have not paid Mr.
12 Kilgore any of the medical debt that he has posted on
13 FamilyWizard and given to you in person, is that correct?

14 A I do. And most of his don't have receipts on them
15 and there's no proof.

16 MS. ALLEN: Thank you, Your Honor.

17 A And I can pull it up and show you.

18 MS. ALLEN: Thank you. I pass the witness.

19 THE COURT: I don't know if you had anything else,
20 Mr. Page.

21 MR. PAGE: Yes.

22 THE COURT: Kind of -- because we relaxed the rules
23 on that, you don't typically like a second redirect, but
24 because we're combing her case in chief, I'm going to --

1 MR. PAGE: She went outside the scope and I'm -- I'm
2 just going to --

3 THE COURT: Right.

4 MR. PAGE: -- clean up a few things.

5 THE COURT: Just making a record. All right. This
6 is another redirect.

7 FURTHER REDIRECT EXAMINATION

8 BY MR. PAGE:

9 Q Do you recall the questions, Ms. Kilgore, about the
10 bankruptcy petition?

11 A Yes.

12 Q Do you recall the questions about the clothes?

13 A Yes.

14 Q Do you recall that the value of the clothes was
15 listed at, what, \$5,000?

16 A I don't remember. Whatever she had on the paper.

17 Q Are you familiar with the exemption scheme and 3,000
18 -- are you familiar with the exemption scheme for personal
19 property, household goods, and furnishings in Nevada?

20 A No.

21 Q It's under NRS 125 -- 1 -- NRS 21.090(1)(b). Are
22 you aware that in Nevada that you're able to exempt up to
23 \$12,000 in clothes and household goods?

24 MS. ALLEN: Your Honor, I'm going to object. He's

1 asking her --

2 THE COURT: Basis for the objection?

3 MS. ALLEN: Well, number one, it's foundation. She
4 doesn't know anything about the statute. Number two, I think
5 he's asking her for a legal conclusion.

6 THE COURT: Sustained.

7 MS. ALLEN: I think this is more of an argument
8 thing.

9 THE COURT: Sustained on both. Sustained on both.

10 BY MR. PAGE:

11 Q What knowledge did you have of the exemption scheme
12 in Nevada for clothes and household goods and furnishings?

13 A I didn't unless our attorney who we filed bankruptcy
14 with told us at the time. I mean, you're talking years ago.
15 I don't --

16 Q Okay. Was there any suggestion that the amount that
17 was being listed was under or over the exemption limit?

18 MS. ALLEN: And I would object. She said she
19 doesn't remember any of it, so there's a lack of foundation
20 and he's again asking her about a statutory scheme she doesn't
21 know about.

22 THE COURT: Sustained.

23 THE WITNESS: That was years ago. My attorney
24 guided us -- oh, sorry.

1 THE COURT: Sustained. He has to ask you a new
2 question.

3 THE WITNESS: Okay.

4 BY MR. PAGE:

5 Q When the paperwork was filled out, who spoke to the
6 paralegal?

7 MS. ALLEN: And I would just ask what paperwork?
8 Are we talking about the divorce paperwork or the bankruptcy
9 paperwork?

10 MS. ALLEN: I'm obviously on the bankruptcy line of
11 questioning, so I'm talking about the bankruptcy paperwork.

12 THE COURT: Ask the question again.

13 Q Who spoke to the paralegal when the bankruptcy
14 paperwork was being filled out?

15 A Both of us. Sometimes he talked to them. Sometimes
16 I talked to them.

17 Q And roughly -- approximately how much time did --
18 was spent by you in talking to the paralegal on the bankruptcy
19 petition?

20 A I don't think that much.

21 Q And approximately how -- how long did it take you to
22 review the bankruptcy petition when it was prepared?

23 A Not very long, because I really don't understand all
24 that stuff.

1 Q Fair to say you just looked through it?
2 A Glanced at it.
3 Q You looked through it and you signed it.
4 A Yes. And I assumed that they had done it correctly.
5 Q Did the paralegal explain anything to you?
6 A Not really.
7 Q Did the attorney explain anything to you?
8 A They just said fill out this paperwork, we're going
9 to file bankruptcy, and go in front of a judge.
10 Q Okay. Filled out the paperwork. The paralegal
11 filled out the paperwork for you, you reviewed it, you signed
12 it, and you filed it, right?
13 A Yes.
14 Q How much time total would you estimate you spent
15 doing that?
16 A It wasn't that much time. I mean, we had a special
17 needs kid at the time and he took up a lot of time, you know.
18 I mean, I really didn't look over it that carefully, to be
19 honest.
20 Q Now as to the reimbursement request that our -- that
21 Mr. Kilgore is putting at you, I'd like to ask you about that
22 -- a few of those, if you may.
23 A Yes.
24 Q Okay. Counsel is asking you whether you paid all

1 the co-pays and unreimbursed medical bills --
2 A Uh-huh (affirmative).
3 Q -- of Mr. Kilgore. Do you recall that?
4 A Yes.
5 Q Okay. The first page, what does that say?
6 A Nichola -- April 2015, cell bill.
7 Q Was the cell bill a medical bill?
8 A No.
9 Q On Page 2, what's the date on that?
10 A 5/8/2015.
11 Q What is the category?
12 A Full amount owed to me.
13 Q Is full amount owed to me a medical bill?
14 A No.
15 Q The receipt filed, is there a receipt filed
16 description listed?
17 A No. The majority of his don't have receipts on
18 them.
19 Q Okay. Look at Page Number 3. What's the date on
20 that?
21 A 12/9/2014.
22 Q What's the category?
23 A Full amount owed to me.
24 Q That's what Mr. Kilgore wrote down.

1 A Yes.

2 Q And the receipt filed, was there any description as
3 to whether it's a medical bill or any kind of bill?

4 A No.

5 THE COURT: What is that you're looking at? Because
6 we don't have the benefit of following along.

7 MR. PAGE: I guess she's never introduced it as an
8 exhibit, but she's trying to tell -- question --

9 THE COURT: Well, I don't get anything --

10 MR. PAGE: -- my client --

11 THE COURT: -- unless it's admitted.

12 MR. PAGE: -- that these are medical bills and
13 there's absolutely no description that they are.

14 THE COURT: Does Ms. Allen have -- I'm not going to
15 have you testify, Counsel. Does Ms. Allen have a copy?

16 MS. ALLEN: That's mine.

17 THE COURT: It's your copy?

18 MS. ALLEN: That's my copy, yeah.

19 THE COURT: I mean, I'll do the best I can, but I'm
20 looking at nothing in front of me, so --

21 MS. ALLEN: I understand.

22 THE COURT: All right. Okay.

23 MS. ALLEN: I think the Court has access to
24 FamilyWizard.

1 THE COURT: I'm trying to follow along. It's
2 difficult without documents.

3 MR. PAGE: Obviously, there's access to this in
4 OurFamilyWizard.

5 THE COURT: Those are Wizard printouts?

6 MR. PAGE: Yes.

7 MS. ALLEN: Yes.

8 THE COURT: Okay. And then those are Dad's bills he
9 uploaded?

10 MS. ALLEN: Yes.

11 MR. PAGE: Well, he didn't upload anything. That's
12 the problem. He writes --

13 THE COURT: Oh, that's what --

14 MR. PAGE: -- descriptions --

15 THE COURT: -- you're trying to show?

16 MR. PAGE: -- fill them out, owed to me, and if he
17 didn't put a description --

18 THE COURT: He just writes her this is what you owe
19 me?

20 MR. PAGE: Yeah.

21 THE COURT: Okay.

22 MR. PAGE: And then he provides no description other
23 than -- like this is Nicholas' cell bill and the line of
24 questioning we just got through with Ms. Kilgore --

1 THE COURT: Yeah.

2 MR. PAGE: -- was trying to claim that these were
3 medical bills when they're not.

4 THE COURT: Cell phone bill.

5 MR. PAGE: Yeah.

6 THE COURT: Okay. Continue.

7 MR. PAGE: I'm sorry?

8 THE COURT: Continue.

9 BY MR. PAGE:

10 Q As we thumb our way through all of these, is it
11 mostly full amount owed to me? What's the date on this
12 particular bill?

13 A 5/5/2015.

14 Q The category is what, general?

15 A Yes.

16 Q And then what does it says, the --

17 A He put the family court counseling bill and we had
18 to take him to mediation which I had to pay for too, so I
19 don't know why he put that on there.

20 Q So he wants you -- he wants you to pay for one-half
21 of the bill when you had -- for -- for counseling --

22 A Yes.

23 Q -- that he was supposed to pay for.

24 A Right. The mediation center split it between us, so

1 I didn't understand why he put that in there. He puts a lot
2 of stuff on FamilyWizard that's not medical. The majority of
3 it is not medical and he doesn't really take -- he doesn't
4 take the kids to the doctor. I made him pick up prescriptions
5 a few times.

6 Q And this one's date -- what's the date on it?

7 A 5/4/2015.

8 Q What is the category?

9 A Medical dental.

10 Q What is the description?

11 A There is none. There is no receipt filed.

12 Q Was any receipt to the best of your knowledge ever
13 uploaded?

14 A No. There is nothing -- there is -- the majority of
15 his do not have receipt files attached to them.

16 Q What is the date on this particular --

17 A 3/19/15.

18 Q What is the category?

19 A General.

20 Q What evidence do you have that this is a medical
21 expense?

22 A None, because there's no receipt or anything on it.
23 He just puts stuff in there to try to get me to pay to offset
24 what he owes me.

1 Q What is the date on this one?
2 A 4/11/2014.
3 Q What category do you put down for this one?
4 A Medical dental.
5 Q What is the receipt Mr. Kilgore put down?
6 A None, because there's no receipt attached.
7 Q Were literally any of these so called medical bills
8 have any receipts attached?
9 A Well, everyone you showed me so far says none.
10 Q Okay. And also Mr. Kilgore is asking for
11 reimbursement for some things prior to January 10, 2013, isn't
12 he?
13 A Yes.
14 Q He's asking for -- what's the date on this one?
15 A 11/29/2012.
16 Q What's the category?
17 A Medical dental.
18 Q What is the receipt filed?
19 A None.
20 Q Does that mean he didn't -- he failed to upload any
21 receipt to document whether this or what -- was or was not a
22 medical bill?
23 A Yes.
24 Q And it was also prior to the time that Judge

1 O'Malley issued a cutoff.

2 A Yes.

3 Q As to the IRS debt, have you received any further
4 follow up from the IRS as to whether there are any monies
5 owed?

6 A No.

7 Q What if any documentation has the IRS sent you that
8 there is still a balance outstanding?

9 A They didn't.

10 Q Based upon that, are you assuming that the IRS debt
11 has been satisfied?

12 A I am. The only thing I got was when they took my
13 income tax refund, they sent me a letter stating they took my
14 3600.

15 Q That was the last communication you had with the IRS
16 regarding the outstanding debt?

17 A Yes. And usually I let my tax accountant deal with
18 that. I've had the same one for 20 years.

19 MR. PAGE: May I see Plaintiff's Exhibit 2 I believe
20 it is? It's the returns premium.

21 Q Do you recall the questions from Counsel regarding
22 monthly obligation?

23 A Yes.

24 Q Okay. It was intimated during the line of

1 questioning that this was for unreimbursed medical bills.

2 A Yes.

3 Q How much is being taken out on a monthly basis by
4 the child support office?

5 A A hundred and ninety-three, a hundred and
6 ninety-three, a hundred and ninety-three.

7 Q What does the hundred and ninety-three dollars per
8 month correspond with?

9 A It's all hundred and ninety-three. That was --
10 that's his half of the insurance premium.

11 Q Okay. What is the insurance premium now for the
12 children?

13 A It is \$440 a month.

14 Q So actually this amount is slightly underpaying you.

15 A Yes, because this year his half is \$220 because they
16 raised our rates.

17 MR. PAGE: I'll pass the witness.

18 THE COURT: All right. Back to you, Ms. Allen.

19 MS. ALLEN: Thank you.

20 FURTHER RECROSS EXAMINATION

21 BY MS. ALLEN:

22 Q With regard to the bankruptcy, you initially
23 consulted a paralegal, is that correct?

24 A Well, we initially consulted an attorney and then we

1 went back and forth between the paralegal.

2 Q That's what I was getting at. You actually hired a
3 lawyer to file your bankruptcy paperwork, isn't that correct?

4 A Yes.

5 Q His name was Roger Croteau.

6 A Yes.

7 Q Okay. And how many -- did you meet with him a
8 couple of times?

9 A I think we met with him one time and then the
10 paralegal did everything else.

11 Q And Mr. Croteau explained to you the ramifications
12 of bankruptcy, the fallout, things that you had to worry
13 about, is that correct?

14 A Yes.

15 MR. PAGE: Objection as to hearsay.

16 MS. ALLEN: I'm not asking what he said. I just
17 asked if he explained those things to her.

18 THE COURT: Overruled.

19 BY MS. ALLEN:

20 Q With regard to the bankruptcy itself, there was
21 concerns that the two of you made too much money. Do you
22 recall that?

23 A I don't really recall. It was a long time ago.

24 Q And they were -- they were concerned that they

1 wouldn't accept the proposal or -- or whatever it's called,
2 because there was too much money coming in with regard to the
3 income debt ratio. Do you remember that?

4 A I don't remember that, actually. I remember we
5 talked a lot about the medical bills for my son.

6 Q Okay. And you remember that there was a lot of
7 paperwork that you had to fill out, is that right?

8 A Yes.

9 Q Okay. When you were living with Mr. Kilgore and you
10 were married, did you -- were you the one who kind of did the
11 shopping for the kids? Clothes -- clothes shopping. Did you
12 buy the clothes for the kids?

13 MR. PAGE: Objection, relevance.

14 MS. ALLEN: It goes to the amount that she claimed
15 on her bankruptcy paperwork compared to what she's claiming
16 today with the dresses and the fur coat.

17 THE COURT: Overruled. She can answer.

18 BY MS. ALLEN:

19 Q Were the one who did the majority of the shopping
20 for the kids?

21 A Probably.

22 Q Okay. Did you shop for yourself? I mean, Richard
23 didn't buy your clothes for you, did he?

24 A No.

1 Q Okay. Did you buy his clothes as well or did he do
2 his own shopping?

3 A Sometimes me, sometimes him.

4 Q Was your wardrobe a little bigger than his? I mean,
5 we're female -- female --

6 A Yeah.

7 Q -- right? You probably have more clothes than he
8 does, is that correct?

9 A Yes.

10 Q And so you -- you were the one in the best position
11 to know how much clothing was in the home and what kind of
12 money you spent on it, isn't that right?

13 A I knew of clothing was in the home. I don't know
14 what I exactly spent on it.

15 Q Okay. Right after the divorce and you moved
16 yourself out of the -- or when you moved your stuff out of the
17 house and the time of the divorce --

18 A I didn't get to move my stuff out of the house.

19 Q I'll get to that. So you -- well, let me -- let me
20 back up. Today, you're claiming you -- you didn't get these
21 dresses and this -- this fur coat, is that right?

22 A Yes.

23 Q After you signed -- or you were raising that issue
24 prior to the divorce being signed, is that correct?

1 A What do you mean?

2 Q You -- you complained about it to your lawyer that

3 you didn't --

4 A Yes, I did.

5 Q -- get your stuff, is that right?

6 A Yes.

7 Q Okay. And you -- you were told repeatedly that he

8 didn't have it, is that correct?

9 MR. PAGE: Objection, hearsay.

10 A No, that's not what I was told, actually.

11 THE COURT: Hold on. What's the hearsay portion?

12 MR. PAGE: She's -- she's trying to put words into

13 what her lawyer said to her.

14 THE COURT: Sustained as to lawyer hearsay.

15 MS. ALLEN: Okay.

16 BY MS. ALLEN:

17 Q Were you told by Mr. Kilgore he didn't have it?

18 A We didn't speak. It went through our attorneys.

19 Q Okay. All right. So you never received any

20 information about the dresses. They just didn't show up, is

21 that right?

22 A Yes.

23 Q Okay. And the divorce was finalized I think you

24 said March of 2013?

1 A Uh-huh (affirmative).
2 Q Is that correct?
3 A March 13th, 2013.
4 Q Okay. And immediately after -- well, let me ask
5 this. When did you moved out of the home?
6 A I -- to be honest with you, I don't really remember.
7 Q You don't remember when you moved -- was it before
8 March of --
9 A Well, yes.
10 Q -- 2013 --
11 A It was --
12 Q -- of after?
13 A -- before March of --
14 Q Okay.
15 A -- 2000 --
16 Q So you moved out at some point before March of 2013,
17 correct?
18 A Yes.
19 Q The divorce was finalized March of 2013.
20 A Yes.
21 Q And the first time you're talking about these
22 dresses in court is when?
23 A I couldn't tell you.
24 Q Well, when did you file paperwork indicating you

1 didn't get your dresses back?

2 A Well, that was one of the things I brought up. I
3 didn't get a lot of things back.

4 Q When did you bring that up?

5 A I don't remember.

6 Q Was it --

7 A I couldn't tell you.

8 Q -- six months ago?

9 A No. It was during the divorce.

10 Q No. No. No. After the divorce. We're -- we're
11 talking about post-divorce proceedings. When did you alert
12 the Court you didn't get your dresses?

13 A Before we were even divorced.

14 Q So let me ask it again. Post-divorce, so after
15 March of 2013, when did you alert the Court --

16 A You don't have to talk to me --

17 Q -- that you didn't get --

18 A -- like I'm an idiot.

19 Q -- the dresses?

20 A I completely understand what you're saying.

21 Q Then answer the question. After March of 2013, when
22 did you alert the Court that you didn't have your dresses?

23 A I couldn't tell you. This nightmare has been going
24 on for five years. It has been a point of contention. It

1 went back and forth between attorneys.

2 Q Okay. You signed paperwork in Mr. Page's office, is
3 that right?

4 A Regarding what?

5 Q Coming back to court, with regard to all of this
6 stuff, this modification and the -- the child support arrears
7 and the PERS and all of that, you've signed countless
8 documents in Mr. Page's office, isn't that right?

9 A I've signed --

10 MR. PAGE: Objection.

11 A -- count --

12 MR. PAGE: Foundation.

13 MS. ALLEN: She doesn't know if she signed documents
14 in his office?

15 MR. PAGE: She doesn't know how often she's come to
16 my office and what documents and when she signed it and how I
17 came into this case.

18 THE COURT: Foundation first.

19 MS. ALLEN: That --

20 THE COURT: Sustained. You're going to have to ask
21 her how many times she went over there.

22 MS. ALLEN: I'm not asking -- Your Honor, just to be
23 clear, I'm not asking her --

24 THE COURT: Because you asked her if she signed

1 documents at Mr. Page's office.

2 MS. ALLEN: That's all I asked, if she signed
3 documents in his office.

4 THE COURT: And her response is yes, you've gone to
5 your attorney's office to sign --

6 THE WITNESS: Yes, I have.

7 THE COURT: -- whatever paperwork --

8 MS. ALLEN: All right.

9 THE COURT: -- right? Okay.

10 BY MS. ALLEN:

11 Q Did you read it before you signed it?

12 A Yes.

13 Q Okay. And at some point between March of 2013 and
14 today you -- you brought this issue before the Court, is that
15 right?

16 A It's been brought up constantly.

17 THE COURT: Are you on the issue of her clothes and
18 stuff?

19 MS. ALLEN: Yes.

20 THE COURT: Let me read the 8/28/15 minutes.

21 8/28/15 from Judge O'Malley again. The Court noted the
22 remaining issues are IRS debt, omitted asset debt, sick leave
23 and pay, Mom's clothes, a fur coat, and 10 formal dresses.
24 The final order for child support once Dad is employed,

1 physical custody of Nicholas, Dad's request for attorney's
2 fees, distribution of Dad's retirement and arrearages. Does
3 it -- any help?

4 MS. ALLEN: Maybe.

5 BY MS. ALLEN:

6 Q Do you recall -- would that have been the first time
7 then in front of Judge O'Malley that the issue of the dresses
8 was brought up to the Court to --

9 A No.

10 Q -- the Court?

11 A It has been brought up numerous times, my dresses
12 and my furs. I was told he was going to give it to me, he was
13 going to give it to me, he was going to give it to me.

14 Q Okay. So when --

15 A And then he never did.

16 Q Let me ask you then directly. When did you --

17 THE COURT: What's the -- where are we heading with
18 this? I mean, O'Malley said it. They agreed. This is --

19 THE WITNESS: Right.

20 THE COURT: -- unresolved. It's on the table for me
21 to -- to make an order on it.

22 MS. ALLEN: Wait -- right.

23 THE COURT: It's clear in the minutes.

24 MS. ALLEN: And I apologize, Your Honor, but when

1 was the -- when was that? What -- what was the date on that?

2 THE COURT: 8/28/15, the settlement conference with
3 Judge O'Malley.

4 MS. ALLEN: 8/28/15. Okay. So --

5 THE COURT: It's clearly listed in the minutes. I
6 have to rule on it, so --

7 MS. ALLEN: I'm -- what I -- Your Honor, what I'm
8 trying to get at is is when she filed --

9 THE COURT: Yeah.

10 MS. ALLEN: -- post-divorce paperwork indicating she
11 hadn't received the dress because this goes directly back to
12 the (indiscernible*10:47:28) --

13 THE COURT: Irrelevant. They agreed it's not
14 resolved on the fur coat and the 10 dresses. I've --

15 MS. ALLEN: Okay. Well, I --

16 THE COURT: It means -- that means they had a -- you
17 know, it was -- they're allowed to bring it up at trial to
18 resolve it.

19 MS. ALLEN: Okay. I understand, Your Honor. I'm
20 just asking when she came back to the Court -- I'm trying to
21 establish a date.

22 THE COURT: Maybe in her original hundred and eleven
23 page motion, I don't know if she mentioned dresses and stuff,
24 but it's a legal question that she can't answer. It's more --

1 MS. ALLEN: When it was filed?

2 THE COURT: -- procedural. I don't know what your
3 argument is. Just because she didn't discuss it in detail in
4 her hundred and eleven page motion --

5 MS. ALLEN: Okay.

6 THE COURT: -- doesn't mean it's not on the table.

7 Can you sign me in the IM here? Thank you.

8 BY MS. ALLEN:

9 Q With regard to the medical bills that we were
10 discussing earlier and the ones that Mr. Kilgore had provided
11 to you, do you recall a hearing in which a senior judge by the
12 name of Kathy Hardcastle presided over?

13 A Years ago.

14 Q Okay. Do you recall during that proceeding she
15 ordered you to pay half of a cell phone bill for your son?

16 A No, I don't remember that.

17 Q And do you remember during the course of that
18 proceedings Mr. Kilgore handed you a number of medical bills
19 in -- in open court?

20 A I don't remember that, but it's been a long process.

21 Q In -- in those medical bills, it -- it -- well, let
22 me just -- let me just -- you acknowledge you haven't paid Mr.
23 Kilgore for any medical bills he's ever provided you, is that
24 correct?

1 A No.

2 Q Okay.

3 A I haven't.

4 MR. PAGE: Objection.

5 A I've --

6 MR. PAGE: Foundation.

7 MS. ALLEN: She knows if she paid medical bills.

8 MR. PAGE: Okay.

9 THE COURT: Overruled.

10 MR. PAGE: We've -- we've gone -- we've gone through

11 the OurFamilyWizard --

12 THE WITNESS: Yes.

13 MR. PAGE: -- printouts. There is not a single

14 medical bill attached.

15 MS. ALLEN: I'm not talking about OurFamilyWizard.

16 I'm just talking about in general.

17 THE COURT: She understood the --

18 MS. ALLEN: You can hand someone --

19 THE COURT: Overruled.

20 MS. ALLEN: -- a medical --

21 THE COURT: I think she understood the question.

22 MS. ALLEN: You can hand someone a medical bill.

23 THE COURT: The answer is no.

24 MS. ALLEN: Thank you, Your Honor. I pass the

1 witness.

2 THE COURT: That's what --

3 THE WITNESS: We were ordered to use FamilyWizard.

4 THE COURT: All right. Anything else, Mr. Page, on
5 that line of questioning?

6 FURTHER REDIRECT EXAMINATION

7 BY MR. PAGE:

8 Q As to the dresses and the fur coat --

9 THE COURT: Oh, okay. Pause. The Court -- I have
10 to shut this down and turn it back on so I can get my program
11 running here. Will it remember where I was? Let me save my
12 document and then just hit the restart button.

13 (PAUSE)

14 THE COURT: Keep going, Mr. Page.

15 BY MR. PAGE:

16 Q When you and Mr. Kilgore separated, who left in the
17 house and stayed in the house?

18 A Richard did.

19 Q Would you agree that there's no factual dispute as
20 to the coat and dresses being left behind in the house?

21 MS. ALLEN: Objection. How -- how is she the --

22 MR. PAGE: I'll --

23 MS. ALLEN: She can't --

24 MR. PAGE: I'll move on. I'll move on.

1 BY MR. PAGE:

2 Q During the time that Mr. Kilgore had exclusive
3 possession of the house, what knowledge do you have -- have of
4 any break-ins or burglaries to the formal marital residence?

5 A None.

6 THE COURT: I'm sorry, what was that question?

7 Q What --

8 THE COURT: Evidence?

9 Q What knowledge do you have of any break-ins or
10 burglaries to the formal marital residence?

11 THE COURT: Okay. She said no. No.

12 Q Of what police reports are you aware of any
13 incidents at the formal marital residence after you moved out?

14 A I called the police when I tried to go and get my
15 stuff. And even with Judge Moss' order, he would not let me
16 back in the house to get any of my stuff and he told the cops
17 they were not allowed in either.

18 Q Approximately when did you call the police for that?

19 A Years ago. I honestly don't know. It's been years.

20 Q what insurance claims did Mr. Kilgore make for any
21 items that were -- that went -- gone missing from the house?

22 A None.

23 Q Based upon the lack of any break-in or any insurance
24 claims, who did you conclude have possession of the fur coat

1 and dresses?

2 A He did. He had told my attorneys he was going to
3 give it to me, he was going to bring it to me, he was going to
4 give it to me, on numerous occasions. If I -- should have
5 brought Giuliani in. And then all of a sudden when it was
6 close to the divorce being --

7 MS. ALLEN: Your Honor, that --

8 A -- filed, then --

9 MS. ALLEN: -- this is --

10 A -- he said --

11 MS. ALLEN: -- unr --

12 THE COURT: What's the objection?

13 THE WITNESS: She's -- she's interrupting me.

14 MS. ALLEN: The objection, this is unresponsive and
15 she's giving a narrative. The question was simple, who do you
16 think took -- has your dresses. It's a one word answer.

17 THE WITNESS: I'm trying to explain what happened.

18 THE COURT: Overruled.

19 THE WITNESS: You want to know --

20 MS. ALLEN: Okay.

21 THE WITNESS: -- what happened.

22 THE COURT: Overruled.

23 BY MR. PAGE:

24 Q Go ahead and answer.

1 A Okay. So he had told Giuliani he was going to give
2 me my fur, he was going to give me my fur. On numerous
3 occasions he was supposed to bring it to me. Then when it
4 came down for the divorce, he said I'm not giving it to you
5 and I don't have it. That's what he told them. And then they
6 were worried that if we kept pushing the issue that he was
7 going to hurt me.

8 MS. ALLEN: Oh, objection --

9 A That was the --

10 MS. ALLEN: -- Your Honor.

11 A -- issue.

12 MS. ALLEN: That is absolutely -- well, first it's
13 hearsay because now it came from her lawyer.

14 THE COURT: Sustained as --

15 MS. ALLEN: And --

16 THE COURT: -- to hearsay.

17 MS. ALLEN: And second of all, it's completely
18 ridiculous.

19 BY MR. PAGE:

20 Q What concern did you have of Mr. Kilgore --

21 THE COURT: Well --

22 Q -- committing physical --

23 THE COURT: -- hang on. Did I rule on it?

24 MS. ALLEN: Yes.

1 MR. PAGE: You said hearsay.

2 THE COURT: Yeah, sustained as to any hearsay from
3 her lawyer, but the rest -- anything that Richard said would
4 not be hearsay. Okay.

5 BY MR. PAGE:

6 Q What concern --

7 THE COURT: Continue.

8 Q What concerns did you have of there being physical
9 violence against you --

10 MS. ALLEN: Oh, my God.

11 Q -- for Mr. Kilgore?

12 MS. ALLEN: This is just --

13 A Several. I have -- so I have the restraining order
14 and everything. And they were concerned that if I pushed the
15 issue that he was going to snap and hurt me or the kids.

16 MR. PAGE: I'll pass the witness.

17 A He has a very violent temper.

18 MR. PAGE: I'll pass the witness. Do you need to --
19 would you -- should we take a break so you can finish up with
20 the tech stuff?

21 THE COURT: I'm done with the tech stuff.

22 MR. PAGE: I just assumed it was, but I -- I --

23 THE COURT: Oh, I'm done. Thank you. That's why
24 the IT guy left. I'll probably need a little restroom break

1 anyway. It's 10:45. Probably like a seven minute restroom
2 break. Let's do that so I can catch up and then input my
3 notes on here.

4 (COURT RECESSED AT 10:53 AND RESUMED AT 11:08)

5 THE MARSHAL: Be seated, please.

6 THE CLERK: We're on, Judge.

7 THE COURT: Yes, we're on. You rest? Rest in
8 chief?

9 MS. ALLEN: I don't even know -- I think it's my
10 case in chief, sort of.

11 MR. PAGE: Yeah, I think we've covered everything.

12 THE COURT: Okay. Defendant -- sorry. Plaintiff's
13 case in chief. Call your first witness.

14 MS. ALLEN: Mr. Kilgore.

15 (WITNESS SUMMONED)

16 THE COURT: Okay. I'll also have Dad sworn in.
17 Case in chief.

18 THE CLERK: You do solemnly swear the testimony
19 you're about to give in this action shall be the truth, the
20 whole truth, and nothing but the truth, so help you God?

21 MR. KILGORE: I do.

22 THE CLERK: You can be seated.

23 THE COURT: Ms. Allen, he's your witness.

24 MS. ALLEN: Thank you.

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RICHARD KILGORE

called as a witness on his own behalf, having been first duly sworn, testified upon his oath as follows on:

DIRECT EXAMINATION

BY MS. ALLEN:

Q All right. Do you recall when Eleni moved out of the marital residence?

A Yes.

Q When was it?

A It was right around the end of January of 2012, beginning of February of 2012.

Q Okay. So a year prior to the divorce.

A Yes.

Q You kept the home.

A Yes, I did.

Q What did -- what do you recall that she took out of the home?

A When I came home, she had loaded our Suburban with all her clothes and belongings from the front seat all the way to the back of the Suburban. When I went upstairs, there was nothing left of her wardrobes in the closet.

Q Okay. So she took all of her clothes, correct?

A Correct. Yes.

Q Do you remember the fur coat and the dresses that

1 she's talking about?

2 A I have no recollection of the dresses at all. I
3 know I saw the fur coat, but that picture was probably the
4 only time I ever saw her with it. I never saw it after that.

5 Q When she -- do you remember where the fur coat was
6 kept in the home?

7 A No.

8 Q You don't remember seeing it in your closet?

9 A No.

10 Q When she packed up the -- the -- all of her personal
11 belongings, you said you went upstairs and there was nothing
12 left of hers, is that correct?

13 A Correct.

14 Q Did you go through any of the other bedrooms? Did
15 -- or did you inspect the entirety of the house or just your
16 room?

17 A I went through all the rooms to see what she had
18 taken and the kids' clothes were all still in there and --

19 Q Okay. Did you see a fur coat anywhere in the home?

20 A No, I did not.

21 Q Did you see any of these ball gowns anywhere in the
22 home?

23 A No, I did not.

24 Q Do you have the ball gowns?

1 A No, I do not.

2 Q Do you have the fur coat?

3 A No, I do not.

4 Q Did you sell them on eBay?

5 A No, I did not.

6 Q To your knowledge, what happened to the dresses and
7 the fur coat?

8 A She took them when she loaded the Suburban.

9 Q She didn't provide you with written -- anything
10 written as far as what she took out of the home, did she?

11 A No, she did not.

12 Q Okay. You weren't even there when she packed up.

13 A No, I did not. I came home and the Suburban was
14 loaded.

15 Q Did you know she was going to be doing that?

16 A I knew she was going to be moving out that weekend
17 because I had drill, reserve duty. And so she took that
18 advantage while I was gone all weekend to do it.

19 Q Okay. All right. With regard to the IRS debt, what
20 is it that you estimate you've paid?

21 A I've paid right around \$7500 of it.

22 Q Okay. How many tax returns if you remember has the
23 IRS taken to satisfy this debt?

24 A I paid 1600 out-of-pocket when we made our payment

1 arrangements and the IRS took approximately three of my tax
2 returns.

3 Q Okay. Do you remember what the total is by any
4 change of the tax returns that they've taken?

5 A It was over \$6,000.

6 Q Okay. Do you know as you sit here today if Eleni
7 paid anything towards the IRS debt?

8 A She paid \$200 cash when we were doing the \$200 a
9 month. She paid me -- gave me a hundred dollars twice then
10 never paid another penny. And that was the last I heard.

11 Q Do you know if that debt has been settled --

12 A The debt --

13 Q -- with the IRS?

14 A -- is settled.

15 Q Okay. Do you know what happened with the remaining
16 2400?

17 A I'm going to assume because she didn't mention it I
18 believe that they took her tax return.

19 Q Okay. Was this debt something that was supposed to
20 be split 50/50?

21 A Yes, it was.

22 Q Okay. With regard to the medical bills, was there a
23 point in time that you recall giving Eleni a stack of medical
24 receipts on medical bills?

1 A Yes, there was.

2 THE COURT: Backup a second. Can I get his position
3 on the IRS debt, if anybody owes anybody anything?

4 Q Do you --

5 THE COURT: Yeah.

6 Q -- believe Eleni owes you money for the IRS debt?

7 A Yes.

8 Q Okay.

9 A She --

10 Q What do you believe she owes you?

11 A I believe it was well over \$9,000 from the time it
12 was said and done and so I paid 7500. So my guess was she
13 owes me somewhere around three to 3500.

14 Q Okay. Had she paid you that?

15 A No, she has not.

16 Q With regard to medical expenses, was there a point
17 in time you paid Eleni -- or you gave Eleni receipts for
18 medical expenses?

19 A Yes.

20 Q And when was that?

21 A It was during the divorce when she gave me a stack
22 of receipts. We turned around and my attorney Schneider
23 handed her a stack of receipts.

24 Q Has she ever paid you anything for any of the

1 receipts that you've given her?

2 A No, she has not.

3 MR. PAGE: Objection, relevance.

4 THE COURT: Offer of proof, Ms. Allen.

5 MS. ALLEN: They have medical receipts. They're
6 medical bills.

7 THE COURT: Okay. Overruled. Go ahead.

8 MR. PAGE: Your Honor --

9 THE COURT: Do you --

10 MR. PAGE: -- renewed objection. The minutes with
11 Judge O'Malley indicated that anything prior to January 10,
12 2013 is satisfied and taken care of. He's talking about
13 things during the course of the divorce.

14 THE COURT: Okay.

15 MR. PAGE: Relevance.

16 THE COURT: Anything pre-January 10, 2013 is not
17 relevant.

18 MR. PAGE: Correct. Correct. And he's talking
19 about pre-January 2013 items.

20 THE COURT: I'll clarify my ruling. You have to ask
21 for anything after January --

22 BY MS. ALLEN:

23 Q Have you provided any medical receipts after January
24 of 2013?

1 A Yes, I gave it to my last attorneys, stacks of
2 receipts.

3 Q And do you know if they provided them to her?

4 A They're in their -- the files I got from her, so I'm
5 not -- my understanding is they did provide it to Mr. Page.

6 Q Okay. I just want to talk briefly about the
7 bankruptcy, the bankruptcy proceeding. Who is the attorney
8 for the bankruptcy proceeding?

9 A It was Roger Croteau I believe his name was.

10 Q Okay.

11 A And the attorney that worked underneath him that
12 handled it was I believe Timothy Rhodes (ph) or something like
13 that.

14 Q Is Timothy Rhodes an attorney to your knowledge?

15 A Yes. To my knowledge, he is.

16 Q Okay. All right. You -- when you filed bankruptcy,
17 approximately how many times would you say you and Eleni you
18 met with Mr. Rhodes?

19 A Five or six times.

20 Q Okay. Were there phone calls between the -- well,
21 between the three of you or the two of you, you talked to Mr.
22 Rhodes and she talked to Mr. Rhodes?

23 A I had very few times I talked to him on the phone.
24 Eleni did most of the contact with Mr. Rhodes and the

1 paralegal.

2 Q Okay. And the forms, at some point in time you and
3 Eleni had the opportunity to review the bankruptcy forms, is
4 that correct?

5 A Correct.

6 Q All right. And in the bankruptcy forms, there was a
7 listing for clothing of approximately \$3,000, is that correct?

8 A Correct.

9 Q And that -- and she -- and Eleni already established
10 that encompassed five of you, is that right?

11 A Correct.

12 Q Were the dresses and the fur coat every brought up
13 during -- with regard to the bankruptcy proceedings?

14 A Not to my knowledge.

15 Q Okay. When you executed the bankruptcy paperwork,
16 what was your understanding of what could happen if you lied
17 on this -- these documents?

18 A It would be a federal perjury charge which would
19 entail fines and/or jail, imprisonment.

20 Q Were you aware if this fur coat was in her
21 possession at the time you filed bankruptcy?

22 A I could not tell you if it was or wasn't.

23 MS. ALLEN: I apologize, Your Honor. I just --

24 Q With regard to the money that the D.A. takes out of

1 your check for medical expenses, what is your --

2 MR. PAGE: Objection. That misstates prior
3 testimony. Foundation.

4 THE COURT: Rephrase.

5 MS. ALLEN: Okay.

6 BY MS. ALLEN:

7 Q Are you aware if the D.A. takes money out of your
8 paycheck every month for medical?

9 A Yes, I do.

10 MR. PAGE: Objection, foundation. Misstates
11 testimony.

12 MS. ALLEN: How does it misstate -- first of all,
13 I --

14 MR. PAGE: It's -- it's not for medical expenses.
15 It's for health insurance premiums. They are two wildly
16 distinct items.

17 THE COURT: You probably should clarify that. The
18 medical --

19 MS. ALLEN: Sure.

20 THE COURT: -- cash payments --

21 MS. ALLEN: Let me ask this.

22 BY MS. ALLEN:

23 Q So does the D.A. take money out of your check every
24 month under something called --

1 THE COURT: Medical Cash?

2 MS. ALLEN: Medical Cash. Thank you.

3 A Yes.

4 Q Okay. What is your understanding of what it is?

5 A It's for any past medical bills that she has
6 submitted to the D.A.'s Office and anything she notifies them
7 that she claims I am not paying them.

8 Q Okay. And that would include medical insurance.

9 A Correct.

10 Q Are you aware if she has submitted -- to your
11 knowledge, has he -- she submitted bills to the D.A.'s Office
12 that are included in that -- the Medical Cash?

13 A Yes.

14 Q Do you recall the last time she submitted those
15 bills?

16 A When we were going through the divorce, she has gone
17 down and filed with the D.A.'s Office for child support and
18 submitted all the medical bills she had at that time. I
19 believe she has filed since then.

20 MS. ALLEN: Okay. Your Honor, I think I pass the
21 witness.

22 THE COURT: Okay. Cross examination, Mr. Page?

23 CROSS EXAMINATION

24 BY MR. PAGE:

1 Q Mr. Kilgore, you're claiming that the outstanding
2 debt to the IRS for the 2011 taxes was approximately \$9,000?

3 A It was right around that neighborhood.

4 Q Which is why I say approximately. You -- and you
5 claim that you had paid the IRS \$1600 in cash?

6 A Yes.

7 Q Okay. That was during the course of the marriage?

8 A No. Well, we were still married, but we --

9 Q You can --

10 A -- were separated.

11 Q That's fine. It was during the course of the
12 marriage. Okay. Then you claimed that the IRS took three tax
13 returns for you or tax refunds?

14 A Correct.

15 Q Okay. Would you agree that those tax returns had
16 not been submitted as exhibits here today?

17 A They would have been in the initial divorce.

18 Q I'm not talking about the initial divorce. I'm
19 talking about here today. So here today, we don't have any
20 tax returns from you showing that the IRS has taken --

21 A They were --

22 Q -- any monies in those exhibits, right?

23 A -- provided to my last attorneys --

24 Q Okay.

1 A -- and they should --
2 Q And again, sir --
3 A -- have submitted it.
4 Q -- sir, I'll -- I'll allow you -- your attorney to
5 follow up on that. But you don't -- you haven't provided
6 anything here today, right?
7 A My attorney, I have.
8 Q Okay. You have not provided anything to me here
9 today.
10 A I have an attorney --
11 Q And that's --
12 A -- to take --
13 Q -- that's --
14 A -- care of that.
15 Q -- there's nothing that's been admitted as an
16 exhibit, correct?
17 THE COURT: On his three tax refunds in --
18 MR. PAGE: Yeah.
19 THE COURT: That were intercepted by the --
20 MR. PAGE: The --
21 THE COURT: -- IRS?
22 MR. PAGE: Right.
23 Q You had provided no information to us here today as
24 to what the amount of those intercepts were, correct?

1 A I provided to my attorney.

2 Q Okay.

3 A My last attorney.

4 Q Sure. And there's no question pending. Okay. As

5 far as we know that Ms. Kilgore had the same thing done to her

6 that the IRS took her -- her three tax refunds as well.

7 A I have no idea.

8 Q Okay. Certainly possible though, right?

9 A It's possible.

10 Q Okay. Also, as to the medical bills, to cover that

11 subject, you are aware that parents are not permitted to

12 submit medical bills to the Office of the District Attorney,

13 yes or no?

14 A No, I'm not aware of that.

15 Q Okay. You're aware that the 193 per month that was

16 being taken out of your check is for the health insurance

17 premium allocable to the minor children that's paid through

18 Ms. Kilgore's health insurance.

19 A Yes.

20 MR. PAGE: May I grab Exhibit 1, please? May I

21 approach the witness?

22 THE COURT: You may approach the witness.

23 Q I'm going to turn to Page 2 here of Exhibit 1. Do

24 you see the deductions to be taken, 193, 193, 193?

1 A Yes.

2 Q Do you see that's paid on every month?

3 A Yes.

4 Q Do you see that there are no other amounts being
5 deducted other than 193?

6 A Correct.

7 Q Okay. Would you agree that monies are being taken
8 out for unreimbursed medical expenses, the amount being taken
9 out would be something other than 193?

10 MS. ALLEN: Your Honor, objection. Foundation. How
11 would he know how the D.A.'s Office calculates payments like
12 that?

13 THE COURT: Sustained, based on his prior answer.

14 BY MR. PAGE:

15 Q Mr. Kilgore, you agree that you see no other amount
16 being taken out other than a hundred and ninety-three dollars
17 per month?

18 A I saw another amount on there.

19 Q Well, do you see an amount here taken off for 180,
20 right?

21 A Correct.

22 Q Everything else is 193, right?

23 A Correct.

24 Q Okay.

1 A There is another amount on there though, the other
2 column.
3 Q Okay. Do you see the amount -- the monthly
4 obligation is what?
5 A If you look right -- right there, there was an
6 amount taken out from federal intercepts of \$2,283 --
7 Q Well --
8 A -- taken out.
9 Q And you would agree that that would be for the child
10 support that you had not paid.
11 A No, that's her medical.
12 Q You -- you agree that you have no evidence here
13 today to show that that's -- that your claim is actually true.
14 A You had the proof in your hand.
15 Q You have no evidence that Ms. Kilgore has submitted
16 any medical bills to the Office of the District Attorney,
17 correct?
18 A Question?
19 Q You have no evidence that Ms. Kilgore has ever
20 submitted any medical bills to the Office of the District
21 Attorney, correct?
22 A She submitted it initially in the divorce.
23 Q Okay. I'll ask the question again. I didn't ask
24 you when she -- when you think she submitted it. I asked you

1 you have no evidence that Ms. Kilgore has submitted any
2 medical bills to the Office of the District Attorney.

3 MS. ALLEN: And Your Honor, I would --

4 Q Do not look to your attorney for assistance, please.

5 MS. ALLEN: Your Honor, I would object --

6 THE COURT: What's the objection?

7 MS. ALLEN: -- as to badgering. He answered the
8 question. He asked him you have no evidence and he said she
9 submitted it when -- when you went through the divorce.

10 THE COURT: That's his answer.

11 MS. ALLEN: So asked and answered.

12 THE COURT: It's as credibility issue, so it's asked
13 and answered. Sustained.

14 BY MR. PAGE:

15 Q Let's go ahead and talk about the bankruptcy filing.
16 You agree that at the time the bankruptcy is filed, you didn't
17 do any research to see how much the fur coat or dresses were
18 worth, right?

19 A I was unaware of any dresses.

20 Q Okay. You're unaware of any research that Ms.
21 Kilgore did to determine how much the dresses or fur coats
22 might be worth?

23 A I have no idea what she did.

24 Q Okay. You would agree that Ms. Kilgore only did the

1 research recently as to what the dresses and fur coats might
2 be worth?

3 A The alleged fur coat, I have no idea --

4 Q Okay.

5 A -- outside of what --

6 Q But you --

7 A -- she testified.

8 Q -- you -- you've seen the exhibits presented here
9 today? I hand -- handed that to your attorney. You saw that,
10 right?

11 A I saw pictures.

12 Q Okay. Sure.

13 A There's no recollection of those dresses.

14 Q Sir, I -- I didn't ask you whether you had a
15 recollection. I'm just asking you whether you saw the
16 research. And you did see the research, right?

17 A I saw pictures.

18 Q Okay. And you would agree that Ms. Kilgore might
19 have given an estimate of what she thought the value might
20 have been in the bankruptcy petition, right?

21 A Yes.

22 Q Okay. And you agree that value might change once
23 somebody has done some research, right?

24 A I couldn't tell you.

1 Q Okay.

2 MR. PAGE: May I approach the witness?

3 THE COURT: You may approach.

4 Q I'm going to show you here some printouts that you

5 gave your attorney -- your attorney who gave to me about some

6 alleged medical bill reimbursement that you're seeking from

7 Ms. Kilgore.

8 A Yes.

9 Q Okay. You would agree that -- where it says receipt

10 file, is that for essentially all of these, no receipts have

11 been uploaded, correct?

12 A I didn't have means of uploading receipts and she

13 was --

14 Q Sir.

15 A -- handed --

16 Q Sir.

17 A -- the report.

18 Q Sir. Sir. Sir. I didn't ask you whether you had

19 names. I'm asking you whether the receipts were uploaded.

20 A They are not uploaded --

21 Q Thank you.

22 A -- on the FamilyWizard.

23 Q Thank you.

24 (COUNSEL CONFER BRIEFLY)

1 (COUNSEL AND CLIENT CONFER BRIEFLY)

2 MR. PAGE: I'm going to go outside the scope here
3 just a -- a shade, Your Honor.

4 THE COURT: Okay.

5 MR. PAGE: May I approach?

6 THE COURT: You may approach.

7 Q Do you recall the order from the February 9 hearing
8 where the Judge ordered you to pay \$1200 a month --

9 A Uh-huh (affirmative).

10 Q -- for the pension? Okay. I'm going to show you
11 here a schedule of arrears. Can I take the exhibit I believe
12 it's M?

13 THE COURT: Did you say Exhibit 10?

14 THE CLERK: M.

15 MR. PAGE: M.

16 THE COURT: M.

17 MR. PAGE: M as in Mary.

18 Q Well, this is a schedule of arrears that was
19 submitted by Ms. Kilgore here today that starts off with \$1200
20 in February and goes to October of \$1200 for a total amount of
21 arrears of \$10,800. Would you agree that that's correct?

22 A If that's what her numbers are.

23 Q Okay. Would you agree that you haven't made any
24 payments for May through October?

1 A I have not.

2 Q Okay. You agree that the amount ordered was \$1200 a
3 month.

4 A Yes.

5 Q Okay. You agree that the total would be \$10,800.

6 A I don't know.

7 Q But you would agree you didn't make any payments.
8 Sir?

9 A What?

10 Q You agree you didn't make any payments?

11 A As I answered before, no.

12 (COUNSEL AND CLIENT CONFER BRIEFLY)

13 Q Mr. Kilgore, are you in possession of any
14 information that your prior attorney gave my law office any
15 medical receipts?

16 A The -- in their file, there are copies of their
17 medical.

18 Q Again, I'll ask the question. The question wasn't
19 whether there's documents in the file that are medical
20 receipts. The question was whether you have any evidence that
21 they've forwarded anything to me.

22 A I have mailing receipts. The stuff were mailed to
23 you. I do not know what they mailed you.

24 Q Okay. Very good. Do you recall the Judge ordered

1 you and Ms. Kilgore to use FamilyWizard only?

2 A Yes.

3 Q Okay. You would agree that if the medical bills
4 were sent to me through your attorney that it would be going
5 outside the Court's order of using FamilyWizard only?

6 A I'm not following the question.

7 Q Okay. You were ordered to use OurFamilyWizard for
8 the exchange of medical bill information, correct?

9 A Yes.

10 Q Okay. You would agree that if your attorney sent
11 that information to me directly, that would be outside the
12 Judge's order?

13 A No.

14 MR. PAGE: I'll pass the witness.

15 THE COURT: Okay.

16 MS. ALLEN: Thank you. May I approach?

17 THE COURT: Yes.

18 MS. ALLEN: Actually, I need to get these marked.

19 THE COURT: Can you mark it? It's probably on --
20 we'll go next number.

21 THE CLERK: This is number 2 now.

22 THE COURT: 3.

23 MS. ALLEN: I don't have 2.

24 THE CLERK: No, we don't have 2.