

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA CALDERON F/K/A
CHIRSTINA CALDERON STIPP,

Appellant,

vs.

MITCHELL DAVID STIPP,

Respondent.

Supreme Court No. 81888
Electronically Filed
Sep 20 2021 05:54 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME VI

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Counsel for Respondent

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Notice of Entry of Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters	I	AA000001-18
Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare	I	AA000019-40
Exhibits in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare	I	AA000041-54
Notice of Hearing	I	AA000055
Application for an Order Shortening Time	I	AA000056-109
Notice of Department Reassignment	I	AA000110-111
Notice of Appearance of Counsel for Plaintiff	I	AA000112-113
Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees	I	AA000114-143
Notice of Communications between Defendant and Plaintiff's Attorney	I	AA000144-151
Notice of Hearing	I	AA000152
Ex Parte Application for an Order to Show Cause	I	AA000153-160

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Motion for Order to Show Cause
Against the Defendant for Willfully disobeying the Custody Order; A Request for
Immediate Return of the Children, Make Up Visitation and

Award of Attorney's Fees

I AA000161-230

Plaintiff's Objection to Exhibits improperly cut and pasted within Defendant's
Motion for Child Interview by FMC, Mediation and to Permit Children to exercise
Teenage Discretion on Timeshare, and Objection to Exhibits in Support of
Defendant's Motion filed on August 26, 2019,

pursuant to NRCP 16.205(i)

I AA000231-232

Ex Parte Application for an Order

Shortening Time

I AA000233-244

Defendant's Opposition to Motion for Order to Show Cause Against the Defendant
for Willfully disobeying the Custody Order; A Request for Immediate Return of
the Children, Make Up Visitation and Award of Attorney's Fees and

Countermotion for Interview of Children by FMC and for Children to exercise

Teenage Discretion

II AA000245-272

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Defendant's Exhibits in Support of Defendant's Opposition to Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees and Countermotion for Interview of Children by FMC and for

Children to exercise Teenage Discretion II AA000273-366

Order to Show Cause II AA000367-368

Notice of Entry of Order II AA000369-372

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000373-389

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000390-406

Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC,

Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation,

Sanctions, and Award of Attorney's Fees II AA000407-419

Notice of Hearing II AA000420

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation, Sanctions,

and Award of Attorney's Fees

II AA000421-427

Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit

in Support of Objection

II AA000228-481

Response to Plaintiff's Objection

Filed on August 30, 2019

II AA000482-485

Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant

III AA000286-497

Reply to Plaintiff's Opposition to Countermotion for Interview of Children by FMC, Mediation at FMC, and for

Children to Exercise Teenage Discretion

III AA000498-517

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Exhibits in Support of Defendant’s Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion	III	AA000518-543
Notice of Appearance	III	AA000544-546
Supplemental Exhibits in Support of Defendant’s Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant	III	AA000547-550
Ex Parte Application for an Order Shortening Time	III	AA000551-564
Order for Family Mediation Center	III	AA000565
Court Order Instructions	III	AA000566-567
Request for Child Protective Services		
Appearance and Records	III	AA000568
Status Report	III	AA000569-574
Plaintiff’s Objection to Defendant’s Status Report filed October 7, 2019, and Request that it be stricken Pursuant to EDCR 5.508	III	AA000575-577

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Emergency Motion for Temporary Primary Physical Custody and
Request for Writ of Attachment Order

and Attorney's Fees III AA000578-600

Notice of Hearing III AA000601

Ex Parte Application for an Order Shortening Time III AA000602-607

Opposition to Ex Parte Application for an Order Shortening Time of Plaintiff's

Motion for Primary Physical Custody III AA000608-612

Exhibits in Support of Opposition to Ex Parte Application for an Order Shortening

Time of Plaintiff's Motion for Primary Physical Custody III AA000613-634

Order Setting Case Management Conference III AA000635-637

Plaintiff's Supplement Affidavit in Support of her Emergency Motion for

Temporary Primary Physical Custody and Request for Writ of Attachment Order

and Attorney's Fees III AA000638-643

Opposition to Plaintiff's Emergency Motion for Temporary Primary Physical

Custody and Request for Writ of Attachment Order and Attorney's Fees and

Countermotion for Primary Physical Custody

and Related Relief III AA000644-666

Order Shortening Time III AA000667-668

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Notice of Entry of Order	III	AA000669-672
Order for Supervised Exchange	III	AA000673-675
Notice of Change of Address	III	AA000676
Order Setting Evidentiary Hearing	III	AA000677-681
Subpoena for Gerardo Hernandez for Deposition	III	AA000682-686
Affidavit of Service	III	AA000687
Notice of Telephonic EDCR 5.602(d) Conference	III	AA000688-690
Plaintiff's Production of Documents and List of Witnesses Pursuant to NRCP 16.2	III	AA000691-700
Certificate of Mailing	III	AA000701
Plaintiff's Motion to Compel Discovery Responses, Including Answers to Interrogatories and Responses to Requests for Production of Documents; Failure to Make NRCP 16.2 Disclosures and Productions; and For an Award of Attorney's Fees and Costs	III	AA000702-722
Notice of Hearing	III	AA000723

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Plaintiff's Exhibits in Support of Plaintiff's		
Motion to Compel Discovery	IV	AA000724-802
Defendant's Opposition to Motion to Compel		
and Related Relief	IV	AA000803-812
Defendant's Exhibits in Support of Defendant's Opposition to		
Motion to Compel and Related Relief	IV	AA000813-931
Ex Parte Application for an Order		
Shortening Time	IV	AA000932-935
Supplement to Opposition to Motion to		
Compel: Countermotion in Limine	IV	AA000936-944
Exhibits in Support of Defendant's		
Supplement: Countermotion in Limine	IV	AA000945-969
Order Shortening Time	IV	AA000970-971
Request for Hearing on Defendant's Countermotion		
In Limine	V	AA000972-973
Supplement to Opposition to Motion to Compel:		
Countermotion in Limine	V	AA000974-983

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Exhibits in Support of Defendant's Supplement:		
Countermotion in Limine	V	AA000984-1008
Ex Parte Application for Order Setting		
Hearing/Shortening Time	V	AA001009-1012
Request for Hearing on Defendant's		
Countermotion in Limine	V	AA1013-1014
Supplement to Opposition to Motion to Compel		
Countermotion in Limine	V	AA1015-1024
Exhibits in Support of Defendant's Supplement:		
Countermotion in Limine	V	AA1025-1049
Notice of Entry of Order	V	AA1050-1053
Defendant's Pretrial Memorandum	V	AA001054-1099
Receipt of Copy	V	AA001100
Witness List	V	AA001101-1104
Receipt of Copy	V	AA001105
Witness List	V	AA001106-1109
Receipt of Copy	V	AA001110
Plaintiff's List of Witness for Evidentiary Hearing	V	AA001111-1118

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Trial Subpoena	V	AA001119-1121
Trial Subpoena	V	AA001122-1124
Plaintiff's Objection to Defendant's Pre-trial Memorandum filed January 21, 2020	V	AA001125-1127
Motion to Compel Responses to Discovery and For Attorney's Fees and Costs	V	AA001128-1143
Exhibits in Support of Defendant's Motion to Compel	VI	AA001144-1279
Supplemental Declaration/Affidavit of Mitchell Stipp	VI	AA001280-1282
Notice of Hearing	VI	AA001283
Ex Parte Application for Order Setting hearing On Motion in Limine	VI	AA00184-1288
Supplement to Opposition to Motion to Compel: Countermotion in Limine	VI	AA001289-1297
Exhibits in Support of Defendant's Supplement: Countermotion in Limine	VI	AA001298-1322

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Memorandum of Attorney's Fees and

Costs

VII AA001323-1335

Ex Parte Application for Order Shortening Time on

Defendant's Motion to Compel

VII AA001336-1497

Stipulation and Order Vacating February 7, 2020 Hearing before the Discovery

Commissioner

VII AA001498-1500

Plaintiff's Opposition to Defendant's Motion to Compel Responses to Discovery

and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001501-1517

Plaintiff's Exhibits in Support of: Plaintiff's Opposition to Defendant's Motion to

Compel Responses to Discovery and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001518-1540

Notice of Hearing

VII AA001541

Opposition to Plaintiff's Request for Attorney's

Fees and Costs

VIII AA001542-1700

Defendant's Reply to Opposition to Motion to Compel and Opposition to

Counter-motion for Attorney's Fees and Costs

VIII AA001701-1760

Notice of Hearing

VIII AA001761

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Order Shortening Time	VIII	AA001762-1763
Notice of Telephone Conference Required by Discovery Commissioner to Discuss Plaintiff's Deficient Discovery Responses	IX	AA1764-1791
Application for an Order Shortening Time	IX	AA1792-1796
Plaintiff's Offers of Proof Regarding Witnesses for Evidentiary Hearing	IX	AA1797-1802
Plaintiff's Opposition to Defendant's Motion In Limine and Counter-Motion for Attorney's Fees	IX	AA001803-1820
Plaintiff's Supplemental Production of Documents And List of Witnesses Pursuant to NRCP 16.2	IX	AA001821-1830
Status Report	IX	AA001831-1844
Notice of Entry of Stipulation and Order Resolving Discovery Disputes and Trial Matter	IX	AA001845-1851
Amended Order Setting Evidentiary Hearing	IX	AA001852-1854
Order from Hearing of October 1, 2019	IX	AA001855-1862
Order from Hearing of October 22, 2019	IX	AA001863-1867
Order from Hearing of October 1, 2019	IX	AA001868-1875

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Second Amended Order Setting Evidentiary Hearing	IX	AA001876-1879
Plaintiff's Emergency Motion Pursuant to NRCP Rule 43	IX	AA001880-1890
Opposition to Plaintiff's Emergency Motion Pursuant to NRCP 43	IX	AA001891-1895
Notice of Entry of Order	IX	AA001896-1904
Notice of Entry of Order	IX	AA001905-1910
Plaintiff's Renewed Emergency Motion Pursuant to NRCP Rule 43	IX	AA001911-1921
Ex Parte Application for an Order Shortening Time	IX	AA001922-1926
Opposition to Plaintiff's Renewed Emergency Motion pursuant to NRCP Rule 43	IX	AA001927-1929
Order Shortening Time	IX	AA001930-1932
Notice of Entry of Order	IX	AA001933-1937
Notice of Hearing	IX	AA001938

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Plaintiff's Second Supplemental Production of Documents and List of Witnesses Pursuant to NRCP 16.2	IX	AA001939-1948
Receipt of Copy	IX	AA001949
Plaintiff's Memorandum of Points and Authorities Following Evidentiary Hearing	IX	AA1950-1969
Defendant's Closing Brief	IX	AA001979-1987
Notice of Entry of Order	IX	AA001988-2012
Transcripts: January 23, 2020	X	AA2013-2269
Transcripts: March 5, 2020	XI	AA2070-2512
Transcripts: August 27, 2020	XII	AA2513-2763

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 20th day of September, 2021,
a copy of the foregoing Appellant's Appendix VI was served as follows:

BY ELECTRONIC FILING TO

Radford J. Smith, Esq.
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Respondent

/s/Aaron Grigsby _____
Employee of The Grigsby Law Group

EXHIBIT A

REQT

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Attorneys for Mitchell Stipp, Defendant

**DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY**

CHRISTINA CALDERON,

Plaintiff,

v.

MITCHELL STIPP,

Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

FAMILY DIVISION

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS AND ADMISSIONS**

TO: Christina Calderon, Plaintiff

TO: Valerie Fujii, Plaintiff's attorney

You are hereby notified to produce the documents, to answer the interrogatories under oath, and respond the requests for admissions as set forth herein, within thirty (30) days of service hereof, pursuant to Rules 33, 34 and 36 of the Nevada Rules of Civil Procedure.

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I.

DEFINITIONS

(A) "Adverse party" means the party in this case whether plaintiff or defendant other than you.

(B) "And" and "or" and "and/or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each interrogatory, request for documents or admissions, which might otherwise be construed to be outside its scope.

(C) "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, emails, text messages, instant messages, posts on social media (including Facebook and Twitter), conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

(D) "Defendant" means the person identified as defendant in the caption hereto.

(E) "Date" shall mean the exact date, month, and year, if ascertainable, or if not, the best approximation (including relationship to other events).

(F) "Documents" shall mean any medium upon which intelligence or information can be perceived, reproduced, recorded, retrieved or otherwise communicated with or without the aid of any machine or device and regardless of the medium of impression in which the information is fixed (e.g., print, video, audio or other medium of expression), and includes, without limitation, the original and each copy, regardless of origin and location, of any written, printed, typed, taped, photographic, audiovisual, video graphic and recorded material however produced or reproduced, including but not limited to any book, record, brochure, pamphlet, paper, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), telephone records, invoice, bill, order form, receipt, voucher, financial statement, records, ledgers, other books of account, other types of ledger accounting entry, telex, telegram, cable, report, check, checkbook, check stub, deposit slip, bank account, debit or credit advice, contract, agreement, assignment, study, draft, working paper, chart, paper, print, laboratory record, drawing sketch, map, projection of cost, projection of income, blueprint, graph, index, list, tape, tape recording, photograph, microfilm, film, video or other audiovisual work, computer program, computer printout, data sheet or data processing card, transcript, journals, worksheet, account, acknowledgement, authorization, letter or other forms of correspondence, communications, telex, TWX, and other teletype communications, printout sheets, micro file, report, study, summary,

1 circular, note (whether typewritten, handwritten or otherwise), agenda, bulletin, notice, announcement, proofs, chart,
2 table, manual, log, schedule, telegram draft, calendar, desk calendar, appointment book, notebook, diary, register,
3 budget, analysis, projection, minutes, conferences or discussions, of any kind, and other data compilation from which
4 information can be obtained or translated if necessary. The term "document" includes any document in your
5 possession or under your control and a copy or copies of any document on which any mark, alteration or additional
6 writing or other changes from the original, or from any other copy, has been made.

7 (G) "Each" includes both "each" and "every."

8 (H) The phrases "in your possession" or "under your control" refer to the documents or tangible things in
9 your actual possession; documents or tangible things in your custody or possession, although located elsewhere;
10 documents or tangible things in your care, custody and control, although in the possession of your attorneys,
11 representatives, agents, or employees; and all documents or tangible things, wherever located, as to which you
12 have the right of possession.
13

14 (I) "Person" shall mean any natural person or any legal entity, including, but not limited to, a corporation,
15 limited liability company, partnership and unincorporated association, and any officer, director, manager,
16 managing member or partner, employee, agent, representative or other person acting or purporting to act on its
17 behalf.

18 (J) "Plaintiff" means the person identified as the plaintiff in the caption hereto.

19 (K) "Relating to" and "relates to" mean, without limitation, relating to, concerning, constituting, mentioning,
20 referring to, describing, summarizing, evidencing, listing, relevant to, demonstrating, tending to prove or
21 disprove, or explain.

22 (L) The phrase "tangible thing" means any material inanimate object or living organism other than human and
23 also includes any human being or part thereof displaying relevant information communicable in any manner other
24 than the verbal testimony of that human being.

25 (M) "You" and "your" shall mean yourself and all other persons acting or purporting to act on your behalf,
26 including, without limitation, any attorney, representative, employee or agent.
27

28 II.

1 **INSTRUCTIONS**

2 (A) Terms not defined in the definition section above or elsewhere herein shall have the meanings ascribed to
3 such terms in the Nevada Rules of Civil Procedure.

4 (B) The singular and masculine gender shall, respectively, include the plural and feminine gender, and vice
5 versa.

6 (C) To "identify" a person or document means to state, with specificity, any and all details necessary to
7 identify and segregate said person or document from all others, sufficient to identify and secure said person or
8 document by way of Subpoena for testimony and/or by way of Subpoena Duces Tecum, including, but not limited
9 to, the following:
10

- 11 1. Name;
12 2. Last known address and/or location; and;
13 3. Any telephone, fax numbers, websites, and email addresses for the person.
14

15 (D) If any document is withheld under claim of privilege, please identify the document for which there is a
16 claim of privilege, including, without limitation:
17

- 18 1. The date it bears;
19 2. The name of each person who prepared it or participated in any way in its preparation;
20 3. The name of each person who signed it;
21 4. The name of each person to whom it or a copy of it was addressed;
22 5. The name of each person who presently has custody of it or a copy of it;
23 6. Its subject matter and its substance; and/or
24 7. What basis there is for this claim of privilege.
25

26 (E) Wherever you are asked to identify a writing, please state a full description thereof, including without
27 limitation:
28

1. The date it bears;

2. The name of each person who prepared it or participated in any way in its preparation;
3. The name of each person who signed it;
4. The name of each person to whom it or a copy of it was addressed;
5. The name of each person who presently has custody of it or a copy of it;
6. Its subject matter and its substance.

(F) To the extent that any of the requests for production seeks information to be compiled or listed by you, it should be considered an interrogatory.

(G) If you fail to respond or object to any request for admissions as required hereunder, the matter shall be deemed admitted.

(H) You must admit or deny each request for admissions, and, where necessary, specify the parts of each request for admissions to which you object or cannot in good faith admit or deny. If you object to only part of a request for admissions, you must admit or deny the remainder of the request for admissions. In the event that you object to or deny any request for admissions or portion thereof, you must state the reasons for the objection or denial.

(I) These discovery requests cover the period of time from **January 1, 2019** up to the date of your response to them (unless another period of time is specifically identified), and are continuing, to the extent the Nevada Rules of Civil Procedure permit or require. In the event that any information or any documents come to your attention, possession, custody, or control subsequent to the filing of your responses to these discovery requests, which materials or information are responsive to any request, but which were not included in your initial response thereto, please furnish said additional information or documents to the attorneys making these requests of you with all due diligence.

III.

INTERROGATORIES

INTERROGATORY #1:

Specifically identify what relief you are requesting regarding physical custody and/or timeshare in this case, setting forth your proposed calendar showing when each party should have each child during the calendar year.

1 **INTERROGATORY #2:**

2 Specify in detail why the custody or timeshare schedule proposed in your Answer to Interrogatory #1 is in the best
3 interests of each child.

4 **INTERROGATORY #3:**

5 Describe the nature of the relationship you have with each of the children and your ability to assess and meet each
6 child's emotional, physical and intellectual needs.

7 **INTERROGATORY #4:**

8 Has the Department of Social Services, Child Protective Services or any other government agency ever
9 investigated an abuse or neglect claim against you? If so then for each such claim provide:

- 10 a. The identity of the entity or agency;
11 b. The date of the claim;
12 c. A description of the offense;
13 d. The outcome of the matter;
14 e. Any punishment or consequence to you; and
15 f. The identity of any other person with knowledge of the facts stated in response to this interrogatory.

16 **INTERROGATORY #5:**

17 Give the following information regarding your present employment (please answer separately regarding each job
18 held):

- 19 a. Employer's name and address;
20 b. Position or title;
21 c. Date you were hired; and
22 d. Work schedule for 2018 to the present (including vacation, sick time, or other personal time off).

23 **INTERROGATORY #6:**

24 Please provide the following information concerning your arrangements to care for each child when you are
25 physically absent for either work or non-work-related activities:

- 26 a. Name/ Address of provider;

- 1 b. Age of provider (if younger than 18);
2 c. Number of days used;
3 d. Location of care provided;
4 e. Your expected travel/absence schedule in next year;
5 f. Length of time provider has provided services; and
6 g. Are any changes in the use of this service provider anticipated in the coming year? If so, state all such
7 changes.

8 **INTERROGATORY #7:**

9 If you believe you are the more appropriate primary physical custodian for each child, state in detail what you
10 allege to be the reasons which bring you to that conclusion (including specific facts, actions, dates of occurrence,
11 all persons involved witnessing each such event).
12

13 **INTERROGATORY #8:**

14 Do you claim to have been denied access to the children by the adverse party? If so, describe each such event by
15 providing the date access was requested, the response date (if any), and the content of the response.

16 **INTERROGATORY #9:**

17 Do you claim that it is the preference of either child to be in your physical custody, and if so, state each date when
18 such preference was expressed, the circumstances giving rise to such expression, and the words used in
19 expressing the preference, and the names of any witnesses to such expressions.
20

21 **INTERROGATORY #10:**

22 Describe in detail the facts and circumstances of the physical altercations between you and Mia Stipp including
23 the events that are alleged to have occurred on May 9, 2019 and August 13, 2019.

24 **INTERROGATORY #11:**

25 Describe in detail what efforts you have undertaken to spend time with each of the children since August 23,
26 2019.

27 ///

1 **INTERROGATORY #12:**

2 State the general condition of your physical and mental health at the present time, including reference to any
3 physical disabilities or chronic ailments, continuing diagnosis, mental health disorders, prescribed medication,
4 and continuing treatment or care plans, including the name, address and telephone number of any physician,
5 hospital or practitioner, psychologist, psychiatrist, or mental health professional who is presently or has at any
6 time in the past five years treated you for such condition.

7 **INTERROGATORY #13:**

8 State whether you have retained the services of a private investigator, conducted personal surveillance, or in any
9 way had a third party watch the adverse party or either child for the purposes of gathering information. If so,
10 please describe in detail the following: name and address of person performing the surveillance, the dates of
11 surveillance, what information was gathered, and a description of any documents/photographs/video recordings
12 that exist regarding this surveillance and who has possession of each.

14 **INTERROGATORY #14:**

15 Identify each person who has knowledge of the facts and events described in the papers and pleadings filed in this
16 case on or after August 26, 2019 or in any answers to these Interrogatories or who may testify at any proceeding
17 in this matter, including the following information:

- 18 a. Name;
19 b. Address;
20 c. Telephone;
21 d. Email address;
22 e. Topic of anticipated testimony;
23 f. Identify whether the person is expected to testify; and
24 g. Identify any documents in the person's custody or control relevant to any issue in this matter.

26 ///

27 ///

1 **INTERROGATORY #15:**

2 The factors set forth below are derived from NRS 125C.0035(4) and are used by the court in determining the best
3 interest of the children with respect to custody and timeshare. With respect to the following, state each material
4 fact upon which you rely and the name, address, and telephone number of each witness to such material facts:

- 5 (a) The wishes of each child if the child is of sufficient age and capacity to form an intelligent preference as
6 to his or her physical custody.
- 7 (b) Any nomination of a guardian for each child by a party.
- 8 (c) Which party is more likely to allow each child to have frequent associations and a continuing relationship
9 with the non-custodial party.
- 10 (d) The level of conflict between the parties.
- 11 (e) The ability of the parties to cooperate to meet the needs of each child.
- 12 (f) The mental and physical health of the parties.
- 13 (g) The physical, developmental and emotional needs of each child.
- 14 (h) The nature of the relationship of each child with each party.
- 15 (i) The ability of each child to maintain a relationship with any sibling.
- 16 (j) Any history of parental abuse or neglect of each child or a sibling of the child.
- 17 (k) Whether either party seeking physical custody has engaged in an act of domestic violence against either
18 child, a parent of either child or any other person residing with either child.
- 19 (l) Whether either party seeking physical custody has committed any act of abduction against either child or
20 any other child.
- 21
- 22

23 **INTERROGATORY #16:**

24 State each and every substantial change in circumstances and/or condition which you allege supports a
25 modification of physical custody and/or timeshare. Provide any and all facts and information including the dates,
26 locations and witnesses for all incidents you allege support your position.

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IV

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION # 1:

The factors set forth below are derived from NRS 125C.0035(4) and are used by the court in determining the best interest of the children with respect to custody and timeshare. For each such factor which you claim is important for the court to consider in awarding physical custody, supply all documents supporting such claim:

- (a) The wishes of each child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.
- (b) Any nomination of a guardian for each child by a party.
- (c) Which party is more likely to allow each child to have frequent associations and a continuing relationship with the non-custodial party.
- (d) The level of conflict between the parties.
- (e) The ability of the parties to cooperate to meet the needs of each child.
- (f) The mental and physical health of the parties.
- (g) The physical, developmental and emotional needs of each child.
- (h) The nature of the relationship of each child with each party.
- (i) The ability of each child to maintain a relationship with any sibling.
- (j) Any history of parental abuse or neglect of each child or a sibling of the child.
- (k) Whether either party seeking physical custody has engaged in an act of domestic violence against either child, a parent of either child or any other person residing with either child.
- (l) Whether either party seeking physical custody has committed any act of abduction against either child or any other child.

REQUEST FOR PRODUCTION # 2:

Provide all emails, text messages, instant messages, or social media messages or postings between you and each child for the last 18 months.

1 **REQUEST FOR PRODUCTION # 3:**

2 Provide all documentation which which tend to support the ability (or inability) of the parties to work with one
3 another to resolve disputes.

4 **REQUEST FOR PRODUCTION # 4:**

5 If you claim that the adverse party has denied you access to either child, provide all documents supporting that
6 allegation.

7 **REQUEST FOR PRODUCTION # 5:**

8 Provide all video or audio recordings that you have made of either child or adverse party in the last 18 months.

9 **REQUEST FOR PRODUCTION # 6:**

10 Provide all documents, videos, audio recordings, social media postings, or other communications which tend to
11 support your claims regarding either child's preference for a particular custody or timeshare arrangement.

12 **REQUEST FOR PRODUCTION # 7:**

13 Provide your medical records that pertain to issues of your mental health or pertain to the diagnosis or treatment
14 of physical disorders you may have, including but not limited to any chronic illness, physical disability, addiction
15 or rehabilitation treatment, mental health diagnosis, mental health treatment or mental health testing.

16 **REQUEST FOR PRODUCTION # 8:**

17 If you have concerns regarding the adverse party's physical or mental health, provide all documentation to support
18 such allegations.

19 **REQUEST FOR PRODUCTION # 9:**

20 Provide all documents which support your allegations of parental alienation by the adverse party.

21 **REQUEST FOR PRODUCTION # 10:**

22 Provide all documents which support your allegations of pathogenic parenting by the adverse party.

23 **REQUEST FOR PRODUCTION # 11:**

24 If you retained the services of a private investigator, conducted personal surveillance, or in any way had a third
25 party watch the adverse party or either child for purposes of gathering information, provide all information,
26 reports, photographs, videos, or recordings made during the course of the surveillance and investigation.

1 **REQUEST FOR PRODUCTION # 12:**

2 Provide all documents which support your contention that there has been a substantial change in circumstances
3 which warrants a modification since entry of the last order regarding custody and/or timeshare.

4 **REQUEST FOR PRODUCTION # 13:**

5 Provide all communications and documents which you provided to Donna Wilburn to review in connection with
6 her letter dated September 11, 2019 entitled "Recommended Protocol Regarding Child Visitation Refusal."

7 **REQUEST FOR PRODUCTION # 14:**

8 If you are requesting an award of attorney's fees and costs, provide a copy of all invoices for legal services related
9 to the proceeding in which you seek such an award.
10

11 **REQUEST FOR PRODUCTION # 15:**

12 Provide all documents you reviewed or referred to in answering the Interrogatories submitted to you.

13 **V.**

14 **REQUESTS FOR ADMISSIONS**

15 **REQUEST FOR ADMISSION # 1:**

16 Admit that Mia Stipp is of sufficient age and capacity to form an intelligent preference as to her physical custody.

17 **REQUEST FOR ADMISSION # 2:**

18 Admit that Ethan Stipp is of sufficient age and capacity to form an intelligent preference as to his physical
19 custody.
20

21 Dated: December 3, 2019

22 **LAW OFFICE OF MITCHELL STIPP**

23 /s/ Mitchell Stipp, Esq.

24 MITCHELL STIPP, ESQ.

Nevada Bar No. 7531

25 LAW OFFICE OF MITCHELL STIPP

10120 W. Flamingo Rd., Suite 4-124

26 Las Vegas, Nevada 89147

Telephone: 702.602.1242

27 mstipp@stipplaw.com

28 Attorneys for Defendant

1 **CERTIFICATE OF SERVICE**

2

3 I served the foregoing document described as “INTERROGATORIES AND REQUESTS FOR

4 PRODUCTION OF DOCUMENTS AND ADMISSIONS” on this 3rd day of December, 2019, using the

5 electronic filings system of the clerk of the court, to all interested parties as follows:

6 Valerie Fujii
7 Christina Calderon

8

9 /s/ Amy Hernandez

10 _____
11 An employee of Law Office of Mitchell Stipp

12

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EXHIBIT B

1 **RESP**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No.: 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujii-lawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)	
)	
15 Plaintiff,)	CASE NO.: D-08-389203-Z
)	DEPT. NO.: H
16 vs.)	
)	
17 MITCHELL STIPP,)	
)	
18 Defendant.)	
_____)	

19 **PLAINTIFF'S ANSWERS TO DEFENDANT'S**
20 **FIRST SET OF INTERROGATORIES**

21 TO: MITCHELL STIPP, Defendant herein.

22 TO: RADFORD J. SMITH, ESQ., of the law firm of RADFORD J. SMITH,
23 CHARTERED, counsel for Defendant herein.

24 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
25 attorney of record, VALARIE I. FUJII, ESQ., of the law firm of VALARIE I.
26 FUJII & ASSOCIATES, and hereby answers Defendant's First Set of
27 Interrogatories as follows:
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1 **ANSWER NO. 1:**

2 I am requesting that Mitchell abide by the joint physical custody timeshare
3 that we determined was in the children's best interests in 2014 and followed
4 without deviation from July 2014 until August 23, 2019. See Stipulation and
5 Order, filed July 2014.
6

7 **INTERROGATORY NO. 2:**

8 Specify in detail why the custody or timeshare schedule proposed in your
9 Answer to Interrogatory #1 is in the best interests of each child.
10

11 **ANSWER NO. 2:**

12 Mitchell and I agreed that joint physical custody on a week on/week off
13 schedule was in the children's best interest, the Court approved the stipulated joint
14 timeshare, we practiced it without deviation for five years, and joint physical
15 custody is statutorily presumed to be in the children's best interest.
16

17 **INTERROGATORY NO. 3:**

18 Describe the nature of the relationship you have with each of the children
19 and your ability to assess and meet each child's emotional, physical and
20 intellectual needs.
21

22 **ANSWER NO. 3:**

23 I have a loving relationship with each child that has been strained by
24 Mitchell's continuing violation of the current custody order. His actions have
25 resulted in severely limiting my contact with the children to the detriment of our
26 relationship with each other.
27
28

1 **INTERROGATORY NO. 4:**

2 Has the Department of Social Services, Child Protective Services or any
3 other government agency ever investigated an abuse or neglect claim against you?
4

5 If so then for each such claim provide:

- 6 a. The identity of the entity or agency;
7 b. The date of the claim;
8 c. A description of the offense;
9 d. The outcome of the matter;
10 e. Any punishment or consequence to you; and
11 f. The identity of any other person with knowledge of the facts stated in
12 response to this interrogatory.
13
14

15 **ANSWER NO. 4:**

16 To my knowledge, the Department of Family Services, Child Protective
17 Services or any other government agency has not investigated an abuse or neglect
18 claim against me.
19

20 **INTERROGATORY NO. 5:**

21 Give the following information regarding your present employment (please
22 answer separately regarding each job held):

- 23 a. Employer's name and address;
24 b. Position or title;
25 c. Date you were hired; and
26
27
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- 1 d. Work schedule for 2018 to the present (including vacation, sick time,
2 or other personal time off).

3
4 **ANSWER NO. 5:**

- 5 a. Clark County District Attorney's Office;
6 b. Chief Deputy District Attorney;
7 c. April 2013;
8 d. Monday-Friday, 8:00 a.m. to 5:00 p.m. Court holidays and weekends
9 off. Last vacation was April 15-19, 2019. No more than five sick
10 days taken from April 2018 to April 2019.

11
12 **INTERROGATORY NO. 6:**

13 Please provide the following information concerning your arrangements to
14 care for each child when you are physically absent for either work or non-work-
15 related activities:
16

- 17 a. Name/Address of provider;
18 b. Age of provider (if younger than 18);
19 c. Number of days used;
20 d. Location of care provided;
21 e. Your expected travel/absence schedule in next year;
22 f. Length of time provider has provided services; and
23 g. Are any changes in the use of this service provider anticipated in the
24 coming year? If so, state all such changes.
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1 **ANSWER NO. 6:**

2 Mitchell has withheld the children from my custody since August 23, 2019.
3
4 Once he begins to comply with the Court Order, my father, Peter Calderon, will
5 assist with childcare. My father resides at 3136 Donnegal Bay Drive, Las Vegas,
6 Nevada 89117. He is 69 years old. He has known each child their entire lives and
7 has been an active part of their lives since their respective births. No changes
8 anticipated.
9

10 **INTERROGATORY NO. 7:**

11 If you believe you are the more appropriate primary physical custodian for
12 each child, state in detail what you allege to be the reasons which bring you to that
13 conclusion (including specific facts, actions, dates of occurrence, all persons
14 involved witnessing each such event).
15

16 **ANSWER NO. 7:**

17 If Mitchell continues to be unwilling to abide by the joint physical custodial
18 order, then I would be the more appropriate primary physical custodian because,
19 unlike Mitchell, I can ensure that the children have frequent, continuous and
20 meaningful contact with both of their parents.
21

22 **INTERROGATORY NO. 8:**

23 Do you claim to have been denied access to the children by the adverse
24 party? If so, describe each such event by providing the date access was requested,
25 the response date (if any), and the content of the response.
26

27
28

1 **ANSWER NO. 8:**

2 The circumstances involved with respect to Mitchell's unwillingness to
3 abide by the stipulation and Court Order of joint custody is fully set forth in all of
4 the documents that I have filed following Mitch's August 23, 2019, refusal to
5 abide by the existing custodial order, to wit: a) Plaintiff's Motion for Order to
6 Show Cause Against Defendant for Wilfully Disobeying the Custody Order; a
7 Request for Immediate Return of the Children, Make Up Visitation and an Award
8 of Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to
9 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
10 Motion for Child Interview by FMC and Related Relief; and Countermotion for
11 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
12 Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application
13 for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency
14 Motion for Temporary Primary Physical Custody and Request for Writ of
15 Attachment Order and Attorney's Fees filed on October 9, 2019; and all related
16 affidavits and exhibits in support of the above-referenced filings.

17 **INTERROGATORY NO. 9:**

18 Do you claim that it is the preference of either child to be in your physical
19 custody, and if so, state each date when such preference was expressed, the
20 circumstances giving rise to such expression, and the words used in expressing the
21 preference, and the names of any witnesses to such expressions.

22

1 **ANSWER NO. 9:**

2 Mia and Ethan should be exercising custodial time with me as set forth in
3 our existing custodial order, which the Court has affirmed is still valid and
4 operative in our case.
5

6 **INTERROGATORY NO. 10:**

7 Describe in detail the facts and circumstances of the physical altercations
8 between you and Mia Stipp including the events that are alleged to have occurred
9 on May 9, 2019 and August 13, 2019.
10

11 **ANSWER NO. 10:**

12 On May 9, 2019, Mia hit me after I took her cellular phone away from her.
13 She scratched me on my hand and lip. On August 13, 2019, Mia punched me on
14 my right arm after I told her to get off of her cellular phone when she was
15 speaking to her boyfriend, Joey, late that evening, which was a school night.
16

17 **INTERROGATORY NO. 11:**

18 Describe in detail what efforts you have undertaken to spend time with each
19 of the children since August 23, 2019.
20

21 **ANSWER NO. 11:**

22 The efforts I have undertaken to spend time with each of the children since
23 August 23, 2019, consist of multiple written communications to Mitchell via text
24 message and email to request his compliance with the existing custodial order and
25 are detailed in the following court filings: a) Plaintiff's Motion for Order to Show
26 Cause Against Defendant for Wilfully Disobeying the Custody Order; a Request
27
28

1 for Immediate Return of the Children, Make Up Visitation and an Award of
2 Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to
3 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
4 Motion for Child Interview by FMC and Related Relief; and Countermotion for
5 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
6 Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application
7 for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency
8 Motion for Temporary Primary Physical Custody and Request for Writ of
9 Attachment Order and Attorney's Fees filed on October 9, 2019; and all related
10 affidavits and exhibits in support of the above-referenced filings.

11
12
13 **INTERROGATORY NO. 12:**

14
15 State the general condition of your physical and mental health at the present
16 time, including reference to any physical disabilities or chronic ailments,
17 continuing diagnosis, mental health disorders, prescribed medication, and
18 continuing treatment or care plans, including the name, address and telephone
19 number of any physician, hospital or practitioner, psychologist, psychiatrist, or
20 mental health professional who is presently or has at any time in the past five years
21 treated you for such condition.

22
23 **ANSWER NO. 12:**

24
25 I am in good health. I do not have any physical disabilities or chronic
26 ailments or mental health disorders for which I am prescribed medication or a
27 continuing treatment or care plan.
28

1 **INTERROGATORY NO. 13:**

2 State whether you have retained the services of a private investigator,
3 conducted personal surveillance, or in any way had a third party watch the adverse
4 party or either child for the purposes of gathering information. If so, please
5 describe in detail the following: name and address of person performing the
6 surveillance, the dates of surveillance, what information was gathered, and a
7 description of any documents/photographs/video recordings that exist regarding
8 this surveillance and who has possession of each.
9
10

11 **ANSWER NO. 13:**

12 With the exception of pre-divorce private investigation regarding Mitchell's
13 marital infidelity, I have not retained the services of a private investigator,
14 conducted personal surveillance, or in any way had a third party watch the adverse
15 party or either child for the purposes of gathering information.
16

17 **INTERROGATORY NO. 14:**

18 Identify each person who has knowledge of the facts and events described
19 in the papers and pleadings filed in this case on or after August 26, 2019 or in any
20 answers to these Interrogatories or who may testify at any proceeding in this
21 matter, including the following information:
22

- 23 a. Name;
24
25 b. Address;
26
27 c. Telephone;
28
d. Email address;

- e. Topic of anticipated testimony;
- f. Identify whether the person is expected to testify; and
- g. Identify any documents in the person's custody or control relevant to any issue in this matter.

ANSWER NO. 14:

Mitchell Stipp, Amy Stipp, Gerardo Hernandez, Martha Hernandez, James Upp, Joseph Robert Trautman, Misayo Lopez, Allison Morris, Elena Calderon, Peter Calderon, Anthony Calderon, Antonia Calderon, Nicholas Petsas, and Donna Wilburn. In addition, discovery is continuing and Plaintiff reserves her right to supplement this Answer as additional information becomes available.

INTERROGATORY NO. 15:

The factors set forth below are derived from NRS 125C.0035(4) and are used by the court in determining the best interest of the children with respect to custody and timeshare. With respect to the following, state each material fact upon which you rely and the name, address, and telephone number of each witness to such material facts:

- (a) The wishes of each child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.
- (b) Any nomination of a guardian for each child by a party.
- (c) Which party is more likely to allow each child to have frequent associations and a continuing relationship with the non-custodial party.

- 1 (d) The level of conflict between the parties.
- 2 (e) The ability of the parties to cooperate to meet the needs of each child.
- 3 (f) The mental and physical health of the parties.
- 4 (g) The physical, developmental and emotional needs of each child.
- 5 (h) The nature of the relationship of each child with each party.
- 6 (i) The ability of each child to maintain a relationship with any sibling.
- 7 (j) Any history of parental abuse or neglect of each child or a sibling of
- 8 the child.
- 9
- 10
- 11 (k) Whether either party seeking physical custody has engaged in an act
- 12 of domestic violence against either child, a parent of either child or
- 13 any other person residing with either child.
- 14
- 15 (l) Whether either party seeking physical custody has committed any act
- 16 of abduction against either child or any other child.

17 **ANSWER NO. 15:**

18 Please see the detailed analysis previously provided to you in my Court

19

20 filings, including, in particular, Plaintiff's Emergency Motion for Temporary

21 Primary Physical Custody and Request for Writ of Attachment Order and

22 Attorney's Fees filed on October 9, 2019, which sets forth the facts in support of

23 the factors identified in this interrogatory, as well as the following: a) Plaintiff's

24 Motion for Order to Show Cause Against Defendant for Wilfully Disobeying the

25 Custody Order; a Request for Immediate Return of the Children, Make Up

26 Visitation and an Award of Attorney's Fees, filed on August 29, 2019; b) Ex Parte

27

28

1 Application for Order to Show Cause filed on August 30, 2019; c) Plaintiff's
2 Opposition to Defendant's Motion for Child Interview by FMC and Related
3 Relief; and Countermotion for Immediate Return of the Children, Make-up
4 Visitation, Sanctions, and Award of Attorney's Fees, filed on September 11, 2019;
5 d) Plaintiff's Ex Parte Application for Order Shortening Time filed on September
6 26, 2019; and all related affidavits and exhibits in support of the above-referenced
7 filings.
8

9
10 **INTERROGATORY NO. 16:**

11 State each and every substantial change in circumstances and/or condition
12 which you allege supports a modification of physical custody and/or timeshare.
13 Provide any and all facts and information including the dates, locations and
14 witnesses for all incidents you allege support your position.
15

16 **ANSWER NO. 16:**

17 The existing custodial order providing for joint physical custody on a week
18 on/week off basis for both children should be followed by Mitchell. If the Court
19 considers modification, it should make me primary physical custodian based upon
20 the changed circumstance of Mitchell's continuing unwillingness to follow the
21 existing custodial order from August 23, 2019, to the present.
22

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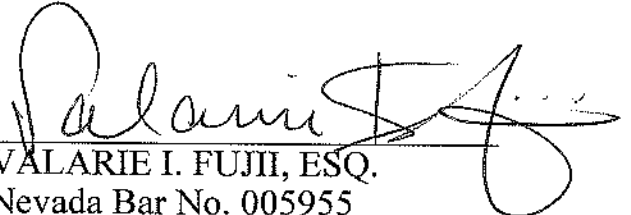
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1 In addition, discovery is continuing and Plaintiff reserves her right to
2 supplement these Answers as additional information becomes available.

3 DATED this 2nd day of January, 2020.
4

5 VALARIE I. FUJII & ASSOCIATES

6 
7 VALARIE I. FUJII, ESQ.
8 Nevada Bar No. 005955

9 704 South Sixth Street
10 Las Vegas, Nevada 89101

11 Attorney for Plaintiff
12 CHRISTINA CALDERON

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 2nd day of January, 2019, I served a
15 true and correct copy of the above and foregoing *Plaintiff's Answers to*
16 *Defendant's First Set of Interrogatories*, via electronic service pursuant to the
17 Nevada Electronic Filing and Conversion Rules (NEFCR), addressed as follows:

18 Radford J. Smith, Esq.
19 RADFORD J. SMITH, CHTD.
20 2470 St. Rose Parkway, #206
21 Henderson, Nevada 89074
22 Attorney for Defendant
MITCHELL STIPP

23 Mitchell D. Stipp, Esq.
24 LAW OFFICE OF MITCHELL STIPP
25 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147

26 
27 An Employee of VALARIE I. FUJII & ASSOCS.
28

VERIFICATION

STATE OF NEVADA §
 § ss.
COUNTY OF CLARK §

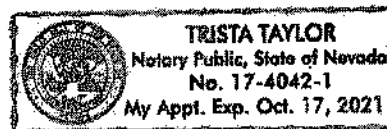
I, CHRISTINA CALDERON, under penalty of perjury, make the following assertions:

I am the Plaintiff in the above-entitled action; I have read Plaintiff's Answers to Defendant's First Set of Interrogatories and know the contents thereof, and the same are true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true.

Christina Calderon
CHRISTINA CALDERON

SUBSCRIBED AND SWORN to before
me this 2nd day of January, 2020,
by CHRISTINA CALDERON.

[Signature]
NOTARY PUBLIC in and for
said County and State



1 **RESP**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No.: 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,** }

15 Plaintiff, }

16 vs. }

17 **MITCHELL STIPP,** }

18 Defendant. }

CASE NO.: D-08-389203-Z
DEPT. NO.: H

19 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET**
20 **OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

21 TO: MITCHELL STIPP, Defendant herein.

22 TO: RADFORD J. SMITH, ESQ., of the law firm of RADFORD J. SMITH,
23 CHTD., counsel for Defendant herein.

24 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
25 attorney of record, VALARIE I. FUJII, ESQ., of the law firm of VALARIE I.
26 FUJII & ASSOCIATES, and hereby provides her Responses to Defendant's First
27 Set of Requests for Production of Documents as follows:
28

....

....

1 **REQUEST NO. 1:**

2 The factors set forth below are derived from NRS 125C.0035(4) and are
3 used by the court in determining the best interest of the children with respect to
4 custody and timeshare. For each such factor which you claim is important for the
5 court to consider in awarding physical custody, supply all documents supporting
6 such claim:
7

- 8 (a) The wishes of each child if the child is of sufficient age and capacity
9 to form an intelligent preference as to his or her physical custody.
- 10 (b) Any nomination of a guardian for each child by a party.
- 11 (c) Which party is more likely to allow each child to have frequent
12 associations and a continuing relationship with the non-custodial
13 party.
- 14 (d) The level of conflict between the parties.
- 15 (e) The ability of the parties to cooperate to meet the needs of each child.
- 16 (f) The mental and physical health of the parties
- 17 (g) The physical, developmental and emotional needs of each child.
- 18 (h) The nature of the relationship of each child with each party.
- 19 (i) The ability of each child to maintain a relationship with any sibling.
- 20 (j) Any history of parental abuse or neglect of each child or a sibling of
21 the child.
- 22 (k) Whether either party seeking physical custody has engaged in an act
23 of domestic violence against either child, a parent of either child or
24 any other person residing with either child.
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- 1 (l) Whether either party seeking physical custody has committed any act
2 of abduction against either child or any other child.

3 **RESPONSE TO REQUEST NO. 1:**

4 Please refer to the following documents filed by Plaintiff in this matter, as
5 well as any and all related affidavits and exhibits in support of the same: a)
6 Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully
7 Disobeying the Custody Order, a Request for Immediate Return of the Children,
8 Make Up Visitation and an Award of Attorney's Fees filed on August 29, 2019; b)
9 Ex Parte Application for Order to Show Cause filed on August 30, 2019; c)
10 Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and
11 Related Relief; and Countermotion for Immediate Return of the Children, Make-
12 up Visitation, Sanctions, and Award of Attorney's Fees filed on September 11,
13 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on
14 September 26, 2019; and e) Plaintiff's Emergency Motion for Temporary Primary
15 Physical Custody and Request for Writ of Attachment Order and Attorney's Fees
16 filed on October 9, 2019. In addition, discovery is continuing and Plaintiff
17 reserves her right to supplement this Response as additional information and
18 documentation become available.

19 **REQUEST NO. 2:**

20 Provide all emails, text messages, instant messages, or social media
21 messages or postings between you and each child for the last 18 months.

22 **RESPONSE TO REQUEST NO. 2:**

23 Please see attached text messages from October 5, 2019, to the present,
24 Bates Stamps PL00001 - PL00085. Plaintiff obtained a new phone on or about
25

1 October 5, 2019, and will endeavor to obtain the older text messages from her cell
2 phone carrier. Plaintiff and the children do not regularly communicate via email.
3 Plaintiff and the children do not communicate via any social media. In addition,
4 discovery is continuing and Plaintiff reserves her right to supplement this
5 Response as additional information and documentation become available.
6

7 **REQUEST NO. 3:**

8 Provide all documentation which tend to support the ability (or inability) of
9 the parties to work with one another to resolve disputes.

10 **RESPONSE TO REQUEST NO. 3:**

11 Please see all of the documents listed in the 71 pages consisting of the
12 current docket sheet available on Odyssey for Case No. D-08-389203-Z. 52 of 71
13 pages consist of documents filed by the parties from 2008-2014. Ten pages
14 consist of filings from August 29, 2019, to the present. There was NO
15 LITIGATION between July 2014 to August 2019. The remainder are
16 financial/administrative entries. In addition, discovery is continuing and Plaintiff
17 reserves her right to supplement this Response as additional information and
18 documentation become available.
19

20 **REQUEST NO. 4:**

21 If you claim that the adverse party has denied you access to either child,
22 provide all documents supporting that allegation.
23

24 **RESPONSE TO REQUEST NO. 4:**

25 Please refer to the following documents filed by Plaintiff in this matter, as
26 well as any and all related affidavits and exhibits in support of the same: a)
27 Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully
28

1 Disobeying the Custody Order, a Request for Immediate Return of the Children,
2 Make Up Visitation and an Award of Attorney's Fees filed on August 29, 2019; b)
3 Ex Parte Application for Order to Show Cause filed on August 30, 2019; c)
4 Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and
5 Related Relief; and Countermotion for Immediate Return of the Children, Make-
6 up Visitation, Sanctions, and Award of Attorney's Fees filed on September 11,
7 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on
8 September 26, 2019; and e) Plaintiff's Emergency Motion for Temporary Primary
9 Physical Custody and Request for Writ of Attachment Order and Attorney's Fees
10 filed on October 9, 2019. In addition, discovery is continuing and Plaintiff
11 reserves her right to supplement this Response as additional information and
12 documentation become available.
13

14 **REQUEST NO. 5:**

15 Provide all video or audio recordings that you have made of either child or
16 adverse party in the last 18 months.
17

18 **RESPONSE TO REQUEST NO. 5:**

19 Plaintiff is in the process of downloading all of the baseball videos of Ethan
20 and the music performance videos of Mia in her possession and will supplement
21 the same. In addition, discovery is continuing and Plaintiff reserves her right to
22 supplement this Response as additional information and documentation become
23 available.
24

25 **REQUEST NO. 6:**

26 Provide all documents, videos, audio recordings, social media postings, or
27 other communications which tend to support your claims regarding either child's
28 preference for a particular custody or timeshare arrangement.

1 **RESPONSE TO REQUEST NO. 6:**

2 I have not made such claims.

3 **REQUEST NO. 7:**

4 Provide your medical records that pertain to issues of your mental health or
5 pertain to the diagnosis or treatment of physical disorders you may have, including
6 but not limited to any chronic illness, physical disability, addiction or
7 rehabilitation treatment, mental health diagnosis, mental health treatment or
8 mental health testing.
9

10 **RESPONSE TO REQUEST NO. 7:**

11 I do not have chronic illness, physical disability, addiction or rehabilitation
12 treatment, mental health diagnosis, mental health treatment or mental health
13 testing.
14

15 **REQUEST NO. 8:**

16 If you have concerns regarding the adverse party's physical or mental health,
17 provide all documentation to support such allegations.

18 **RESPONSE TO REQUEST NO. 8:**

19 The physical and mental health records of Defendant are in the possession
20 of the Defendant.

21 **REQUEST NO. 9:**

22 Provide all documents which support your allegations of parental alienation
23 by the adverse party.
24

25 **RESPONSE TO REQUEST NO. 9:**

26 Please refer to the following documents filed by Plaintiff in this matter, as
27 well as any and all related affidavits and exhibits in support of the same: a)
28 Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully

1 Disobeying the Custody Order, a Request for Immediate Return of the Children,
2 Make Up Visitation and an Award of Attorney's Fees filed on August 29, 2019; b)
3 Ex Parte Application for Order to Show Cause filed on August 30, 2019; c)
4 Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and
5 Related Relief; and Countermotion for Immediate Return of the Children, Make-
6 up Visitation, Sanctions, and Award of Attorney's Fees filed on September 11,
7 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on
8 September 26, 2019; and e) Plaintiff's Emergency Motion for Temporary Primary
9 Physical Custody and Request for Writ of Attachment Order and Attorney's Fees
10 filed on October 9, 2019. In addition, discovery is continuing and Plaintiff
11 reserves her right to supplement this Response as additional information and
12 documentation become available.
13

14 **REQUEST NO. 10:**

15 Provide all documents which support your allegations of pathogenic
16 parenting by the adverse party.
17

18 **RESPONSE TO REQUEST NO. 10:**

19 Please refer to the following documents filed by Plaintiff in this matter, as
20 well as any and all related affidavits and exhibits in support of the same: a)
21 Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully
22 Disobeying the Custody Order, a Request for Immediate Return of the Children,
23 Make Up Visitation and an Award of Attorney's Fees filed on August 29, 2019; b)
24 Ex Parte Application for Order to Show Cause filed on August 30, 2019; c)
25 Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and
26 Related Relief; and Countermotion for Immediate Return of the Children, Make-
27 up Visitation, Sanctions, and Award of Attorney's Fees filed on September 11,
28

1 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on
2 September 26, 2019; and e) Plaintiff's Emergency Motion for Temporary Primary
3 Physical Custody and Request for Writ of Attachment Order and Attorney's Fees
4 filed on October 9, 2019. In addition, discovery is continuing and Plaintiff
5 reserves her right to supplement this Response as additional information and
6 documentation become available.
7

8 **REQUEST NO. 11:**

9 If you retained the services of a private investigator, conducted personal
10 surveillance, or in any way had a third party watch the adverse party or either child
11 for purposes of gathering information, provide all information, reports,
12 photographs, videos, or recordings made during the course of the surveillance and
13 investigation.
14

15 **RESPONSE TO REQUEST NO. 11:**

16 I have no documents responsive to this request.

17 **REQUEST NO. 12:**

18 Provide all documents which support your contention that there has been a
19 substantial change in circumstances which warrants a modification since entry of
20 the last order regarding custody and/or timeshare.

21 **RESPONSE TO REQUEST NO. 12:**

22 The substantial change in circumstance is Mitchell's continuing violation of
23 the existing joint physical custody order. Please refer to the following documents
24 filed by Plaintiff in this matter, as well as any and all related affidavits and
25 exhibits in support of the same: a) Plaintiff's Motion for Order to Show Cause
26 Against Defendant for Wilfully Disobeying the Custody Order, a Request for
27 Immediate Return of the Children, Make Up Visitation and an Award of
28

1 Attorney's Fees filed on August 29, 2019; b) Ex Parte Application for Order to
2 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
3 Motion for Child Interview by FMC and Related Relief; and Countermotion for
4 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
5 Attorney's Fees filed on September 11, 2019; d) Plaintiff's Ex Parte Application
6 for Order Shortening Time filed on September 26, 2019; and e) Plaintiff's
7 Emergency Motion for Temporary Primary Physical Custody and Request for Writ
8 of Attachment Order and Attorney's Fees filed on October 9, 2019. In addition,
9 discovery is continuing and Plaintiff reserves her right to supplement this
10 Response as additional information and documentation become available.

11
12 **REQUEST NO. 13:**

13 Provide all communications and documents which you provided to Donna
14 Wilburn to review in connection with her letter dated September 11, 2019 entitled
15 "Recommended Protocol Regarding Child Visitation Refusal."
16

17 **RESPONSE TO REQUEST NO. 13:**

18 I do not recall specifically what documents or communications Donna
19 Wilburn reviewed in connection with her letter dated September 11, 2019, entitled
20 "Recommended Protocol Regarding Child Visitation Refusal." In addition,
21 discovery is continuing and Plaintiff reserves her right to supplement this
22 Response as additional information and documentation become available.
23

24 **REQUEST NO. 14:**

25 If you are requesting an award of attorney's fees and costs, provide a copy
26 of all invoices for legal services related to the proceeding in which you seek such
27 an award.

28

1 **RESPONSE TO REQUEST NO. 14:**

2 Please see attached Sales Receipts from my counsel Valarie I. Fujii, Esq.,
3 confirming my payments to her in the amount of \$5,000.00 on August 26, 2019,
4 and \$10,300.00 on December 5, 2019, for a total of \$15,300.00, Bates Stamps
5 PL00086 - PL00087. In addition, discovery is continuing and Plaintiff reserves
6 her right to supplement this Response as additional information and
7 documentation become available.
8

9 **REQUEST NO. 15:**

10 Provide all documents you reviewed or referred to in answering the
11 Interrogatories submitted to you.

12 **RESPONSE TO REQUEST NO. 15:**

13 Please refer to the following documents filed by Plaintiff in this matter, as
14 well as any and all related affidavits and exhibits in support of the same: a)
15 Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully
16 Disobeying the Custody Order, a Request for Immediate Return of the Children,
17 Make Up Visitation and an Award of Attorney's Fees filed on August 29, 2019; b)
18 Ex Parte Application for Order to Show Cause filed on August 30, 2019; c)
19 Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and
20 Related Relief; and Countermotion for Immediate Return of the Children, Make-
21 up Visitation, Sanctions, and Award of Attorney's Fees filed on September 11,
22 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on
23 September 26, 2019; and e) Plaintiff's Emergency Motion for Temporary Primary
24 Physical Custody and Request for Writ of Attachment Order and Attorney's Fees
25 filed on October 9, 2019. In addition, discovery is continuing and Plaintiff
26
27
28

1 reserves her right to supplement this Response as additional information and
2 documentation become available.

3 DATED this 2nd day of January, 2020.

4 VALARIE I. FUJII & ASSOCIATES

5 
6 VALARIE I. FUJII, ESQ.

7 Nevada Bar No. 005955

8 704 S. Sixth Street

9 Las Vegas, Nevada 89101

10 Attorney for Plaintiff

CHRISTINA CALDERON

11 **CERTIFICATE OF SERVICE**

12 I HEREBY CERTIFY that on the 2nd day of January, 2020, I served a
13 true and correct copy of the above and foregoing *Plaintiff's Responses to*
14 *Defendant's First Set of Request for Production of Documents*, via electronic
15 service pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR),
16 addressed as follows:

17 Radford J. Smith, Esq.
18 RADFORD J. SMITH, CHTD.
19 2470 St. Rose Parkway, #206
20 Henderson, Nevada 89074
21 Attorney for Defendant
MITCHELL STIPP

22 Mitchell D. Stipp, Esq.
23 LAW OFFICE OF MITCHELL STIPP
24 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147

25
26 
27 An Employee of VALARIE I. FUJII & ASSOCS.
28

EXHIBIT C

From: Mitchell Stipp <mstipp@stiplaw.com>
To: PDF <pdfconvert@pdfconvert.me>
Subject: Fwd: Notification of Service for Case: D-08-389203-Z, In the Matter of the Joint Petition for Divorce of: Mitchell David Stipp and Christina Calderon Stipp for filing Service Only, Envelope Number: 5467773
Date: Tue, 14 Jan 2020 17:22:12 -0800



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stiplaw.com | www.stiplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stiplaw.com>
Date: Fri, Jan 10, 2020 at 4:10 PM
Subject: Fwd: Notification of Service for Case: D-08-389203-Z, In the Matter of the Joint Petition for Divorce of: Mitchell David Stipp and Christina Calderon Stipp for filing Service Only, Envelope Number: 5467773
To: Valarie Fujii <val@fujii-law.com>
Cc: Radford Smith <rsmith@radfordsmith.com>, Courtney Janson <cjanson@radfordsmith.com>

Valerie:

We received your letter referenced below. Radford and I discussed the same. It is unclear from your letter other than the reference to my deposition and matters of privacy, confidentiality and/or privilege what are your client's specific concerns. Many of the form objections to the interrogatories which reference my deposition also have other objections which we believe to be valid. In other words, removing this form objection (i.e., asked and answered) does not require a further response because there are other objections. We do not yet have the my deposition transcript. However, once available, I am happy to attach the transcript and reference portions of the same as a supplement.

We would like to avoid discovery litigation. I have asked Radford to be available to address your letter on the date/time in your subsequently served notice. If he is not available, you may call me directly. In the meantime, I would ask for further clarification/explanation of your letter which specifically addresses why the objections are not valid. If you could provide this detailed information before the conference on Tuesday, it will make the call more productive.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stipplaw.com | www.stipplaw.com

----- Forwarded message -----

From: <efilingmail@tylerhost.net>

Date: Fri, Jan 10, 2020 at 1:08 PM

Subject: Notification of Service for Case: D-08-389203-Z, In the Matter of the Joint Petition for Divorce of: Mitchell David Stipp and Christina Calderon Stipp for filing Service Only, Envelope Number: 5467773

To: <mstipp@stipplaw.com>

Notification of Service



Case Number: D-08-389203-Z

Case Style: In the Matter of the Joint Petition
for Divorce of: Mitchell David Stipp and

Christina Calderon Stipp

Envelope Number: 5467773

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	D-08-389203-Z
Case Style	In the Matter of the Joint Petition for Divorce of: Mitchell David Stipp and Christina Calderon Stipp
Date/Time Submitted	1/10/2020 1:08 PM PST
Filing Type	Service Only
Filing Description	Letter to Radford Smith, Esq. dated January 10, 2020
Filed By	Valarie Fujii
	Mitchell David Stipp:

AA001189

Service Contacts

Jolene Hoeft (jhoeft@radfordsmith.com)

Deana DePry (ddepry@radfordsmith.com)

Mitchell Stipp (mstipp@stiplaw.com)

Courtney Janson (cJanson@radfordsmith.com)

Garima Varshney (gvarshney@radfordsmith.com)

Radford Smith (rsmith@radfordsmith.com)

Christina Calderon Stipp:

Valarie Fujii (vip@fujiiilawlv.com)

Christina Calderon (ccstipp@gmail.com)

Document Details**Served Document**[Download Document](#)

This link is active for 30 days.

EXHIBIT F

From: Mitchell Stipp
<mstipp@stiplaw.com>
To: PDF <pdfconvert@pdfconvert.me>
Subject: Fwd: Meet/Confer: 1.14.2020 at 10am
Date: Tue, 14 Jan 2020 17:22:28 -0800



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stiplaw.com | www.stiplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stiplaw.com>
Date: Tue, Jan 14, 2020 at 9:47 AM
Subject: Meet/Confer: 1.14.2020 at 10am
To: Valarie Fujii <val@fujii-law.com>
Cc: Radford Smith <rsmith@radfordsmith.com>, Courtney Janson <cjanson@radfordsmith.com>

I did not receive any response to my email regarding your client's objections to my discovery responses. We had hoped you would provide a detailed explanation in writing so we understood the nature of the objections. As far as responses to interrogatories, we are willing to revise to reference the deposition transcript. However, there was not adequate time to complete that task before discovery ended yesterday.

In addition to your client's discovery issues, I have reviewed your client's disclosures and have the following preliminary issues:

1. No communications/documents regarding therapy with Nick Ponzo is admissible under the 2014 parenting plan and Chapter 49 of NRS. Your client has included in her disclosures and as purported exhibits an email she asked Mr. Ponzo to write (recommendations for access/facilitate timeshare) and other advice she claims he provided. Setting aside the issue of hearsay, matters of family therapy should not be disclosed and/or used at trial. We have asked Mr. Ponzo to appear as a potential witness in the event your client seeks to violate this confidentiality/privilege. We will also seek to have these matters excluded.

2. It appears your client is now disclosing an audio file of a recording she allegedly made of our

meeting at Starbucks in April/May of 2019. No transcript was included. We addressed this issue at your client's deposition. Your client admits to recording a meeting and having a transcript prepared. In September, during one of our calls, you offered to provide the audio and transcript (i.e., clearly the audio was available). Radford confirms the same during his initial call with you. Yet, we never received them. Our request for production # 's 3 and 4 would have included these items. Yet, they were not disclosed when required. We intend to have the audio and transcript excluded.

3. Your client has disclosed confidential settlement communications which appears she wants to use at trial. We intend to have the settlement offer excluded.

I expect Radford can discuss these items during your call at 10am.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stipplaw.com | www.stipplaw.com

From: Mitchell Stipp
<mstipp@stipplaw.com>
To: PDF <pdfconvert@pdfconvert.me>
Subject: Fwd: Meet/Confer: 1.14.2020 at 10am
Date: Tue, 14 Jan 2020 17:22:43 -0800



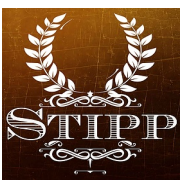
Mitchell Stipp
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T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stipplaw.com | www.stipplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stipplaw.com>
Date: Tue, Jan 14, 2020 at 9:58 AM
Subject: Fwd: Meet/Confer: 1.14.2020 at 10am
To: Valarie Fujii <val@fujii-law.com>
Cc: Radford Smith <rsmith@radfordsmith.com>, Courtney Janson <cjanson@radfordsmith.com>

Just to be clear— we want to see the transcript of the meeting at Starbucks. If your client got the audio transcribed, the service provider would need the audio file. This means your client always had the file. The excuse about the new phone was false. The transcript will prove that.

Please provide. We can discuss how to proceed once disclosed.



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stipplaw.com | www.stipplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stipplaw.com>
Date: Jan 14, 2020, 9:47 AM -0800
To: Valarie Fujii <val@fujii-law.com>
Cc: Radford Smith <rsmith@radfordsmith.com>, Courtney Janson <cjanson@radfordsmith.com>

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In addition to your client's discovery issues, I have reviewed your client's disclosures and have the following preliminary issues:

1. No communications/documents regarding therapy with Nick Ponzo is admissible under the 2014 parenting plan and Chapter 49 of NRS. Your client has included in her disclosures and as purported exhibits an email she asked Mr. Ponzo to write (recommendations for access/facilitate timeshare) and other advice she claims he provided. Setting aside the issue of hearsay, matters of family therapy should not be disclosed and/or used at trial. We have asked Mr. Ponzo to appear as a potential witness in the event your client seeks to violate this confidentiality/privilege. We will also seek to have these matters excluded.
2. It appears your client is now disclosing an audio file of a recording she allegedly made of our meeting at Starbucks in April/May of 2019. No transcript was included. We addressed this issue at your client's deposition. Your client admits to recording a meeting and having a transcript prepared. In September, during one of our calls, you offered to provide the audio and transcript (i.e., clearly the audio was available). Radford confirms the same during his initial call with you. Yet, we never received them. Our request for production # 's 3 and 4 would have included these items. Yet, they were not disclosed when required. We intend to have the audio and transcript excluded.
3. Your client has disclosed confidential settlement communications which appears she wants to use at trial. We intend to have the settlement offer excluded.

I expect Radford can discuss these items during your call at 10am.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stipplaw.com | www.stipplaw.com

From: Mitchell Stipp
<mstipp@stiplaw.com>
To: PDF <pdfconvert@pdfconvert.me>
Subject: Fwd: FW: Stipp v. Calderon
Date: Tue, 14 Jan 2020 17:27:46 -0800



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stiplaw.com | www.stiplaw.com

From: Radford Smith
Sent: Tuesday, January 14, 2020 2:12 PM
To: Valerie Fujii - Fujii Law Offices (val@fujii-lawlv.com) <val@fujii-lawlv.com>
Cc: Val and Theresa <VIP@fujii-lawlv.com>; Courtney Janson <cjanson@radfordsmith.com>; Mitchell Stipp (mitchell.stipp@yahoo.com) <mitchell.stipp@yahoo.com>; Kimberly Stutzman <kstutzman@radfordsmith.com>
Subject: Stipp v. Calderon

Valarie,

When we spoke this morning I advised you that I had just left court, and that I did not have the file or the discovery documents in front of me. Rather than allowing me to get back to my office, you began talking without allowing much input from me. You indicated that on January 10 you had e-served to me a detailed letter addressing your concerns with Mr. Stipp's written discovery responses. I had presumed for our conference that you were claiming that you sent two letters on January 10 because we had already responded to your first letter. In reviewing my file, I see you only sent one letter, and because I was out of the office after 2:00 p.m. that day, I discussed your initial letter with Mr. Stipp, and he wrote the response. The substance of the response was that you would have to advise us why answers were insufficient. You did not respond to that letter.

Instead, this morning you orally stated a handful of concerns. You first pointed out that for those interrogatory questions that Mr. Stipp had already answered in the deposition, he referred to his deposition transcript. NRCP 26 reads in relevant part:

On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

Here, all of the questions that formed your interrogatories were asked by you in the deposition of Mr. Stipp, and thus the information responsive to your requests “can be obtained from some other source that is more convenient, less burdensome, or less expensive.” Here, requiring my office or Mr. Stipp to answer written questions you have already asked in a sworn deposition is a waste of time and money. I also note that many of the questions were ambiguous or vague, or subject to other objections stated in the responses.

You also complained that the interrogatory responses included an objection to the number of interrogatories. Those objections were valid, and you did exceed the number of questions and subparts permitted under the rules. Nevertheless, Mr. Stipp provided responses to the interrogatories.

You did not provide any information as to why you believed the Responses to Requests for production referenced in your letter of June 10 were inadequate, but instead indicated that “I’m not worried about the Responses to the Requests for Admissions.” Further, you claimed that Mr. Stipp did not properly provide documents pursuant to the Requests for Production of documents, and you were

apparently not aware that my office had served your office with documents. As part of the meet and confer, you are required to state not only the response that you are challenging or want to discuss, but you are required to provide some reason or citation to law that forms the basis of your position. You did not do that in our conversation.

I see that you have filed a motion so this matter will go before Judge Ritchie even though we agreed that I would respond to the specifics of the letter you referenced as part of the conference. I think your motion is both premature, and that you have not met the good faith requirements of our rules. I will address your claims in my response to your motion and file the appropriate countermotion relating to the issues that Mr. Stipp raised with you (late identification of witnesses, production of documents containing settlement discussions, providing confidential communications with Mr. Ponzo, etc.) You did not respond to those issues in our conference today, so if you believe that there would be a benefit to discussing those objections, please let me know. If I do not receive your timely response to this email, I will understand that your client believes your identification of witnesses, and production of documents, is not subject to challenge and that any further discussion is unnecessary.

If you have further questions, let me know.

Best,

Radford

Radford J. Smith, Esq.

Board Certified Family Law Specialist

Radford J. Smith, Chartered

2470 St. Rose Parkway – Ste. 206

Henderson, Nevada 89074

(702) 990-6448

****NOTICE****

This message is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone (702) 990-6448, and immediately delete this message and all its attachments.

EXHIBIT D

Calderon v. Stipp

**Deposition of:
Christina Calderon, Volume 2**

January 7, 2020



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Calderon v. Stipp

<p>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 * * * * * 4 CHRISTINA CALDERON,) 5 Plaintiff,) 6 vs.) CASE NO. D-08-389203-Z 7 MITCHELL STIPP,) 8 Defendant.) 9 10 11 12 13 DEPOSITION OF CHRISTINA CALDERON 14 VOLUME 2 15 Taken on Tuesday, January 7, 2020 16 At 8:18 a.m. 17 At 2470 St. Rose Parkway 18 Suite 206 19 Henderson, Nevada 20 21 22 23 24 25 Reported by: Janice David, CCR No. 405</p>	<p>1 3 2 (NRCP 30(b)(4) or FRCP 30(b)(5), as applicable, 3 was waived by the parties.) 4 Whereupon -- 5 CHRISTINA CALDERON, having been first duly 6 sworn to tell the truth, the whole truth, and nothing 7 but the truth, was examined and testified as follows: 8 * * * * * 9 EXAMINATION 10 BY MR. SMITH: 11 Q. All right. Ms. Stipp, this is the 12 continuation -- the continuation of your deposition 13 from, I believe, December 20th. 14 A. Calderon. 15 Q. Yeah. I know I said Ms. Stipp. Ms. Calderon. 16 A. Yeah. 17 Q. The -- we had addressed, during the course of 18 that deposition, two incidents between you and Mia, 19 and I just wanted to follow up on those two incidents. 20 One was in August, I believe August 13th of 2019. The 21 other was in May, I believe May 9th of 2019. 22 So, I'm going to start with the August 13, 23 2019 circumstance. We have talked about that -- that 24 incident. 25 What I wanted to note, that at any time during that incident did you begin laughing as a manner -- in</p>
<p>2 1 APPEARANCES: 2 For the Plaintiff: VALARIE I. FUJII 3 ATTORNEY AT LAW 4 VALARIE I. FUJII & ASSOCIATES 5 704 South Sixth Street 6 Las Vegas, Nevada 89101 7 FRED C. PAGE 8 ATTORNEY AT LAW 9 6930 South Cimarron Road 10 Suite 140 11 Las Vegas, Nevada 89113 12 For the Defendant: RADFORD J. SMITH 13 ATTORNEY AT LAW 14 RADFORD J. SMITH, CHARTERED 15 2470 St. Rose Parkway 16 Suite 206 17 Henderson, Nevada 89074 18 19 Also Present: MITCHELL STIPP 20 21 22 23 24 25</p> <p>1 INDEX 2 Page 3 4 CHRISTINA CALDERON 5 Examination by Mr. Smith 3</p> <p>1 EXHIBITS MARKED FOR IDENTIFICATION 2 No. Description Page 3 B Requests For Production of Documents 43 4 C E-mail Correspondence 171 5</p>	<p>4 1 a manner that provoked Mia? 2 A. I don't know like from Mia's perspective, but 3 I did laugh when she left her room and got in my face 4 and was screaming at me with her finger and saying, 5 "You need to ask me nicely to get off the phone." 6 Q. And that's when you laughed. 7 A. I laughed. 8 Q. Okay. Was that a laughter that was designed 9 to show her that her statement was -- was 10 inappropriate or -- or not important to you, or was it 11 a reaction? 12 A. It was a reaction to how absurd the statement 13 was. 14 Q. In regard to the incident of -- do I have the 15 date right, May 9th, '19? 16 A. No. 17 Q. What is the date in May that that occurred? 18 A. I don't know what you're talking about in May. 19 Q. You had described an event in May in which you 20 and -- in which Mia had struck you during that event. 21 Does that sound familiar to you? 22 A. Not -- I -- we talked about that with respect 23 to August. April. 24 Q. Was it April? Okay. 25 A. There was an incident where I took Mia's phone</p>

Calderon v. Stipp

<p style="text-align: right;">5</p> <p>1 away and she did strike me.</p> <p>2 Q. Okay. Describe for me the event that led to</p> <p>3 that incident and...</p> <p>4 A. Mia was upset about the temperature in the</p> <p>5 home. She wanted to lower the temperature to make the</p> <p>6 air conditioner turn on, I guess. But we were</p> <p>7 leaving. She had a planned trip to Disneyland the</p> <p>8 next day with her school. We were going to go to</p> <p>9 Target to get some last-minute things she needed for</p> <p>10 the trip. I told Mia don't touch the thermostat</p> <p>11 because we're leaving the home.</p> <p>12 Also Ethan was either going to a game or</p> <p>13 practice. So, we were -- the plan was, I was taking</p> <p>14 the kids -- Ethan to baseball, then Mia to Target and</p> <p>15 returning home.</p> <p>16 Mia began to hit the thermostat, because it</p> <p>17 had a cover on it, because she has this need to have</p> <p>18 the air in the house very low, to the point that we've</p> <p>19 had to install a window -- or an air conditioner -- a</p> <p>20 personal air conditioner in her room. So, she was</p> <p>21 upset. And I told Ethan, "Let's just go. We'll --</p> <p>22 I'll come back for Mia." And Mia got upset, and she</p> <p>23 began to pour Bath & Body Works lotion -- or soap down</p> <p>24 the sink. I took her phone from her at that point,</p> <p>25 and she attacked me.</p>	<p style="text-align: right;">7</p> <p>1 Q. Did she hit you with her fist?</p> <p>2 A. I don't know if she had her fist balled up. I</p> <p>3 don't -- I don't recall that.</p> <p>4 Q. Did she hit you in the face?</p> <p>5 A. She did at one point, because I had a scratch</p> <p>6 on my lip and a scratch on my hand.</p> <p>7 Q. Did you at any time defend yourself in any</p> <p>8 manner?</p> <p>9 A. Yes.</p> <p>10 Q. And what did you do?</p> <p>11 A. I tried to block the blows.</p> <p>12 Q. Did you ever strike an affirmative blow to her</p> <p>13 to prevent her from continuing to hit you?</p> <p>14 A. No, I did not.</p> <p>15 Q. Did you hit her or slap her or any other kind</p> <p>16 of physical touching initiated by you during that</p> <p>17 altercation?</p> <p>18 A. No.</p> <p>19 Q. Other than blocking her blows. Correct?</p> <p>20 A. Yes.</p> <p>21 Q. How did the altercation end?</p> <p>22 A. I let her take the phone and I told Ethan</p> <p>23 let's go. And I left the home with Ethan.</p> <p>24 Q. What did you do after that in relation to that</p> <p>25 incident?</p>
<p style="text-align: right;">6</p> <p>1 Q. What did she -- where were you and</p> <p>2 where were -- was she --</p> <p>3 A. She was in my --</p> <p>4 Q. Excuse me. Let me finish my question.</p> <p>5 A. I'm sorry.</p> <p>6 Q. Where were you and where was she at the time</p> <p>7 you indicated that she attacked you?</p> <p>8 A. She was in the powder room of my home.</p> <p>9 Q. And where were you standing, in the powder</p> <p>10 room as well?</p> <p>11 A. Yes, in the doorway of the powder room.</p> <p>12 Q. And what caused her, to your knowledge -- or</p> <p>13 what was the event that led to her coming at you?</p> <p>14 A. I took her phone from her.</p> <p>15 Q. Okay. And how did you take that from her?</p> <p>16 A. I don't recall if it was sitting on the</p> <p>17 counter or if she had it in her hand. I don't</p> <p>18 remember. But I remember taking it from her and she</p> <p>19 flipped out.</p> <p>20 Q. And what did she do at that point?</p> <p>21 A. She started hitting me and trying to get the</p> <p>22 phone.</p> <p>23 Q. Where did she hit you?</p> <p>24 A. I don't recall specifically on my body, but it</p> <p>25 was just like a flurry of action, activity.</p>	<p style="text-align: right;">8</p> <p>1 A. I returned home to find Mitch pulled up in</p> <p>2 front of my driveway, blocking my driveway.</p> <p>3 Q. And was it your belief that Mitch had blocked</p> <p>4 your driveway purposely?</p> <p>5 A. I don't know.</p> <p>6 Q. Or was the circumstances such that it later</p> <p>7 became apparent that Mitch had parked in a manner to</p> <p>8 deprive you of access to your home?</p> <p>9 A. I don't know what Mitch's intentions were.</p> <p>10 I'm just saying where I found him.</p> <p>11 Q. Okay. Did you speak to him about that?</p> <p>12 A. Yes. I got out of my car, I went up to his</p> <p>13 car window, and I said can we talk.</p> <p>14 Q. And what did he say?</p> <p>15 A. He said yes. He was in the car with Amy and</p> <p>16 his son, Mitchell Junior, and Mia had appeared from</p> <p>17 the garage, and she had suitcases with her. And I</p> <p>18 said, "Mitch, don't take Mia. It's my time." And</p> <p>19 then I said can we talk. He said yes. I asked -- he</p> <p>20 said, "Let me" -- he got out of his car. Amy got out</p> <p>21 of the car. Mia went into the truck with their son.</p> <p>22 Then I pulled over some folding chairs in the garage.</p> <p>23 Amy sat down. And I sat down. Mitch didn't sit down.</p> <p>24 And we talked.</p> <p>25 Q. What -- what do you recall was the substance</p>

9

1 of the conversation?

2 A. The substance of the conversation was Mitch
3 taking Mia. And -- and I had -- and then we talked
4 about the incident, and I asked him, "Instead of
5 taking Mia, why don't you tell her not to hit her mom
6 and take her phone instead?" Because I said, "Think
7 very clearly about the message you're going to be
8 sending to Mia by taking her today."

9 Q. What was Mitch's response to that statement?

10 A. He said, "Given our history, I can't believe
11 what you are telling me." And Amy was very defensive
12 and saying, "We can't take her phone. She needs to
13 have her phone."

14 Q. Do you recall anything else said by anyone in
15 that conversation other than what you've just
16 described?

17 A. It was a lengthy conversation. So...

18 Q. Okay. What -- what do you recall in that
19 conversation as you sit here today?

20 A. I recall showing Mitch my injuries. I recall
21 him like talking, but I don't remember specifically
22 word for word verbatim what he said but --

23 Q. Okay. I'm asking you just to give your best
24 recollection, not some transcript but your best
25 recollection of what he said.

11

1 your garage where you and Amy were seated and Mitch
2 was standing?

3 A. I remember several instances where she wanted
4 Mitch to disengage from the conversation and leave.
5 So, she kept saying, "Mitch, we got to go. We got to
6 feed the kid," to the point where she got in the truck
7 and was calling him to stop talking and come back to
8 the car.

9 Q. Okay. Other than the -- the statements that
10 you've now described in regard to that conversation,
11 can you recall anything else in that conversation?

12 A. No.

13 Q. Did Mitch offer, to your recollection, any
14 explanation, other than he didn't trust you or didn't
15 believe you, as to why he was taking Mia from your
16 home?

17 A. Not that I recall.

18 Q. Did you advise him of the facts associated
19 with the altercation that you've described here today
20 in the deposition?

21 A. Yeah. Yes.

22 Q. Do you recall him reacting in any manner to
23 that other than saying that he doesn't believe you?

24 A. No.

25 Q. Was Mia in listening distance of this

10

1 A. That he -- he can't believe anything I say,
2 given our history, and he's taking Mia.

3 Q. Anything else?

4 A. No.

5 Q. Do you recall anything else that Amy said
6 during the conversation?

7 A. I just recall Amy being very defensive of any
8 type of consequence for Mia's actions, to the point
9 that it seemed that instead of being like a parent,
10 she was like Mia's friend, like, You can't take her
11 phone. You know, it was -- it was a strange dynamic.

12 Q. Okay.

13 MR. SMITH: I'm going to turn this off,
14 because this will happen like 45,000 times per day.
15 (Off the record.)

16 MR. SMITH: Okay. Okay. Let me go back on
17 the record and say that I apologize. I had my iPhone
18 watch. So, it -- it rings when my phone rings. And
19 so I gave that outside to my office so it wouldn't
20 interrupt us. Sorry about that.

21 BY MR. SMITH:

22 Q. So, going back, you had indicated what you
23 characterized as defensiveness with Amy.

24 Was there anything that you can specifically
25 recall she said during the time of the conference in

12

1 conversation? Was she present?

2 A. She was in the truck. The truck was in full
3 view of our conversation. So, she was at the end of
4 the driveway, and we were in the garage. I don't know
5 if she could hear or not.

6 Q. Has there been anything that's occurred since
7 that date that suggests to you that she could hear the
8 conversation or has been made aware of the
9 conversation that occurred on that date?

10 A. She saw it visually but, no.

11 Q. There is nothing -- okay. Just so I'm clear:
12 My question was, Is there anything that's occurred
13 since the date of that conversation that suggests to
14 you that Mia could hear or has been described the
15 conversation on that date?

16 A. No.

17 Q. Was anyone else present in the home, at the
18 time of the incident between you and Mia in April of
19 2019, that witnessed any portion of what had occurred?

20 A. No.

21 Q. Okay. So, after the incident with Mia in
22 April, what was the time share between you and Mitch
23 in regard to Mia?

24 A. The exact same.

25 Q. Okay. So, there was never a time in which

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13

1 Mitch had Mia in his care for an extended period
2 between April and the time of -- I believe it was
3 September or so, maybe August, when the second
4 incident occurred.
5 A. There was no deviation in the schedule. I
6 believe Mitch did exercise a vacation -- an extra
7 vacation week in May.
8 Q. Okay. So, when was the next time that you can
9 recall having Mia in your care after the April
10 incident? How long was it?
11 A. One week. One week on, one week off. So, the
12 Friday was the -- the exchange day, and I got her back
13 the next Friday.
14 Q. And how would you describe your time with Mia
15 during that week that you had her in your care
16 following the April incident? Did it affect your
17 relationship in any manner? is my point.
18 A. We had a talk when she first came back. She
19 apologized for hitting me. I told her she cannot do
20 that again. And we proceeded, you know, regularly
21 without incident.
22 Q. Do you recall whether, after the conversation
23 you described at your home on the date of the incident
24 in April, you had any additional conversations either
25 orally or through writing with Mitch or Amy regarding

15

1 A. No, unless I e-mailed it to myself. So, I
2 have to -- I didn't find it, but I'll look again. I
3 may have it.
4 Q. Okay. So, you recollect that in the request
5 for production of documents that you were served, you
6 had indicated -- or we had requested all tape
7 recordings of any kind between you and Mitchell or you
8 and the children.
9 A. Uh-huh.
10 Q. And you indicated something about your phone
11 changing in October?
12 A. Yes. I got a new phone.
13 Q. Okay. And so is it your recollection that on
14 your previous phone there would be recordings and/or
15 documents responsive to that request?
16 A. A recording. And I believe the request was
17 for videos. So, I have to download all the baseball
18 videos and music videos but no --
19 Q. Okay.
20 A. If that's what was requested.
21 Q. If you read the preamble to the request for
22 production -- and it's pretty standard that it
23 includes videos and all kinds of recordings, whether
24 audio through your phone, et cetera.
25 With that understanding, were there other

14

1 the incident?
2 A. Not that I recall.
3 Q. Did at that time you seek any counseling for
4 either you or Mia in regard to the incident?
5 A. Not specifically, although my request to Mitch
6 for counseling for Mia has been longstanding. So, I
7 don't know if it resurrected after the April incident.
8 I know we did discuss it during that May Starbucks
9 meeting.
10 (Whereupon, Mr. Stipp exited the deposition
11 proceedings.)
12 BY MR. SMITH:
13 Q. Okay. Did you tape that meeting? I may have
14 asked you that, but did you tape that meeting of --
15 A. Yes, a portion of it.
16 Q. Okay. And have you produced that tape?
17 A. I have not yet. I got a new cell phone. So,
18 I'm trying to get access to it.
19 (Whereupon, Mr. Stipp entered the deposition
20 proceedings.)
21 BY MR. SMITH:
22 Q. Okay. So, you're saying that you do not
23 presently have a copy of any kind of that recording
24 that you took in the Starbucks in May available to you
25 or in your control. Correct?

16

1 recordings, other than just videos, that were on your
2 previous phone that would be responsive to that
3 question?
4 A. No.
5 Q. And you understood in my last question that
6 question being the request for production of documents
7 that asked you to produce all of those types of
8 recordings. Correct?
9 A. Yes.
10 Q. Okay. Have you ever prepared a transcript of
11 the recording that occurred at the Starbucks meeting
12 with Mr. Stipp?
13 A. Yes.
14 Q. And when did you prepare that transcript?
15 A. I don't recall exactly, maybe a few months
16 ago.
17 Q. And I don't recall. So, forgive me. But was
18 that transcript provided as part of your pleadings?
19 A. No.
20 Q. So, have you, to your knowledge, ever provided
21 that transcript in any way to Mitch or anyone as his
22 representative: Amy, me --
23 A. No.
24 Q. -- anyone else? Is there a reason you have
25 not?

17

1 A. I gave it to my attorney.
 2 Q. Okay. So, you expected her to produce that as
 3 part of the request for production of documents
 4 response?
 5 A. I don't know what -- what she was going to do.
 6 Q. You're a lawyer.
 7 A. Yeah. I am a lawyer. Yeah.
 8 Q. So, you had to have some understanding of what
 9 she -- or what you were required to do as regard to
 10 the request for production of documents.
 11 MS. FUJII: And just -- my only interruption
 12 is, our response was, discovery is continuing, and
 13 this response may be supplemented as additional
 14 information becomes available herein.
 15 So, it's not nonresponsive. I -- so, I would
 16 object to the form.
 17 MR. SMITH: Not either a form objection or an
 18 appropriate objection.
 19 The -- in regard to the document, Ms. Fujii,
 20 if you have it and you haven't produced it prior to
 21 this deposition, is there a reason why?
 22 MS. FUJII: Counsel, I -- I was -- I received
 23 a multitude of documentation in a short period of
 24 time. I Bates stamped and organized as best I could.
 25 And discovery is continuing.

19

1 reviewed the response to request for production of
 2 documents. The only things that was provided were
 3 certain e-mails that had been chosen after
 4 October 5th, I believe, and that's it. There were no
 5 other documents other than a reference to pleadings
 6 that were on a file, which, by the way, is
 7 inappropriate. You have to provide documents, not
 8 references to other documents.
 9 So, I'm not sure why, since we had notices of
 10 the deposition pending for now almost forty or fifty
 11 days, that I don't have the documents that are -- that
 12 you indicate are part of the ongoing discovery.
 13 MS. FUJII: I disagree with that statement.
 14 MR. SMITH: But what do you disagree with?
 15 We're under a duty -- you understand -- look, we're
 16 now in the deposition.
 17 MS. FUJII: If you want to go off the
 18 record --
 19 MR. SMITH: No. I don't want to go off the
 20 record. I want this discussion to be on the record,
 21 because it's our duty to resolve discovery disputes
 22 that exist in a case and in this instance.
 23 MS. FUJII: With an EDC or 2.34 conference.
 24 MR. SMITH: That is what we're having right
 25 this second.

18

1 And so if you're asking me for it and I have
 2 it, you'll definitely get it.
 3 MR. SMITH: I would like it now. You knew
 4 this deposition had been scheduled for weeks, and
 5 you've responded to the discovery request after thirty
 6 days of having the request. And the standard --
 7 MS. FUJII: I timely responded. There is a
 8 multitude of documents in this case. The deposition
 9 was reset to December 20th prior to a long, long
 10 vacation.
 11 So, if you're asking me -- if she says she
 12 gave it to me, it's not something that strikes my
 13 memory off the top of my head, but I'll be more than
 14 happy to provide it.
 15 MR. SMITH: This concerns me, Ms. Fujii. Not
 16 only did you just leave at the last deposition, but
 17 now you're telling me that you've received, in your
 18 words, a multitude of documents that you have not
 19 produced, knowing that the last twenty days --
 20 MS. FUJII: I did not say --
 21 MR. SMITH: Please allow me, as I will allow
 22 you to make your statement --
 23 MS. FUJII: Sure.
 24 MR. SMITH: You've indicated that you didn't
 25 provide a multitude of documents. Because I've

20

1 MS. FUJII: No. It has to be noticed.
 2 MR. SMITH: No. It doesn't have to be
 3 noticed.
 4 MS. FUJII: I really don't want to interrupt
 5 this time, but if you want to show us any specific
 6 questions that you feel were nonresponsive, I would be
 7 more than happy to address that.
 8 MR. SMITH: You're the one with the -- I don't
 9 have the documents. You've now indicated you have a
 10 multitude of documents that were provided to you by
 11 Ms. Calderon, who, as I pointed out, is a lawyer. So,
 12 she felt that they were significant or responsive to
 13 the request for production, and now I'm being told
 14 that, even though she's sitting for her deposition for
 15 the second time after a twenty-day hiatus, that we
 16 still don't have those documents. That is completely
 17 unacceptable.
 18 It now leaves me in the position where I don't
 19 have relevant documents, documents that you may, for
 20 all I know, present as evidence in this case at the
 21 time of hearing, and I don't have the opportunity to
 22 ask the witness about those documents. It's just
 23 completely unacceptable.
 24 How in the world do you think that that's
 25 okay?

21

1 MS. FUJII: I'm not responding. You chose
2 when -- when to notice this deposition. You chose
3 when to continue this deposition. I'm kind enough to
4 allow you to continue this deposition today when I was
5 not required and we could have found another date to
6 provide this deposition.
7 Her response to the request for recordings,
8 which she was going to provide those to me, I do not
9 have those recordings. That's why I said discovery is
10 continuing.
11 MR. SMITH: But you've indicated you have a
12 multitude of documents. That was your words.
13 MS. FUJII: It is the pleadings that you also
14 are privileged to as well that were referenced, that
15 you said were referenced improperly. But it's not a
16 big secret or conspiracy. Nobody is hiding any
17 documents.
18 Counsel, if you would like a copy of this
19 transcript and she gave it to me, you can have it.
20 MR. SMITH: Okay. Great. How can you -- can
21 you forward that to my e-mail so I can use it today to
22 go over with Ms. --
23 MS. FUJII: And -- and I will note, it's my
24 understanding you did not request transcripts. But if
25 you want that, I can ask my office. I don't know how

23

1 documents that you had assembled for that purpose?
2 MS. FUJII: And then my objection is,
3 specificity. We don't know what question you're
4 referring to.
5 You just mean generally?
6 BY MR. SMITH:
7 Q. You received -- Ms. -- yeah. You received
8 the --
9 MR. SMITH: If you're saying that the question
10 is vague and ambiguous -- is that what you're saying?
11 MS. FUJII: Yes.
12 BY MR. SMITH:
13 Q. You received a request for production of
14 documents. Correct?
15 A. Yes.
16 Q. And you reviewed those request for production
17 of documents.
18 A. Yes.
19 Q. And in the course of your practice of law,
20 you've seen and responded or helped respond to request
21 for production of documents in the past. Correct?
22 A. Yes.
23 Q. And you understood the questions the -- that
24 were provided in the request for production of
25 documents. Correct?

22

1 it's saved or where it was sent, but I would ask
2 Christina to look on break where she sent it and I
3 will provide it.
4 MR. SMITH: You know, Ms. Fujii --
5 MS. FUJII: And we can attach it to this depo.
6 MR. SMITH: I've rarely been to the discovery
7 commissioner over the course of many years. This time
8 I'm very likely to go to the discovery commissioner,
9 because these responses are not acceptable. You
10 can't, first of all, leave a deposition. And,
11 secondly, you can't not produce documents that were
12 due prior to this -- this deposition when you indicate
13 you have them in your presence.
14 MS. FUJII: I disagree.
15 MR. SMITH: I mean in your -- in your office.
16 MS. FUJII: I disagree that we failed to
17 provide documents that were requested.
18 MR. SMITH: Your client has just testified and
19 you've acknowledged that you received a multitude of
20 documents. I just find this -- now you're backing off
21 of that statement. And I understand why you would be.
22 But let's get to the bottom of this.
23 BY MR. SMITH:
24 Q. What did you provide, in response to the
25 request for production of documents, in the form of

24

1 A. Yes.
2 Q. Did you assemble documents that you believed
3 were -- were responsive to the request for production?
4 A. Yes.
5 Q. And did those documents include the transcript
6 of the -- the statement that -- the recording that you
7 took in Starbucks meeting with Mitch in May of 2019?
8 A. No.
9 Q. Did you --
10 A. You did not ask for a transcript. So, it
11 wouldn't have been responsive to a request for
12 production.
13 Q. Did you provide other documents -- or did you
14 assemble other documents that would have been
15 responsive to the request for production of documents
16 other than the e-mails that you provided as your
17 response?
18 A. They weren't e-mails. They were text
19 messages.
20 Q. Text messages. Excuse me.
21 A. No. What I produced was -- what I -- what I
22 produced to Ms. Fujii was produced to you. There is
23 no hidden documents.
24 Q. Okay. The -- in regard to the -- so, when
25 Ms. Fujii was referring to a multitude of documents,

25

1 she was referring to the text messages that you --
2 that's the only documents that you could believe that
3 she would be referring to, because that's all you
4 provided.

5 A. Correct.

6 Q. Okay. Let's talk about Mr. Ponzo. I think
7 that you had indicated previously -- or let met just
8 ask the question.

9 Did you select Mr. Ponzo to provide family
10 therapy at any time?

11 A. Yes.

12 Q. When was that?

13 A. When I first selected him?

14 Q. Yes.

15 A. I believe it was 2015.

16 Q. And when did that therapy end?

17 A. I believe it was 2017.

18 Q. How -- how many sessions do you recall
19 attending -- or what is your best estimate of the
20 amount of sessions that you attended with Mr. Ponzo
21 between 2015 and 2017?

22 A. It wasn't consistent. So, it would be hard to
23 estimate, but I would say -- I mean, I was just
24 guessing. At least once a month maybe.

25 Q. And so I don't want you to guess. I want your

27

1 A. To assist with the relationship dynamics.

2 Though the kids were -- it was at the end of six years
3 of litigation that we started seeing Mr. Ponzo. The
4 kids had been through that whole tension of conflict.

5 And we were transitioning to a new schedule in terms
6 of time share. And the kids were resistant to the
7 idea of me being their mom. Like that was one of the
8 weirdest parts of the therapy. Nick would say, "You
9 have one mom." And they would say, "No. We have two
10 moms."

11 So, it took about a year and a half before
12 they stopped being angry and antagonistic about that
13 basic concept.

14 Q. So, the -- the two moms they were referring to
15 is that they believed that they had a mother in Amy
16 Stipp and a mother, you, their natural mother.
17 Correct?

18 A. Yeah. And Nick would tell them, "Yes. You
19 have a mom and a stepmom." And they would say, "No."

20 Q. And I assume you explored the reasons why that
21 occurred. Correct?

22 A. What, I explored it in therapy or Dr. -- or
23 Mr. --

24 Q. All of you explored it. In other words, there
25 were sessions related to their statements that they

26

1 best estimate.

2 Is your best estimate that it occurred once
3 per month?

4 A. Your question is going to require me to guess.

5 Q. So, you don't know. The answer is, "I don't
6 know."

7 A. I don't know.

8 Q. Okay.

9 A. Okay.

10 Q. So -- but you do recall having multiple
11 sessions with Mr. Ponzo between 2015 and 2017.

12 A. Yes.

13 Q. Correct? And were the children involved in
14 those sessions?

15 A. Some, yes.

16 Q. Okay. Were both children or just Mia or just
17 Ethan?

18 A. Sometimes it was both. Sometimes it was one.
19 Sometimes it was just me.

20 Q. Did you feel like you made progress in those
21 sessions?

22 A. Some.

23 Q. What was the -- without telling me the content
24 of the sessions, what was the general goal of the
25 sessions from having family therapy with Mr. Ponzo?

28

1 felt they had two moms.

2 A. I don't know that Nick explored that
3 explicitly or just talked about like the
4 functioning -- the relationship. So, I don't think he
5 said directly, "Why do you feel that way?"

6 Q. And you don't recall them ever saying why.

7 A. No.

8 Q. No, you do not.

9 A. I do not.

10 Q. Did family therapy with Mr. Ponzo resume after
11 August of 2019?

12 A. Yes.

13 Q. When?

14 A. In October.

15 Q. Why?

16 A. We agreed on the record during a court hearing
17 to use Mr. Ponzo as a family therapist.

18 Q. At the same time you were also involved in
19 therapy October 2019 with Ms. Wilburn.

20 Is that correct?

21 A. Yes.

22 Q. And I think we've established that Ms. Wilburn
23 has never met your children. Correct?

24 A. No. We established that she did.

25 Q. Okay. And when was that?

29

1 A. I don't recall exactly. It was between 2014
2 and '15.
3 Q. Okay. After 2015 she was -- she never met
4 your children.
5 Is that correct?
6 A. Correct.
7 Q. Did you see Ms. Wilburn even after commencing
8 or re-commencing family therapy with Mr. Ponzo?
9 A. I did.
10 Q. What was the purpose of those meetings?
11 A. As I said in the first deposition, I used
12 Donna for conflict. She specialize in high-conflict
13 co-parenting. And at the time Mitch had withheld the
14 kids from me since August. So, we were discussing --
15 or I met with her to discuss that.
16 Q. And you had solicited from her a letter to
17 provide to the court. Correct?
18 A. I asked her to provide a letter.
19 Q. Okay. And you generally agreed with the
20 contents of that letter. Correct?
21 A. Yes.
22 Q. And you would identify the statements by
23 Ms. Wilburn as the correct psychological analysis, in
24 your mind, of what is occurring in regard to your
25 children. Correct?

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1 Mr. Ponzo October 2019 and subsequent, those meetings
2 were family therapy. Correct? That's how you
3 understood them?
4 A. Yes.
5 Q. What did you provide Ms. Wilburn as part of
6 her preparation of the letter that she provided to the
7 court?
8 A. I don't recall specifically what I gave her.
9 I didn't leave any documents with her. We discussed
10 the litigation and the facts leading up to it.
11 Q. Do you know whether she ever reached out to
12 Mr. Stipp to get his understanding of the facts that
13 were the basis for her report?
14 A. I don't know that.
15 Q. Did you ever ask her to reach out to Mr. Stipp
16 or Amy Stipp regarding the facts that you had related
17 to her as part of her report?
18 A. I did not.
19 Q. So, you don't recall giving her a single
20 document that you left with her in her office or --
21 A. No.
22 Q. -- at any other time. Correct?
23 A. No.
24 Q. And you don't recall -- you don't -- well,
25 you're saying that is correct, that you did not

30

1 A. Yes.
2 Q. At the October 2019 court hearing why did you
3 agree to Mr. Ponzo providing therapy if you were
4 continuing to use Ms. Wilburn?
5 A. Because Mitch refused to allow Donna Wilburn
6 to be our family therapist.
7 Q. So, it was just a way to get family therapy
8 with someone that you were familiar with.
9 A. It wasn't family therapy. Oh, you mean with
10 Nick?
11 Q. Yes.
12 A. Yes.
13 Q. So, your sessions with Ms. Wilburn you would
14 not describe, in your mind, as family therapy.
15 Correct?
16 A. Correct.
17 Q. Okay. That was therapy or analysis that was
18 being done by Ms. Wilburn as part of this case.
19 A. I wanted her to be the family therapist and
20 Mitch said no.
21 Q. But the answer is, you did not perceive
22 Ms. Wilburn as a family therapist in this context.
23 Correct?
24 A. Correct.
25 Q. Okay. The meetings that you had with

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1 provide her any documents.
2 A. I didn't leave her any documents. Correct.
3 Q. Did you show her documents at the meetings?
4 A. Yes.
5 Q. What did you show her?
6 A. I don't recall specifically.
7 Q. Do you have any recollection of any documents
8 you showed her?
9 A. I recall -- I -- I think it was the motion,
10 Mitch's motion, initial motion for teenage discretion.
11 Q. At the time of the filing of Mitch's motion
12 what did you understand the relief that he was
13 seeking?
14 A. Justification for withholding the children and
15 violating the court order.
16 Q. Well, what was the relief that he was actually
17 requesting, if you recall, in his motion?
18 A. He was requesting what he had already taken
19 for himself. So, he was requesting that the children
20 get to choose where they want to be, when they want to
21 be. He said it was within the parameters of joint
22 physical custody. But that hasn't proven to be the
23 case.
24 Q. Do you recall -- do you recall any other
25 relief that he requested?

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1 A. That the kids be interviewed at FMC.
 2 Q. And you oppose that. Correct?
 3 A. Yes. We filed an opposition.
 4 Q. Why did you oppose that, personally, not
 5 through your lawyer?
 6 A. Why did I oppose the motion?
 7 Q. Why -- no. Why did you oppose having the
 8 children interviewed at FMC, you personally? Why did
 9 you oppose that?
 10 You did oppose it personally. Right?
 11 A. Yes.
 12 Q. Okay. Why?
 13 A. I didn't see a benefit to it.
 14 Q. What do you mean by that? What would be the
 15 detriment or the -- the -- I think you -- it's fair to
 16 say that Mitch wanted them to have an opportunity to
 17 tell their story. Correct?
 18 MS. FUJII: I'm going to object: calls for
 19 speculation.
 20 BY MR. SMITH:
 21 Q. But why do you think the interview with --
 22 Mitch had requested an interview? Was there any clues
 23 in his -- his motion, to your recollection?
 24 A. I don't recall.
 25 Q. Okay. Why do you think -- independent of any

35

1 Q. And the questions in the request for
 2 admissions were both directed at both children and
 3 they said the same thing, that they believed that they
 4 had the -- well, actually why don't I just get the
 5 questions. That would be the simplest way.
 6 MS. FUJII: I -- do I have them?
 7 MR. SMITH: Do you have the request for --
 8 MS. FUJII: No. I have his. Sorry.
 9 MR. SMITH: No worries. I might have them
 10 here.
 11 BY MR. SMITH:
 12 Q. So, one of the factors under our law that the
 13 court must make written findings on in relation to
 14 this manner is whether or not the children are of
 15 sufficient age and capacity to form an intelligent
 16 preference as to their custody.
 17 Are you aware of that?
 18 A. Yes.
 19 Q. Do you believe that Mia is of sufficient age
 20 and capacity to form an intelligent preference to her
 21 custody?
 22 A. No.
 23 Q. Why not?
 24 A. I don't think that she is mature enough to
 25 form that -- to form that opinion.

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1 motion, why do you think Mitch wanted the children to
 2 be interviewed by FMC?
 3 MS. FUJII: Same objection.
 4 THE WITNESS: I don't know why Mitch wanted
 5 them to be interviewed. I --
 6 BY MR. SMITH:
 7 Q. But you have an idea about that. I'm not
 8 asking why he did. I'm asking you what your notion
 9 was about why he did.
 10 A. He wanted documentation of what he believed to
 11 be statements they would make to support his request
 12 for relief.
 13 Q. His request for relief was -- was not to
 14 change custody; correct, at that time?
 15 A. It was to change custody.
 16 Q. Okay. So, your recollection is that his
 17 initial motion sought a change of custody.
 18 A. Yes.
 19 Q. And what was the change that he was seeking in
 20 that initial motion, to your recollection?
 21 A. To ignore the court order and allow the kids
 22 to choose where they want to be, when they want to be.
 23 Q. The -- we -- do you recall that we had sent to
 24 you request for admissions?
 25 A. Yes.

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1 Q. You don't believe -- I'm sorry?
 2 A. That she's mature enough to form that opinion.
 3 Q. Okay. What -- what factors would you point --
 4 what facts would you point out to -- to the court that
 5 suggest that Mia is not of sufficient maturity to
 6 form -- or has the capacity to form an intelligent
 7 preference to her custody?
 8 A. I would direct the court to what was really
 9 going on. Mia is a teenager, testing boundaries. She
 10 had a boyfriend. And she did not like me taking away
 11 her cell phone when she was late -- up late talking to
 12 her boyfriend. She did not like that I contacted the
 13 boyfriend's mom. Mitch did not like that.
 14 So, instead of co-parenting with me, he made a
 15 mountain out of a molehill. And we're sitting here
 16 today. I have not had one overnight visit in six
 17 months with either child, either child.
 18 Q. And you believe that the -- the reason that
 19 you haven't had the contact with the child all stems
 20 from this incident on August 13, 2019.
 21 A. All stems from Mitch's reaction to that
 22 incident.
 23 Q. Nothing else.
 24 A. No.
 25 Q. No, there is nothing else from which the

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1 children's stated preference to live with Mitch arises
 2 from, other than the August 13, 2019 incident, in your
 3 mind. Correct?
 4 A. Correct.
 5 Q. So, when you indicate that Mia does not have
 6 sufficient maturity to form an intelligent preference
 7 as to her custody, you're referring to the incident of
 8 August 13, 2019. Correct?
 9 A. The incidents leading up to it: getting a
 10 boyfriend; testing boundaries; being caught after
 11 school with the boyfriend; wanting to be alone with
 12 the boyfriend; Mitch's own admissions that Mia is
 13 testing boundaries, we got to be on her, she's
 14 manipulating us. It was a function of her development
 15 as a teenager and testing boundaries.
 16 Q. So, if I understand your -- your thoughts
 17 about her lacking maturity, it's that the incidents
 18 you've just described demonstrate that her preference
 19 does not arise from a mature determination of -- or
 20 intelligence or capacity. It comes from specific
 21 incidents associated with this boyfriend and the
 22 taking away of the phone. Correct?
 23 A. A desire to avoid me parenting her.
 24 Q. Okay. That's a little broader. Are you
 25 saying that the preference that Mia has expressed for

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1 by the time share.
 2 A. I talk to Nick about that.
 3 Q. Right. You never talk to the children about
 4 that.
 5 A. No.
 6 Q. You've never talked to Mia or Ethan about
 7 their not abiding by the time share.
 8 A. I haven't. Nick has talked to them --
 9 Q. Okay.
 10 A. -- in therapy.
 11 Q. So -- but -- and your testimony is, you've
 12 never talked to them directly, either Mia or Ethan,
 13 about their not going or following the time share that
 14 you currently have in the orders.
 15 A. Correct.
 16 Q. Did you ever suggest to them either directly
 17 or indirectly that their failure to abide by the time
 18 share was wrong or inappropriate?
 19 MS. FUJII: And my objection is, ambiguity.
 20 Counsel, when you say discuss, does that
 21 include e-mails and texts, or do you mean verbal
 22 conversations?
 23 MR. SMITH: Let me rephrase the question.
 24 MS. FUJII: Thank you. Because I -- she's so
 25 little. My gosh.

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1 to spend more time with Mitch arises from her desire
 2 to not have you parenting her?
 3 A. Yes, because Mitch has for years talked to Mia
 4 about challenging the time share and living with him
 5 full time.
 6 Q. And what evidence that you have of that?
 7 A. I have an e-mail from Mitch saying that.
 8 Q. And you've provided that e-mail as part of
 9 this discovery process?
 10 A. I think you guys filed it. I would have to
 11 look at your exhibits, but you have filed many e-mails
 12 where he has indicated that he has talked to the
 13 children, including as recently as his December e-mail
 14 where he said, "Your relationship with the kids is not
 15 going to survive trial. I have talked to them. It
 16 took a lot of convincing. And this is what they're
 17 willing to take."
 18 He directly talks to them about what kind of
 19 time share would they be willing to have and
 20 negotiates with them.
 21 Q. So, you talk with the children about the time
 22 share. Correct?
 23 A. No, I don't.
 24 Q. Okay. So, in your discussions with Mr. Ponzo
 25 you never discussed the fact that they're not abiding

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1 BY MR. SMITH:
 2 Q. Have you ever communicated to the children in
 3 any form, either orally, written, e-mails, texts, that
 4 you believe their not following the court-ordered time
 5 share is wrong --
 6 A. No.
 7 Q. -- or words to that effect?
 8 A. No.
 9 Q. Why not?
 10 A. Because kids shouldn't be put in the middle of
 11 situations like this. That's what causes them anxiety
 12 and resistance. That -- that is Fundamental Rule
 13 No. 1.
 14 It -- I don't blame the kids for not following
 15 the order. It's Mitch's responsibility to follow the
 16 court order.
 17 Q. Well, what is your responsibility to cause
 18 them to abide by the court order?
 19 A. To do what I'm doing now, to -- to tell them
 20 that I love them, that I welcome them into my home; to
 21 not blame them; to not put them in the middle of
 22 conflict; to not fight with them; to reassure them
 23 that -- that having a mother in their lives and having
 24 a healthy relationship with their mom is a good thing,
 25 something to be desired.

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<p style="text-align: right;">41</p> <p>1 I'm doing everything I can to facilitate that, 2 but the difficulty I have is a co-parent that is 3 against that. 4 Q. Have you ever told anyone else -- and 5 Ms. Stipp -- or Calderon, let me just state for the 6 record that you continuously look at your phone. 7 A. Well, someone was calling. Sorry. 8 Q. Okay. 9 MS. FUJII: Don't. Don't. 10 THE WITNESS: Okay. 11 BY MR. SMITH: 12 Q. The -- in regard to the -- the time share that 13 the children are keeping, didn't you think it made 14 sense to talk with them as to why they're not coming 15 to see you? 16 A. No, not specifically that. 17 Q. No, you don't believe that that makes sense. 18 A. No. 19 Q. And you've never talked to them about why 20 they're not coming to see you. 21 A. We've talked about it in therapy. 22 Q. Okay. So, have you gained a better 23 understanding of their motivations as to why they're 24 not seeing you? 25 A. Yes.</p>	<p style="text-align: right;">43</p> <p>1 (Whereupon, Defendant's Exhibit B was marked for 2 identification.) 3 BY MR. SMITH: 4 Q. Okay. Showing you what's been marked as 5 Exhibit B for the purposes of the deposition, do you 6 recognize that document? 7 A. Yes. 8 Q. Did you review this document before it was 9 sent to Mr. Stipp? 10 A. Yes. 11 Q. Without telling me about any communications 12 between you and your counsel, did you have any role in 13 preparation of this document? 14 A. Yes. 15 Q. Let's look at Request No. 4. 16 MS. FUJII: Can I see it with you real quick? 17 BY MR. SMITH: 18 Q. Okay. It indicates, "Please produce copies of 19 any and all e-mails, text messages, and/or written 20 correspondence between you and/or Amy Stipp and Ethan 21 from December 10, 2017 to the present." 22 A. Wait. Three or four? 23 Q. I'm sorry. Excuse me. "Please produce copies 24 of any and all e-mails, text messages, and/or written 25 correspondence between you and/or Amy Stipp and</p>
<p style="text-align: right;">42</p> <p>1 Q. And those motivations, to your knowledge, at 2 least from Mia's standpoint, are solely related to the 3 August 13th incident and the -- your inability to 4 allow her to have her phone and the boyfriend. 5 Correct? 6 A. Yes. 7 Q. And Ethan: What is your understanding of his 8 reluctance or refusal to spend time with you according 9 to the time share? 10 A. Ethan is essentially being held hostage. He 11 has no issues with me. He has communicated that to 12 Nick Ponzio. But he can't stand up to his dad. He 13 can't tell his dad, "What you're doing is wrong. I 14 want a relationship with my mom." He just goes with 15 the flow. 16 Q. So, to your knowledge, you've done nothing 17 toward Ethan or toward Mia other than your statement 18 about the August 13th incident and the actions leading 19 up to it that you took that has affected their 20 preference to have -- spend time with Mitch. 21 A. Correct. 22 Q. All right. 23 MR. SMITH: Let's mark -- Madam Court 24 Reporter, let's mark this as the next in order. 25 Which would that be?</p>	<p style="text-align: right;">44</p> <p>1 Nicolas Ponzio from 2015 to the present." 2 You recognize that Nicolas Ponzio has provided 3 family counseling. Correct? 4 A. Correct. 5 Q. Are you aware -- you're a lawyer, 6 Ms. Calderon. 7 Are you aware of any privilege that's 8 associated with family counseling? 9 A. Just what's articulated in our stip and order. 10 Q. So, what is your understanding of what's 11 articulated in your stip and order? 12 A. That a family therapist that we jointly select 13 can't be used for litigation. 14 Q. Okay. So, if you were -- if I advised you 15 that there is an absolute privilege regarding any 16 family counseling and any participant in counseling 17 with their communication with the family counselor, 18 would that surprise you? 19 MS. FUJII: I'm going to object to form. 20 Go ahead. 21 MR. SMITH: Okay. And let me just restate, 22 and I'll continue to restate this objection. 23 Ms. Fujii, the reason why you can't just 24 object to form is because I have to know the nature of 25 the objection so I can try to meet it.</p>

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<p style="text-align: right;">45</p> <p>1 So, the idea is that you have a duty to 2 identify the objection so that we can work it out. 3 MS. FUJII: It's an improper hypothetical, and 4 it assumes facts not in evidence. 5 MR. SMITH: Okay. Thank you. 6 BY MR. SMITH: 7 Q. So, notwithstanding that objection, let me 8 repeat. 9 Would it surprise you to learn that there is 10 an absolute privilege regarding any communication 11 between a family therapist and a -- participants in 12 family therapy? 13 MS. FUJII: Same objection. 14 THE WITNESS: I don't agree with that. 15 BY MR. SMITH: 16 Q. Let's look at Request No. 9. So, again you 17 have a request for communications or documents that 18 have been provided directly to Nicolas Ponzo as part 19 of this request. 20 Do you see that? 21 A. Yes. Uh-huh. 22 Q. And you're not aware of any privilege that 23 would preclude Mr. Stipp from either having to or 24 being permitted under law to provide that information. 25 Correct?</p>	<p style="text-align: right;">47</p> <p>1 A. No. 2 Q. -- without -- 3 A. Just what you've told me. 4 Q. All right. Very good. Thank you. And number 5 12 also, you would agree, asks for specific 6 communications or payments made to Mr. Ponzo for his 7 family therapy. Correct? 8 A. Correct. 9 Q. Okay. Let's look at Request No. 6 in 10 Exhibit B. 11 How is -- who is Ms. Connie Warling? 12 A. Mia's music teacher. 13 Q. Okay. And why do you believe that 14 communications with Mia's music teacher that Mr. Stipp 15 or Amy Stipp has made are relevant to this proceeding? 16 A. I don't know what they have said to 17 Ms. Warling. I know it's been difficult to get 18 information about Mia's past music performances. 19 So... 20 I don't see why that would not be relevant, 21 how they communicate to third parties. 22 Q. Okay. So, do you believe that Amy and 23 Mitchell have influenced Ms. Warling not to provide 24 information to you about Mia's music lessons or 25 performances?</p>
<p style="text-align: right;">46</p> <p>1 A. He's not permitted to withhold that 2 information. Nicolas Ponzo did family therapy for me 3 and the kids. And Mitch was very specific with Nick 4 Ponzo. I'm not involved in that therapy. 5 So, the identified client for Nicolas Ponzo is 6 me and the kids. So, communications that Mitch has 7 written to Nick Ponzo or Amy has written to Nick 8 Ponzo, they should be produced or that's a violation 9 of his own ethical duties. Right? 10 Q. So, you know -- you don't think that they were 11 part of the family that was the subject of the family 12 therapy. 13 Is that what you're -- your testimony is? 14 A. I would say that the privilege you're talking 15 about does not apply to Mitch sending harassing 16 e-mails to Nick Ponzo saying "I think Christina is 17 erratic, I think Christina is this, look at this" -- 18 he -- Mitch even sent Nick Ponzo these discovery 19 requests. 20 Q. So, now you -- 21 A. That's not family therapy. 22 Q. So, now you are aware of a -- a privilege. 23 A. And I said the one you're talking about does 24 not apply. 25 Q. Are you aware of that privilege --</p>	<p style="text-align: right;">48</p> <p>1 A. I won't know until they produce the documents. 2 Q. Do you believe that to be true, based upon 3 your communications or lack of communication with 4 Ms. Warling? 5 A. No. It's a point of inquiry. 6 Q. Have you ever communicated with Ms. Warling 7 about Mia in relation to her behavior as opposed to in 8 relation to her musical achievements or lessons? 9 A. I have. 10 Q. And when did you first do that? 11 A. I don't recall specifically when. 12 Q. So, give me a year. 13 A. At least a year ago. 14 Q. Okay. And what was the -- what caused you to 15 reach out to Ms. Warling about Mia's behavior? 16 A. Mia misbehaved and did not earn music lesson 17 that week. So, I wanted to reach out to Ms. Warling 18 to let her know why we were -- why Mia was missing the 19 lesson and to communicate that -- that to her. 20 Ms. Warling shared with me that she had struggles of 21 her own with her own teenage daughter for years and 22 wished me the best on that. 23 Q. Did -- so, as a punishment for behavior to 24 Mia, you would withhold her having the ability to 25 participate in music studies. Correct?</p>

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1 A. That's a consequence. So, if -- if she was
2 not respectful or disrespectful, she did not earn the
3 privilege of having music.
4 Q. And what is your experience with Mia in
5 relation to music? Is it -- is it something that she
6 enjoys or -- or desires to participate in? What --
7 A. Yes. She likes it.
8 Q. Okay. Is it just simply a like, that she has
9 a preference to do that, or is it something more than
10 that, in your view?
11 A. She enjoys music.
12 Q. Okay. So, it's just a -- she enjoys it. It's
13 not important to her beyond that.
14 A. That's not what I said.
15 Q. Okay. Well, I'm asking you what your thoughts
16 are.
17 Is music important to Mia?
18 A. Yes.
19 Q. Is it something that, when you take it away
20 from her, she reacts well?
21 A. No.
22 Q. And have you thought of any other consequences
23 that could -- that could substitute for her losing her
24 participation in music lessons or the music that she
25 engages in?

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1 consequence to bad acts?
2 A. I don't recall that I did.
3 Q. Do you believe that that would be consistent
4 with your duty as a joint legal custodian?
5 A. To the extent that I'm parenting the children
6 in my care, I don't run everything by Mitch, but I do,
7 as a co-parent, reach out to him on fundamental issues
8 involving the kids. So, when we didn't have a
9 consensus on electronic -- use of electronic
10 agreements, I reached out to him, and I got roadblocks
11 every single time.
12 Q. Based on your last answer, you see the use of
13 electronics as a fundamental issue in relation to the
14 care of the children but not Mia's participation in
15 music. Correct?
16 A. As a fundamental issue? Is that what you
17 said?
18 Q. That was your words. You had indicated that
19 you reached out to Mitch about electronics because
20 that was a fundamental issue.
21 But my question was, Didn't you think it was
22 your duty to reach out to Mitch to talk to him first
23 about depriving the child of her participation in
24 music?
25 A. No. He's done the same thing. So, he -- he

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1 A. Yes.
2 Q. And have you used those consequences now,
3 other than preventing her from going to music, at
4 least prior to the time that you were not seeing the
5 children?
6 A. I have been unable to because it's the cell
7 phone. So, I don't have access to her cell phone.
8 Q. So, do you believe it was a reasonable
9 consequence to -- of behaviors that she showed, to
10 prevent her from participating in music?
11 A. Yes. It's like Judge Ritchie said at the
12 first hearing: You choose something that motivates
13 the kid, and you motivate -- use it to persuade good
14 behavior. Right? So, yes.
15 Q. Did you have discussions with Mitch in regard
16 to your contacting Ms. Warling or in regard to not
17 allowing Mia to participate in music?
18 A. I don't know that I told Mitch -- I think I
19 may have in an e-mail or two. -- that there would be
20 consequences for that, but I don't recall
21 specifically.
22 Q. So, my -- my question was, Did you -- let me
23 ask the question this way:
24 Did you ever advise Mitch that you were using
25 preventing Mia from participating in music as a

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1 took away baseball from Ethan for four years. He
2 didn't ask me about "could I do this, should I do
3 this." He said, "I'm going to do it."
4 Q. Okay. And that was the -- you recall the
5 discussion we had in the first deposition about the
6 time frame that you had indicated that he had
7 prevented Ethan from participating in baseball.
8 A. Yes, several years.
9 Q. You're not saying that's four years.
10 A. Yes.
11 Q. Okay. In regard to the -- the -- so, you saw
12 Ethan's nonparticipation in baseball -- or Mitch
13 unilaterally saying that he wouldn't take the child to
14 baseball during his time as the same as you not having
15 Mia participate in music as you saw fit during the
16 time that you have her. Correct?
17 A. Yes.
18 Q. So, isn't one the choice to have somebody
19 participate in an event at all versus the choice to
20 punish the child as a means of -- or using the event
21 as a means of punishing the child?
22 A. I didn't say punish. It's a consequence.
23 That's parenting.
24 Q. Well, I mean, she didn't like it. Right? She
25 felt it was painful not to go to music. She wanted to

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1 go. Correct?
 2 MS. FUJII: Objection: calls for speculation,
 3 argumentative.
 4 THE WITNESS: Yes.
 5 BY MR. SMITH:
 6 Q. Well, that's what -- well, you're not
 7 answering the question because -- just because she
 8 objects doesn't mean you cannot answer.
 9 A. -- what Mia felt.
 10 MS. FUJII: Don't speak over one another.
 11 BY MR. SMITH:
 12 Q. Okay. So, no, I'm asking you what you felt
 13 about Mia's nonparticipation that caused you to use
 14 that as a, what your word is, consequence of bad acts.
 15 A. It's to motivate good behavior.
 16 Q. Okay. Well --
 17 A. Right? So, she losses one lesson. Then she
 18 knows she should not be disrespectful to me, and then
 19 she will -- it will motivate good behavior.
 20 Q. Right. It motivates good behavior, because
 21 those lessons are very important to her. She doesn't
 22 want to miss them. She likes being in music.
 23 Correct?
 24 A. Yes.
 25 Q. And so the way to motivate her, the

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1 when I would see Donna, say what normal interactions
 2 would occur and what the kids would say to me. But I
 3 don't recall specifically what I shared with Donna on
 4 that particular occasion.
 5 Q. Well, you're not talking about a single
 6 occasion. Right? You met with Ms. Wilburn many
 7 times. Correct?
 8 A. Yes.
 9 Q. And you cannot recall a single instance in
 10 which you described statements that -- that would
 11 have, in your mind, caused her to write, quote, The
 12 children are being given information designed to
 13 inflame their anger toward you rather than resolve
 14 conflict.
 15 A. I think it was communications that Mitch
 16 admitted to talking to the kids about, resisting the
 17 time share, et cetera.
 18 Q. That's your best recollection of what you
 19 would have -- have told her that caused her to make
 20 that statement.
 21 A. Yes.
 22 Q. You don't have any other recollection of
 23 anything you told her that would have resulted in that
 24 statement.
 25 A. No.

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1 consequence, is to make her unhappy about missing her
 2 music lesson. Correct?
 3 A. Okay.
 4 Q. Is that correct?
 5 A. Correct.
 6 Q. Okay. You started this line of answers with
 7 answer to my question, Have you ever reached out to
 8 Ms. Warling in regard to behavior of Mia. You had
 9 indicated that you recall doing that one time about a
 10 year ago.
 11 Was that the only time that you had restricted
 12 Mia from participating in music?
 13 A. Yes.
 14 Q. Was Mia's reaction to missing music what you
 15 had expected, that she started behaving better?
 16 A. Yeah, because she earned it the following
 17 weeks.
 18 Q. So, what information did you supply to
 19 Ms. Wilburn that, to your knowledge, caused her to
 20 write, "Children are being given information designed
 21 to inflame their anger toward you rather than resolve
 22 conflict." The "you" in that sentence was you,
 23 Ms. Calderon.
 24 A. I think I shared with her responses like -- I
 25 can't remember specifically, but I would routinely,

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1 Q. No, you do not.
 2 A. No, I do not.
 3 Q. Are the kids angry towards you?
 4 A. They are angry. Yes.
 5 Q. How do they express that anger?
 6 A. By being rude and disrespectful.
 7 Q. And what have they said that you would define
 8 as rude and disrespectful as expressing their anger?
 9 A. Just like a negative tone. They will say, "I
 10 don't want to be here." But when --
 11 Q. I'm not asking you about specifically
 12 in therapy.
 13 A. Oh, sorry.
 14 Q. I'm asking you about what you have experienced
 15 in the children outside of therapy that suggest to you
 16 that the children are angry toward you, if anything.
 17 MS. FUJII: I'm just going to say, I'm going
 18 to object to ambiguity and time frame.
 19 Are you talking about current, or are you
 20 talking about historically?
 21 BY MR. SMITH:
 22 Q. Let's use 2019. So, in 2019 what have you
 23 recalled the children saying to you that expresses
 24 that they're angry toward you generally?
 25 A. Mia -- since Mitch started withholding them,

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1 Mia says you're not my mother, a mother doesn't have
2 to be by blood, I wish you would die, and things of
3 that nature.
4 Q. Anything else you can recall?
5 A. Oh, they will say -- they -- they regurgitate
6 Mitch's line: "You need to take responsibility for
7 your actions. You're never going to change. You're a
8 liar."
9 Q. And why do you call that Mitch's line?
10 A. Because they repeat exactly what's in Mitch's
11 pleadings.
12 Q. Other than your statement about you need to
13 take responsibility for your actions and that you're a
14 liar, is there anything else that you can recall in
15 Mitch's pleadings that suggest to you that the
16 children have repeated something in those pleadings?
17 A. Yes. Like Nick Ponzo will share with me
18 discussions he has with Mitch and it's the same --
19 he -- he -- Mitch has met with Nick Ponzo and asked
20 him, "Has she taken responsibility? What has she
21 admitted?" things to that effect. And then the kids
22 repeat the same thing: "You're -- you're not
23 changing. You're not learning from therapy. You have
24 to take responsibility for your actions."
25 Q. What evidence did you supply Ms. Wilburn that

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1 when she said that your parenting strategies are not
2 supported?
3 A. Use of electronic equipment, including cell
4 phones.
5 Q. Okay. What else?
6 A. Phone -- being -- being in their rooms all the
7 time, Mia specifically.
8 Q. How is that your parenting strategy, that you
9 want them in their rooms?
10 A. No, that I don't want them in their rooms.
11 Q. And what is it about -- what is Mitch doing to
12 undermine that parenting strategy of not having them
13 always in their rooms?
14 A. How Donna explained it is that Mitch is
15 sabotaging my parenting by not abiding by an agreement
16 to restrict service and access to cell phone. So, Mia
17 lock herself in her room with her cell phone. And
18 when I ask Mitch don't send the cell phone this week,
19 he does anyway.
20 So, it's just like saying, I don't respect you
21 as a parent, communicating that by words and/or
22 actions to the kids and that just going on for years.
23 Q. Well, how long has it been since you have
24 requested him -- well, first of all, how long has she
25 had a cell phone: Mia?

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1 confirms that, quote, your parenting strategies are
2 not supported?
3 A. The cell phone. The cell phone has been an
4 ongoing issue.
5 Q. Anything else? Any -- what are your parenting
6 strategies that you believe are not supported by
7 Mitch, other than the cell phone?
8 A. Anything. I mean, what he says to the kids
9 about me being a bad parent, not believing me, it --
10 just the dynamic that -- parenting dynamics I've
11 discussed with Donna. Donna says that, "It appears
12 that Mitch is relegating you to the level of a child
13 and parenting you." So, you can't have a co-parent
14 parent the other parent. And that's what Mitch tries
15 to do.
16 And so since August he has decided "I am not
17 going to even try to co-parent. I'm just going to
18 keep the kids, and I'll give you whatever visits I
19 deem appropriate."
20 Q. Well, the question started with, What are your
21 parenting strategies that are not supported? So --
22 A. I said anything, any parenting.
23 Q. Okay. So, what -- what are your parenting
24 strategies that were -- were -- that -- as you
25 understood them, that Ms. Wilburn was referring to

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1 A. Since elementary school.
2 Q. Okay. And have you at various times, prior to
3 the incident in April of 2019, attempted to restrict
4 her use of her cell phone?
5 A. Yes. Uh-huh.
6 Q. And in those circumstances it's your statement
7 that Mitch has never allowed you to restrict her cell
8 phone?
9 A. No. He has not.
10 Q. No, he has not.
11 A. He has not.
12 Q. Has he ever explained to you why he has not
13 allowed you to -- to restrict the cell phone?
14 A. He just says, "Get it -- get it yourself. Go
15 ahead and take it from her." He has said that in
16 e-mails.
17 And Donna's suggestion was, go to court, get
18 an order. And I've wanted to avoid court for as long
19 as possible, given the history.
20 Q. Okay. So, are you -- as part of the relief,
21 you're seeking in this action to have absolute
22 authority over the cell phone in your home.
23 A. I want normal parenting, co-parenting from
24 Mitch. I don't know that that's possible.
25 Q. That's not my question.

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<p style="text-align: right;">61</p> <p>1 A. So, yes, to the extent that access to 2 electronic equipment is normal parenting, 3 co-parenting, yes, that's what I would like. 4 Q. So, the second part of that is that you want 5 him to restrict her using the cell phone in your house 6 when you tell him to do so. 7 A. Or allow me to have the phone. I'll pay for 8 the phone. I'll pay for the service provider. I've 9 offered this. 10 Q. So, which is it that you're seeking here? 11 A. Either one. 12 Q. So, you want him to either withhold the phone 13 when she comes to your home or to -- at your -- 14 A. There is options. 15 Q. -- direction, or you want to pay for the phone 16 and being able to turn it off at any time. 17 A. Right. There is options, and I've gone over 18 them with him. So, if he doesn't want to work with me 19 on access to the phone, don't send it and I'll provide 20 her one when she's in my care. 21 Q. So, this -- them being in their rooms, I 22 assume, is -- you've only indicated that it applied to 23 Mia and it was solely related to the cell phone. 24 A. Yeah. 25 Q. Is there any other parenting strategy that you</p>	<p style="text-align: right;">63</p> <p>1 e-mails, court documents, or the substance of that 2 information. 3 Q. Has she actually stated that she's reviewed 4 any e-mails or court documents: Mia? 5 A. No. 6 Q. Has she denied that she has been exposed to 7 any e-mails or court documents? 8 A. No. 9 Q. Did you ask her? 10 A. No. 11 Q. Why not? 12 A. I'm not going to get into an adult fight with 13 Mia. If she's been exposed to court documents and 14 e-mails, that's not right for her. But what am I 15 going to tell her, your Dad shouldn't be doing that? 16 I mean... 17 Q. But you understand she's going to testify at 18 this hearing if we proceed forward. 19 A. That's fine. 20 Q. And you understand that almost certainly she's 21 going to be asked by your counsel as to whether or not 22 she has been -- she's read or -- any e-mails or court 23 documents. You know that. Right? 24 MS. FUJII: Objection: assumes facts not in 25 evidence.</p>
<p style="text-align: right;">62</p> <p>1 could identify that Mitch has undermined? 2 A. No. 3 Q. So, the only parenting strategy is the cell 4 phone use and the consequence of the children staying 5 in their room to use their cell phone. 6 A. Well -- and keeping them in the middle of 7 parenting decisions; right, like exposing Mia to adult 8 issues and conversations? 9 Q. Okay. So, when did that happen? 10 A. For the last twelve years. 11 Q. Let's -- let's deal with since April of 2019. 12 What adult conversations, to your knowledge, has Mitch 13 exposed the children to? 14 A. The litigation. 15 Q. I believe it's your contention that Mitch has 16 had the children read the pleadings that he's filed or 17 that you filed. Correct? 18 A. I don't know about Ethan, but Mia has been 19 exposed to things in writing. She -- she's insisted 20 that, "Who was the first to file the motion? Who 21 started this?" And she'll say, "It was you. I know 22 it was you." And -- and she'll -- or she'll say -- 23 while we're in therapy she'll ask Nick Ponzo, "Let me 24 see it in writing. Let me see what she wrote or" -- 25 like she talks as if she is regularly exposed to</p>	<p style="text-align: right;">64</p> <p>1 Go ahead. 2 THE WITNESS: Mitch put -- 3 BY MR. SMITH: 4 Q. Your opinion. 5 A. -- the kids will be prepared to testify. It's 6 directly in his e-mail. 7 Q. Okay. But you understand that she's going to 8 be asked that. 9 Why not ask her prior to the time so you can 10 work out whether or not her motivations for these 11 things that you're claiming are the problems have come 12 from documents? 13 A. Because I'm her mother, not her lawyer. My 14 job is not to cross-examine her. My job is to be her 15 unconditional support and love, not to put her in the 16 middle of litigation like her co-parent does. 17 Q. I'm glad you raise that issue, because these 18 children are going to be asked to testify. 19 Do you think it would be appropriate for them 20 to have legal counsel to aid them in that process? 21 A. No. 22 Q. Why not? 23 A. They don't need it. 24 Q. So, you would object to them having legal 25 counsel or a guardian ad litem act as legal counsel.</p>

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1 Correct?

2 A. Yes.

3 Q. So, you've explained the parenting strategies
4 as the cell phone and the spending time in their room
5 and exposing them to what you indicated are -- at
6 least Mia being exposed to the pleadings and e-mails
7 in this case.

8 Are there any other parenting strategies that
9 you believe that Mitch has undermined?

10 A. Yes, access to friends, like overnights with
11 friends. Mitch objects when I allowed Ethan to spend
12 the night at Allison's house. But when Ethan is in
13 Mitch's care, he allows it.

14 Q. Is Allison a boy or a girl?

15 A. Girl. But Allison is the mom of Ethan's best
16 friend, Nicholas.

17 Q. When did that occur? When did Ethan -- or did
18 Mitch object to Ethan staying at Allison's house?

19 A. In the summer of 2019.

20 Q. Did Mitch explain why he objected?

21 A. Yes.

22 Q. And what was his explanation?

23 A. He said that Ethan reported to him that
24 Allison allows her teenage son to vape and have sex
25 freely.

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1 like a little parent and said, "Amy is pissed that you
2 let Ethan spend the night at Allison's. Allison is a
3 bad parent." And I brought that to Mitch's attention,
4 that why is Mia getting involved in this.

5 So, on December 25th, Christmas Day, after
6 twenty or more e-mails back and forth about whether or
7 not I was going to have a visit with the kids, Mitch
8 ultimately brought the kids to my home, parked in
9 front of my house. Allison's car was in front of my
10 house. Mia text me from outside. I opened the garage
11 door. And she said, "It appears you have company. Is
12 this a good time?" And I said, "Absolutely it's a
13 good time. Allison was just leaving." She said,
14 "We'll come back when Allison is gone." And Mitch's
15 car took off with the kids.

16 I text Mia back immediately, five minutes
17 later: "Allison is gone. Are you coming back?" No
18 response. I e-mailed Mitch. Mitch says, "We're
19 already home. Ethan is uncomfortable with Allison
20 being there and you sharing information with Allison."
21 Then guess where Ethan spent the night on the 26th.
22 Allison's house.

23 So, what message does that communicate to the
24 kids? Right? You can't even see your own mother on
25 Christmas Day, but go ahead and spend the night at

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1 Q. Do you think it was unreasonable for him, with
2 that knowledge, to object to the child spending the
3 night there?

4 A. Yeah, but then he lets him spend the night
5 there. That's what's unreasonable, like why -- why
6 are you going to raise concerns about a parent and
7 then allow the child to spend the night there during
8 your time but not my time?

9 Q. When was the time, in relation to your request
10 to have Ethan spend time at Allison's house, that you
11 had knowledge that Mitchell -- Mitch allowed Ethan to
12 spend time at Allison's house or overnights at
13 Allison's house?

14 A. I didn't request permission from Mitch to have
15 Ethan spend the night. Mitch brought to my attention
16 in the summer of 2019 that he had concerns about
17 Allison's parenting, specifically vaping and sex.
18 It -- as a result of his concerns to me, I did not
19 allow Ethan to go on a trip with Allison in the
20 summer.

21 Then after that trip, Ethan spent the night at
22 Allison's house. I believe it was August of 2019.
23 And Mitch sent me an e-mail saying, "I question why
24 you're letting him spend the night when we talked
25 about it." And my -- and -- and Mia came to me at --

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1 Allison's the next day. It's a game.

2 Q. All right. So, so far in your parenting
3 strategies you've identified the cell phone, not in
4 the room, the exposure to litigation, and access to
5 Allison's house or concerns about access to Allison's
6 house and the allowing him to spend the night at
7 Allison's house later.

8 A. Restricting access to friends' houses when
9 they're in my care, that the same restrictions don't
10 apply when they're in Mitch's care.

11 Q. And are there other friends that he's
12 indicated to you that he would like you to restrict
13 access to other than Allison's house?

14 A. No.

15 Q. So, it's just Allison's house.

16 A. I don't think -- I don't know that Ethan spent
17 the night at anybody else's house, that I know of.

18 Q. So, other than those parenting strategies:
19 allowing Ethan to stay at Allison's house, the use of
20 the children and their cell phones, staying in their
21 rooms, and access of Mia to e-mails and pleadings, is
22 there any other parenting strategies that you believe
23 Mitch has undermined?

24 A. No.

25 Q. What are...

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1 MR. STIPP: I'm not so sure.
 2 BY MR. SMITH:
 3 Q. So, how are your parenting strategies
 4 different than Mitch's?
 5 A. I don't know what his are.
 6 Q. So, you know what his -- his notions are about
 7 cell phones. Correct?
 8 Does he believe that children need to stay in
 9 their rooms?
 10 A. I don't know.
 11 Q. Have you ever discussed that issue with him?
 12 A. Yes.
 13 Q. And has he responded to you as to what he felt
 14 about the children spending time in their rooms to use
 15 their cell phones?
 16 A. Yes.
 17 Q. And what was his expression to you?
 18 A. It was in the same e-mails where he was saying
 19 Mia is testing boundaries and we need to be on her;
 20 she wants to be in her room all the time.
 21 Q. So, he supported your position.
 22 A. Yes, but he was allowing her to do it.
 23 Q. At his home.
 24 A. Yes.
 25 Q. And that's information you received from Mia.

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1 Q. And you think that's what happens at Mitch's
 2 house.
 3 A. I don't know what happens at Mitch's house. I
 4 just said it.
 5 Q. Okay. But you're indicating that he said
 6 that's what happens.
 7 A. He doesn't say what happens. He just says,
 8 "Mia wants to be in her room all the time. I think we
 9 should force her to exercise."
 10 Q. Okay. And you don't see that as him
 11 supporting your position that you don't want the
 12 children in the rooms all the time.
 13 A. I don't know. If he's allowing Mia to be in
 14 her room all the time at his home, that's his
 15 strategy. I don't -- he's not -- he's not assisting
 16 me in my home, because I don't have access to what's
 17 keeping her in her room.
 18 Q. The -- does Mia staying in her room or Ethan
 19 staying in his room have anything to do with the
 20 conflict that you have with Mia on a regular basis?
 21 A. I don't know, because she's staying in her
 22 room all the time at Mitch's house, too. Right?
 23 Q. I'm not asking you that. I'm asking you, do
 24 you believe that in your home, when the children seek
 25 to stay in their room, does it have anything to do

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1 A. No, Mitch, via e-mail directly from Mitch.
 2 Q. Okay. So, Mitch was saying that he doesn't
 3 believe that it's appropriate, but he's allowing her
 4 to stay in her room.
 5 A. Yeah. He said, "I think we should force her
 6 to exercise."
 7 Q. Okay. But wouldn't that be consistent with
 8 why -- one of the reasons why you don't want them to
 9 spend all the time in their room, is that they might
 10 want to exercise?
 11 A. I don't think forcing them to exercise is a
 12 good thing. No.
 13 Q. So -- so, there is a difference in your
 14 e-mails -- in your strategies, in that Mitch doesn't
 15 believe that staying in the room by the children is a
 16 good idea, because he would like to see them exercise
 17 or, in your recollection, force them to exercise.
 18 A. That's what he said.
 19 Q. Okay. So, your -- that's a difference, that
 20 you're not asking that they come out of their room to
 21 exercise. You're just asking that they come out of
 22 their room to do something at all.
 23 A. I don't think it's appropriate for Mia to have
 24 unrestricted, unlimited access to her cell phone and
 25 stay in her room all the time.

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1 with the fact that you are in conflict with Mia?
 2 A. Ethan doesn't stay in his room.
 3 Q. So, it's just Mia.
 4 A. Yes.
 5 Q. Okay. So, do you believe that Mia stays in
 6 her room because there is, in her words or words to
 7 the effect of "constant conflict between you and her"?
 8 A. No.
 9 Q. You don't believe that's the reason.
 10 A. No.
 11 Q. No, you do not.
 12 A. No, I do not.
 13 Q. Okay. So, Mitchell -- Mitch -- excuse me.
 14 Did -- did he say anything about Mia's use of
 15 cell phones that was consistent with your desire to
 16 restrict the cell phone use?
 17 A. In May at the Starbucks meeting, yes, he did.
 18 Q. Did he express any concerns about restricting
 19 that use?
 20 A. No. He, in fact, said, "It will help improve
 21 Mia's behavior towards you."
 22 Q. Did he at any time, upon your request,
 23 restrict her access to cell phone, at any time?
 24 A. Not that I can recall. No.
 25 Q. Do you recall, after May of 2019 and before

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1 the August 13th incident, that you asked Mitch to
 2 restrict Mia's cell phone?
 3 A. Yes.
 4 Q. When was that?
 5 A. August 13th.
 6 Q. Okay. Then I said before August 13th. So,
 7 from the May meeting at Starbucks until August 13th
 8 you never asked him to --
 9 A. I did not need him to. Correct.
 10 Q. Okay. So, to finish my question: Between May
 11 of two thousand -- or excuse me, the May meeting at
 12 Starbucks in 2019 through August 13, 2019, you did not
 13 ask Mitch to restrict Mia's cell phone use. Correct?
 14 A. Correct. The first time I asked him to was
 15 August 13th, and his response was, "I'm keeping the
 16 kids now."
 17 Q. Well, didn't Mitch indicate to you that one of
 18 the reasons he felt that it was -- that he would not
 19 want to -- to restrict the cell phone use was because
 20 you and Mia had been in two physical altercations and
 21 he wanted to make sure that she had access to him in
 22 those instances?
 23 A. No.
 24 Q. He's never indicated that?
 25 A. No.

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1 A. Ethan said he never told his dad that.
 2 Q. So, you've never expressed a notion to Allison
 3 that Mitch said words to the effect that she allows
 4 vaping and sex in her home.
 5 A. Nope.
 6 Q. No, you have not had that conversation.
 7 A. No.
 8 Q. Do you know if Amy's parenting strategies
 9 toward the children are any different than yours?
 10 A. No.
 11 Q. Do you know anything about Amy's parenting
 12 strategies of your children?
 13 A. No. Oh, other than she told me, "If you take
 14 her phone away, it will help. All you need to do is
 15 take it away for twenty-four hours."
 16 Q. You're talking about taking away Mia's phone.
 17 A. Yeah.
 18 Q. So, Amy shared with you that --
 19 A. At the Starbucks meeting. Yes.
 20 Q. She was present at the meeting as well.
 21 A. Correct.
 22 Q. Just, by the way, did you tell Mitch that you
 23 were taping that meeting?
 24 A. No.
 25 Q. Did -- why was Allison at your home on

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1 Q. Or words to that effect?
 2 A. No.
 3 Q. In regard to the access to Allison's home, did
 4 you have any discussion with Mitch about your
 5 statement that Ethan spent the night at Allison's home
 6 on the 26th?
 7 A. No. I didn't talk to Mitch about that.
 8 Q. Okay. How did you -- how did you learn that?
 9 A. Ethan told me.
 10 Q. Did you have any discussion with Ethan about
 11 his time with Allison or why he spent the time with
 12 Allison at her home?
 13 A. Yeah. He said he wanted to spend the night
 14 with Nicholas.
 15 Q. Okay. Have you ever asked for -- well, let me
 16 ask you this question:
 17 Did you ever advise Allison that Mitch had
 18 indicated that she allows vaping and sex in her home
 19 with the children?
 20 A. I didn't ask that about -- of Allison. No.
 21 Q. Did you ever advise her of that fact?
 22 A. No.
 23 Q. So --
 24 A. I talked to Ethan about it.
 25 Q. Okay.

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1 Christmas?
 2 A. She was dropping off a Christmas gift.
 3 Q. For...
 4 A. Me.
 5 Q. Have you ever asked for Mitch's assistance
 6 with parenting your children?
 7 A. Yes.
 8 Q. And when was that?
 9 A. The last twelve years.
 10 Q. So, moving toward this year, 2019 --
 11 A. Yes.
 12 Q. -- do you recall asking him specifically --
 13 Mitch for assistance with parenting the children?
 14 A. Yes.
 15 Q. And when was that?
 16 A. Throughout the summer of 2019. So, it's
 17 evolved. I would ask him for help routinely, and he
 18 would tell me specifically, "I am not going to use my
 19 parental goodwill on you."
 20 In the -- so, after the May -- no. What
 21 precipitated the -- the Starbucks meeting in May was
 22 the April incident that we talked about and the one we
 23 haven't talked about where Mia, while in Mitch's time
 24 share, came to my home and pulled my Ring doorbell off
 25 the wall.

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1 Q. When did that occur?
 2 A. Like two days before the Starbucks meeting.
 3 Q. What were the events that led to Mia coming to
 4 your home?
 5 A. Mia text me that morning and said, "I forgot
 6 something in -- in the house. I need it for a
 7 project." No. Actually it was like the night before.
 8 She was in Mitch's care. I said, "Great. Tell me
 9 what you need. I'll put it on the courtyard before --
 10 on the gate of the courtyard before I leave for work."
 11 She wouldn't tell me what it was. So, I text Mitch
 12 and Amy, because he can only accept joint texts:
 13 "Hey, Mia is asking for something in my house. Let me
 14 know what it is before I leave for work, and I'll put
 15 it on my courtyard gate. Otherwise, do not bring the
 16 kids to my house when I'm not there."
 17 So, of course, after school Grandpa Jerry
 18 brought the kids to my house. And Mia flipped out,
 19 because I wouldn't use my app -- the garage door app
 20 to let her in the house. And she sent me several
 21 threatening text messages that I'm going to enjoy the
 22 consequences she's going to leave me if I don't let
 23 her in the house. I communicated with Mitch: "Hey,
 24 what's going on? I already told you don't bring Mia
 25 and Ethan to the house when I'm not there. Mia is at

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1 you tell her.
 2 A. Not when she's in Mitch's care.
 3 Q. Did she ever or Mitch ever explain to you what
 4 it is that she was not able to get in your home?
 5 A. Mitch said, "Don't worry about it. We'll just
 6 buy her new supplies," like they -- for some reason
 7 they didn't want to communicate with me what
 8 specifically it is that she needed.
 9 Q. Do you believe that there was something
 10 nefarious to that failure to identify what she had
 11 communicated?
 12 A. I have no idea.
 13 Q. But you don't have any evidence to suggest
 14 that, and for all you know, it was just simply the
 15 supplies. Correct?
 16 A. If it was simply the supplies, why not just
 17 say it. So, no, I don't have evidence of what it
 18 actually is that she needed.
 19 Q. But you suspected that it was something other
 20 than the supplies, and that's why you refused to allow
 21 her to go into the house.
 22 A. No. I just did not want the kids in the home
 23 when I wasn't there.
 24 Q. Is that a general rule, that they should not
 25 show up when you're not there?

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1 my house." And then I sent him pictures of the Ring
 2 doorbell that she pulled off the stucco of the wall.
 3 And Mitch said, "Oh, there must have been a
 4 misunderstanding, because she told us that you allowed
 5 her to come over." I said, "No, I didn't. And this
 6 is what she did."
 7 Q. So, why wouldn't you let her in the house to
 8 retrieve her item?
 9 A. The kids aren't allowed at Mitch's house when
 10 they're not there. I wanted to be present.
 11 Q. So, that's why.
 12 A. Yeah. No. I wanted to see -- it's routine.
 13 Right? Like I didn't want the kids -- they would come
 14 to my house to -- like Grandpa Jerry would bring
 15 Ethan, and he would go to the pantry and get snacks.
 16 I wanted to be present when they got home, when they
 17 were in my house.
 18 Q. But in this specific instance she told you
 19 that there was something she needed for a project.
 20 A. Right. And I very specifically told her,
 21 "Tell me what you need. I'll put it on the gate."
 22 And she chose not to do that.
 23 Q. Isn't it her home, too?
 24 A. It is her home.
 25 Q. But she just can't have access to it unless

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1 A. Yes. Well, not that I'm not there but not to
 2 tell me in advance. Right? Like they would routinely
 3 come in, grab things, or leave throughout the week. I
 4 wanted to know in advance, "What are you" -- why --
 5 "When are you coming to the house? What do you need?"
 6 Q. When they're in Mitch's care.
 7 A. Yes.
 8 Q. But if they're in your care, they can come to
 9 the house freely.
 10 A. Yeah. It's their home.
 11 Q. Even though you're not there.
 12 A. Yeah, because that's where they live.
 13 Q. And you don't think that sends them a bad
 14 message that when they're in Mitch's care, they can't
 15 come to the home.
 16 A. They can't go to his house without advance
 17 approval. And when they forget things, Mitch leaves
 18 things in a bag.
 19 Q. I'm asking you --
 20 MS. FUJII: Let her finish. Let her finish.
 21 MR. SMITH: Well -- but she's not answering
 22 the question. So, I move to strike it.
 23 THE WITNESS: I am.
 24 BY MR. SMITH:
 25 Q. The question is whether or not you have -- you

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1 believe that by not having them be able to come to
2 your home anytime they're in Mitchell's care sends a
3 bad message to the children.
4 A. I do not think that.
5 Q. Have you ever asked for Amy's assistance with
6 parenting the children?
7 A. Well, to the extent that the e-mails that I
8 exchange with Mitch regarding parenting have a joint
9 signature block and I don't know who's responding, she
10 might have been responding. She might have been
11 receiving the communications. I don't know.
12 Q. So, have you ever gone to her directly, not
13 through what you describe as joint e-mails? Have you
14 ever asked her directly to help you with parenting of
15 the children?
16 A. Not separate and apart from Mitch.
17 Q. So, you've never called her and said, "Hey,
18 Amy, can you help me with the children?"
19 A. No.
20 Q. Okay. Do you speak to her on the phone by
21 herself, or is it -- all the communication with Mitch?
22 A. Mitch will conference her in. He can't have
23 direct -- like he can't have a one-on-one conversation
24 with me. So, she'll be in on all the -- every phone
25 call, every e-mail, every text message.

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1 A. That's not what I said. I have discussed it
2 with her.
3 Q. Okay. When was the first time that you --
4 A. I don't recall specifically, probably August
5 when they stopped coming to my care.
6 Q. So, let me ask my question, and then you can
7 answer the question.
8 So, when did you first recall having a
9 conversation with Allison about the custody action or
10 problems that you were having with custody of the
11 children?
12 A. After Mitch initiated the custody litigation.
13 Q. And that was in August of 2019. Correct?
14 A. Yes.
15 Q. And what prompted that conversation with
16 Allison?
17 A. We would coordinate time for Ethan and
18 Nicholas to spend together, and I couldn't anymore
19 because I didn't have kids in my care.
20 Q. And did you explain to her anything else other
21 than the children were not coming to your care? Did
22 you talk with her about any -- about the -- what's
23 going on in this case?
24 A. Yes.
25 Q. And what did you tell her?

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1 Q. Has -- have you had a direct communication
2 with Amy where Mitch wasn't involved at any time?
3 A. Not that I can recall.
4 Q. Have you ever thrown water on the children as
5 punishment?
6 A. No.
7 Q. Have you ever thrown water on the children?
8 A. I recall once I think Mia was a toddler and I
9 threw the water from the -- a water bottle and I
10 splashed on her.
11 Q. Other than that incident when Mia was a
12 toddler, you don't recall ever splashing or throwing
13 water on the children?
14 A. No.
15 Q. Have you ever had any conversations with
16 Allison about this -- this custody matter?
17 A. Yes.
18 Q. Okay. When did that occur?
19 A. When she observed the kids coming to visit me
20 and pulling off and never coming back.
21 Q. Was that at Christmas?
22 A. Christmas Day.
23 Q. Okay. Other than the conversation with
24 Allison on Christmas Day, you've never discussed with
25 her anything about the custody action. Correct?

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1 A. That -- just generally that the kids are not
2 coming to me, that I had court hearings, and that we
3 were involved in custody litigation.
4 Q. Did you tell her that Mitchell -- or Mitch was
5 responsible for having the children not come to see
6 you or words to that effect?
7 A. That day?
8 Q. At any time.
9 A. I don't know if I said it like that.
10 Q. Have you ever indicated why to Allison you
11 believe the children are not coming to see you?
12 A. I've told her that Mitch is not following the
13 court order.
14 Q. Anything other than that that you've explained
15 to her is the reason why the children aren't coming to
16 see you?
17 A. Just normal teenage boundary testing by Mia.
18 Q. And did you describe for Allison what
19 boundaries you referred?
20 A. Yes.
21 Q. And what were the boundaries that you
22 described to Allison that were -- she was testing?
23 A. The boyfriend, the cell phone.
24 Q. Anything else?
25 A. Not that I can recall.

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1 Q. Did you tell her anything about Ethan's not
2 wanting to come spend time with you?
3 A. She was surprised and saddened that Ethan
4 doesn't get to spend time with me.
5 Q. But what did you tell her about that?
6 A. Same thing I said earlier: Ethan is just
7 going along with the flow. He can't stand up to his
8 dad.
9 Q. Do you believe that that was an appropriate
10 discussion to have with Allison who is the mother of
11 Ethan's friend?
12 A. Yes.
13 Q. And why?
14 A. Because she's my friend.
15 Q. Were you concerned at all about Ethan's
16 feelings in relation to your discussion with Allison?
17 A. Yes.
18 Q. And what did you do to address those feelings
19 either with Allison, by what you said to her, or with
20 Ethan directly?
21 In other words, did you temper your statements
22 to Allison so that you didn't think they would affect
23 Ethan, or what did you do to try to protect Ethan's
24 concern?
25 A. I used normal adult judgment and discretion to

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1 people that have interactions with Ethan and Mia,
2 either friends, parents, school officials, or anyone
3 else involved with them, about this custody action?
4 A. Yeah. I talked to the principal, Scott Fogo,
5 when he facilitated -- he attempted to facilitate an
6 exchange.
7 Q. And describe your -- when did that occur?
8 A. I think it was in September. Yeah, September.
9 Q. Of 2019.
10 A. Yeah. He brought the kids in the back office
11 to meet with the counselor, and then he brought them
12 in to see me. And then they left.
13 Q. And what was the substance of your
14 conversation with Mr. Fogo that caused him to bring
15 the children in to the back office?
16 A. He knew that -- he told me that Mitch had
17 given him several e-mails about withholding the kids
18 from me. And he told me, "I don't follow e-mails. I
19 follow court orders." So, he asked for a copy of the
20 court order. And he said, "Since you're entitled to
21 the children via the court order, we can assist by you
22 coming to the front office to check the kids out."
23 Q. That was the totality of the substance with
24 Mr. Fogo that you -- that you recall?
25 A. The substance of the totality of

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1 realize that Allison was a stable, loving parent who
2 could receive adult information and not trickle it
3 back to the kids.
4 Q. Do you know if she's ever advised them of the
5 conversations that she's had with you?
6 A. She has not.
7 Q. Did Mia or Ethan express to you what their
8 concern about being Allison -- or having Allison at
9 your home on December 25th was?
10 A. No. It's sad that when --
11 Q. Is the answer no?
12 A. No.
13 Q. And did they ever express to you words to the
14 effect that they believe Allison has been involved in
15 or knows about this custody action?
16 A. They have not.
17 Q. Have you ever asked them about the incident on
18 the 25th, since that time, as to why they didn't want
19 to come to your home when Allison was there?
20 A. On the 26th I had the kids that morning, and
21 Mia said -- I said, "Why didn't you guys stay?" She
22 said because Allison is a bad parent. And then Ethan
23 defended Allison and said, no, she's a good parent.
24 And that was the extent of that conversation.
25 Q. Have you had any discussions with any other

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1 communications with him?
2 Q. With him on that day that resulted in you
3 having the children brought to the back room.
4 A. Yes. He was present.
5 Q. Okay. But you don't recall telling him
6 anything else about the situation. In other words,
7 you didn't say Mia has misbehaved, we had a fight,
8 Ethan has not come home --
9 A. No.
10 Q. -- with his father, nothing --
11 A. No.
12 Q. So, you don't recall anything else that you
13 told Mr. Fogo other than the discussion of the fact
14 that he told you that -- that Mitchell had sent him
15 e-mails --
16 A. Various, including like counsel e-mails, too.
17 Q. -- and that -- well, let's hold up there.
18 You're saying that he had sent e-mails from his
19 counsel?
20 A. No, between he and Val Fujii.
21 Q. Okay. And he had provided those e-mails to
22 Mr. Fogo, who then --
23 A. The school principal.
24 Q. Did Mr. Fogo provide those e-mails to you?
25 A. No.

<p style="text-align: right;">89</p> <p>1 Q. Did he reference --</p> <p>2 A. He told me about them.</p> <p>3 Q. He just told you about them.</p> <p>4 A. Yes.</p> <p>5 Q. And then he said, we follow court orders, and</p> <p>6 brought the children to the back office.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you don't recall any other</p> <p>9 discussion with Mr. -- with Principal Fogo.</p> <p>10 A. After the -- after he observed the kids in the</p> <p>11 back room, he said he was sympathizing with my</p> <p>12 situation and said, "Unfortunately, this isn't the</p> <p>13 first case I've had where this kind of circumstance</p> <p>14 has arisen." And he said have faith that the truth</p> <p>15 will come to light.</p> <p>16 Q. So, why didn't you take the children that day?</p> <p>17 A. Because when they were informed that I was</p> <p>18 there to pick them up, they immediately called their</p> <p>19 dad and said, "She's here. We don't want to go with</p> <p>20 her." And then he and --</p> <p>21 Q. You heard them call their father and --</p> <p>22 A. The principal told me.</p> <p>23 Q. Okay. But you didn't hear them call Mitch.</p> <p>24 A. I didn't hear the conversation.</p> <p>25 Q. So, why didn't you just go into the back room</p>	<p style="text-align: right;">91</p> <p>1 children's desire to be with you or not be with you?</p> <p>2 A. Yes.</p> <p>3 Q. And you don't think you have that same</p> <p>4 control.</p> <p>5 A. Correct.</p> <p>6 Q. And you believe that's due to Mitch</p> <p>7 undermining your relationship with the children over</p> <p>8 the years by telling them that you're a bad parent and</p> <p>9 a liar.</p> <p>10 A. Systematically.</p> <p>11 Q. So, the answer is, yes, that's why you believe</p> <p>12 that you can't control the children but he can.</p> <p>13 A. By his words and actions.</p> <p>14 Q. But don't you have -- bear some responsibility</p> <p>15 to enforce the court order?</p> <p>16 A. I follow the court order.</p> <p>17 Q. But don't you bear some responsibility to</p> <p>18 enforce it? In other words, don't you bear some</p> <p>19 responsibility to make sure that the children go with</p> <p>20 you?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So, there are other methods to enforce</p> <p>23 court orders. Correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What are the other methods to enforce</p>
<p style="text-align: right;">90</p> <p>1 and say, "I have a court order, kids. You need to go</p> <p>2 with me now."</p> <p>3 A. Because I deferred to the principal on how he</p> <p>4 was coordinating that. So, he brought the kids to</p> <p>5 the -- to the counselor. Then he brought me to his</p> <p>6 office. And then he brought the kids to me.</p> <p>7 Q. Okay. Well, the children were with you. Why</p> <p>8 didn't you just take them home?</p> <p>9 A. Because I couldn't physically force them to go</p> <p>10 with me.</p> <p>11 Q. But Mitch can?</p> <p>12 A. Yeah. He already -- they already coordinated.</p> <p>13 Q. Mitch can physically force them. Do you think</p> <p>14 that would be the proper move by him to get them to go</p> <p>15 with you?</p> <p>16 A. He didn't have to. He already undermined the</p> <p>17 exchange. Right?</p> <p>18 Q. Okay. You think that he has Svengali-like</p> <p>19 control over the children and can tell them when to go</p> <p>20 and when not to go --</p> <p>21 MS. FUJII: Objection: argumentative.</p> <p>22 Go ahead.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. Do you -- let me rephrase the question.</p> <p>25 Do you believe that Mitch can control the</p>	<p style="text-align: right;">92</p> <p>1 the court order? You can call the police to do that.</p> <p>2 Right?</p> <p>3 A. Yes.</p> <p>4 Q. And why didn't you do that at that time?</p> <p>5 A. At the school?</p> <p>6 Q. At the school or -- or at any other time to</p> <p>7 enforce your court order?</p> <p>8 A. I did.</p> <p>9 Q. And what did the police do? Or when was that,</p> <p>10 by the way?</p> <p>11 A. I think it was the 23rd.</p> <p>12 Q. Of...</p> <p>13 A. August.</p> <p>14 Q. And where did the police go to?</p> <p>15 A. Mitch's house.</p> <p>16 Q. And what happened?</p> <p>17 A. Mia was home. Ethan was at baseball. Mia</p> <p>18 wouldn't come out of Mitch's home. Police went in.</p> <p>19 They met with Mitch. Mitch showed them a video of Mia</p> <p>20 or something. And they did not physically put Mia in</p> <p>21 my car.</p> <p>22 Q. Did you ask them why they didn't do that?</p> <p>23 A. No. I asked them why they didn't follow the</p> <p>24 order or why -- what would they do to enforce the</p> <p>25 order. They said they don't physically do that and to</p>

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1 go to court.
 2 And then when I attempted to go get Ethan,
 3 Mitch had sent Amy to the park to intercept Ethan from
 4 my dad, who was there to pick him up.
 5 Q. What is the facts, information, and knowledge
 6 upon which you base the allegation that Amy was sent
 7 by Mitch?
 8 A. Well, Mitch was home with Mia, and I was
 9 outside of his home, and Amy left in the car to go get
 10 Ethan.
 11 Q. At the time you were there.
 12 A. Yes. I saw the car leave. And I saw -- and
 13 my dad was at the baseball field, and Ethan said, "I'm
 14 going home with my dad." So, they already had a plan
 15 that he -- Ethan knew he was going home with his dad.
 16 Amy showed up, started crying to the coach:
 17 "There is police at my house." And that -- Ethan went
 18 with Amy.
 19 Q. This is information your father told you.
 20 A. Uh-huh.
 21 Q. Is that a yes?
 22 A. Yes.
 23 Q. And he said that Amy was crying.
 24 A. Yes, that there is police at my house; I have
 25 to leave. Oh, she left the -- Mitchell Junior in the

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1 a blender.
 2 A. Mia says that.
 3 Q. Yeah, but you don't recall ever doing that.
 4 A. No.
 5 Q. So, there is -- there is nothing like that
 6 that you can recall in your history of time with Mia,
 7 that you ever threatened to put either stuffed animals
 8 or some other toys in a blender while she was
 9 watching.
 10 A. No.
 11 Q. You have never done that.
 12 A. No.
 13 Q. No, you have not.
 14 A. No, I have not.
 15 Q. Have you ever locked the children in their
 16 rooms at any time?
 17 A. No.
 18 Q. Do you have the facility to lock them in their
 19 rooms?
 20 A. No. They can lock themselves in.
 21 Q. Okay. Have you ever placed any kind of
 22 restriction on the children coming out of their rooms?
 23 A. No.
 24 Q. How would you characterize your relationship
 25 with Mitch?

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1 car.
 2 Q. And this was also an observation by your
 3 father.
 4 A. Yeah, that Amy said, "I left my son in the
 5 car. I got to get Ethan."
 6 Q. Okay. So, she got Ethan and took him back to
 7 the house, or did she take him somewhere else?
 8 A. According to the police, they said that she
 9 took him to dinner.
 10 Q. So, to your knowledge, he did not return to
 11 the house while the police were there.
 12 A. No.
 13 Q. No, that he did not.
 14 A. No, he did not.
 15 Q. And that was the only time you've attempted to
 16 use the police to retrieve the children. Correct?
 17 A. Yes.
 18 Q. All right. Now, we've already gone over
 19 the -- the Donna's House.
 20 In regard to the -- your actions toward the
 21 children, I think you indicated at some point in time
 22 that you had actually threatened to put Mia's stuffed
 23 animals in a blender. Correct?
 24 A. What did you say?
 25 Q. You threatened to put Mia's stuffed animals in

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1 A. In general?
 2 Q. Yes.
 3 A. Poor.
 4 Q. And poor in what -- in what way?
 5 A. Mitch is abusive.
 6 Q. How is he abusive?
 7 A. I think a parent that brings kids to the
 8 mother's house on Christmas Day and drives away
 9 without letting them go say hi to their mom is
 10 abusive.
 11 Q. Any other way that he's abusive?
 12 A. After six years of custody litigation, to
 13 re-engage in custody litigation is abusive.
 14 Q. So, just the filing of this custody action is
 15 abusive.
 16 A. And his own admissions, the damage he has
 17 already caused to the kids from litigation.
 18 Q. And you don't see your involvement in the
 19 litigation as causing any damage.
 20 A. No.
 21 Q. And including your knowledge that the children
 22 will be caused to testify in this action, you don't
 23 think that that's damaging to them.
 24 A. I think what's more damaging is --
 25 Q. No. No. No. I'm asking you, do you think

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<p>1 it's damaging for them to have to testify in this 2 action? 3 A. No. 4 Q. So, do you believe Mitch is a good person? 5 A. No. 6 Q. Why not? 7 A. Because he knowingly is damaging the children. 8 Q. Through this litigation and his actions 9 leading to the litigation. 10 A. Correct. 11 Q. On a -- you said that he was abusive. He's 12 never physically abused you. Correct? 13 A. There was one incident when he grabbed my arm 14 and bruised it. Yes. 15 Q. When was that? 16 A. When we were divorcing. 17 Q. Okay. Other than this incident you're 18 claiming occurred when you were divorcing, he's never 19 physically abused you. 20 A. No. 21 Q. Okay. And in regard to the children, you 22 don't have any information or knowledge that suggest 23 he's ever abused the children physically. 24 A. He had spanked them, yes, with a belt but 25 not -- no physical abuse that I know of.</p>	<p>1 oftentimes criminal cases ongoing at the same time 2 but -- 3 Q. Correct. But you're not handling that aspect. 4 A. Correct. 5 Q. You're handling the -- 6 A. The dependency. 7 Q. Do you believe that Mitchell values your role 8 in Mia's life? 9 A. No. 10 Q. Why not? 11 A. Because he has systematically undermined it 12 and is depriving her of contact and a relationship 13 with me. 14 Q. And that's your -- depravation is based upon 15 the notion that he could tell her at any time to go 16 visit you and she would. Correct? 17 A. And based on his own statement. 18 Q. No. No. No. Answer that question. 19 A. Yes. 20 Q. Has your view of Mitchell changed since your 21 divorce? 22 A. No. 23 Q. And you -- when you entered the stipulation 24 and order in 2015, you believed that he was a fit and 25 proper person to have joint custody of the children.</p>
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<p>1 Q. When was the last time you became aware that 2 he had spanked the children? 3 A. It's been years. 4 Q. What was the last time, if you can -- 5 A. I don't know. 6 Q. But that's never been a concern of yours, that 7 he was physically abusing the children. Correct? 8 A. No. 9 Q. No, it has not? 10 A. Correct. 11 Q. Is Mitch a fit parent? 12 A. Yes. 13 Q. And what's causing you to say yes? What are 14 you referring to, or how do you define a fit parent? 15 A. He is able to provide care and support for the 16 kids. 17 Q. What is currently your job? What do you do as 18 a -- 19 A. I prosecute civil child abuse and neglect 20 cases. 21 Q. When you say civil child abuse and neglect 22 cases, these are not the criminal cases that are 23 brought in the criminal courts, but these are what, 24 juvenile cases? 25 A. Juvenile dependency. Correct. There are</p>	<p>1 Correct? 2 A. Yes. 3 Q. And you presently believe that as well. 4 A. Correct. 5 Q. Is Amy a good person, in your view? 6 A. I don't know her well enough to know if she's 7 a good person. 8 Q. Is she fit to be a parent? 9 A. Yes. 10 Q. Do you think that she's had a positive impact 11 on your children? 12 A. Yes. 13 Q. Do you believe that Amy values your role in 14 Mia's life? 15 A. No. 16 Q. Why not? 17 A. I think she supports and encourages Mitch's 18 actions in withholding the children from me and 19 undermining my relationship with the kids. 20 Q. And if I followed your answers to many of 21 these questions, you believe that Mitch and Amy are 22 acting both jointly in regard to all of their actions 23 toward the children. 24 Is that a fair statement? 25 A. I think so.</p>

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<p>1 Q. At the time that you entered into the 2 stipulation and order in 2014, you knew that Mitch 3 also was a busy lawyer. Correct? 4 A. At the time I don't think he was working in 5 2014. Was he working with you? I can't remember. He 6 was your partner. Right? 7 Q. So -- 8 A. In 2014? 9 Q. So, this is not my deposition. 10 A. Okay. 11 Q. So, at some point in time you understood that 12 he was working full time as a lawyer. Correct? 13 A. At some point in time, correct. 14 Q. Okay. And that -- you understood during that 15 period of time that the children would come home at 16 least from school or in the summers, be in Amy's care 17 for a considerable amount of time. Correct? 18 A. I don't know about considerable. 19 Q. Well, okay. Let me use the words "for hours 20 at a time." 21 A. I know that Mitch had a flexible schedule. 22 So, I don't know what their exact time share -- 23 Q. So, your testimony is that you didn't 24 understand that the children would be spending many 25 hours with Amy.</p>	<p>1 A. I don't know what it is. 2 Q. Okay. So, you don't know whether or not Amy 3 is providing care for the children during the time 4 that Mitch is at work. 5 A. Correct, because they have other caregivers. 6 Q. Okay. 7 A. They have hired, and they have relatives. 8 Q. Have you ever communicated any disparaging 9 remark about Mitchell to the children since 2015? 10 A. No. 11 Q. Have you ever communicated any disparaging 12 remark to Amy since 2015 -- I mean about Amy to the 13 children since -- let me rephrase the question. 14 MS. FUJII: Yeah. Okay. 15 BY MR. SMITH: 16 Q. Have you communicated any disparaging remarks 17 about Amy to the children since 2015? 18 A. No. 19 Q. Do you know that -- if any family members of 20 yours has communicated anything disparaging about 21 Mitchell to the children? 22 A. No. 23 Q. Have they ever said anything negative toward 24 Mitchell in the earshot of the children, to your 25 knowledge?</p>
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<p>1 Is that your testimony? 2 A. In Mitch's absence? 3 Q. Sure. 4 A. No. I didn't know the exact time. 5 Q. Okay. Have you ever needed to have someone 6 provide care to the children as a result of your work 7 schedule? 8 A. Yes. 9 Q. And I think it's your father that provide that 10 care; is that correct, or did you have others? 11 A. I had others over the years. 12 Q. So, did it make sense to you that since you 13 were having the same kind of needs for care, that the 14 children would be in Amy's care for at least the same 15 amount of time, or did you believe that Mitch's 16 schedule was different? 17 MS. FUJII: And I'm just going to object as to 18 ambiguity. I'm assuming we're talking about 2014 19 still. 20 THE WITNESS: Yeah. What years are you 21 talking about? Because as you know -- 22 BY MR. SMITH: 23 Q. Let's talk about the -- the last two years. 24 So, for example, what was your understanding of 25 Mitch's schedule for the last two years?</p>	<p>1 A. No. 2 Q. Have you said anything negative about Mitchell 3 generally to the children since 2015? 4 A. No. 5 Q. Same question for Amy: You've never said 6 anything disparaging or negative about Amy since 2015. 7 Correct? 8 A. No. 9 Q. No, you have not. 10 A. No, I have not. 11 Could we take a restroom break? 12 Q. Of course, you can. How long do you need? 13 A. Just five minutes. 14 MS. FUJII: Okay. 15 MR. SMITH: Okay. 16 (Off the record.) 17 MR. SMITH: Okay. So, in an off-the-record 18 discussion I was advised by Ms. Fujii that she will be 19 leaving to take the deposition in this case of the 20 grandfather. I believe that if you look at the 21 transcript of the last hearing, we had agreed that the 22 grandfather's deposition would be here and that you 23 would make arrangements to make that happen. 24 So, I don't think it's appropriate for you to 25 take a deposition while an ongoing deposition is -- is</p>

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1 happening in the case. You've indicated to me that
2 it's your intent to do so. So, I --

3 MS. FUJII: Unfortunately -- and just to make
4 a quick record: The deposition of -- one second.
5 Sorry.

6 The deposition of Gerardo Hernandez, who is
7 Mitch's step -- father-in-law. Sorry -- father-in-law
8 was filed on December 10, 2019 and served. But as you
9 know, as a witness I had to subpoena Gerardo
10 Hernandez. The clerk of the court had to issue that
11 subpoena, which was electronically issued on
12 December 11th. And then that was filed and served. I
13 then had to pay -- schedule with Oasis scheduling
14 reporting that would be at my office. In addition, I
15 had to pay a legal process server a hundred and fifty
16 dollars to personally serve him.

17 At our discussion on December 20th, which was
18 a Friday before Christmas, we discussed doing all
19 depositions here, which would be very convenient for
20 counsel and I, as I did not think Mr. Stipp's
21 deposition nor the deposition of the grandfather would
22 take a while, would take more than a few hours. So,
23 that was my understanding.

24 I did not believe reissuing a notice for a
25 subpoena for service would be necessary nor pay an

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1 course, to be present via telephone if we break before
2 Mitch's deposition, which was agreed to conclude at
3 the conclusion of Christina's or Mr. Hernandez's. I
4 will allow that, of course.

5 MR. SMITH: So, I just want to note that --
6 for the record that my statement on the record is,
7 that was agreed upon at the last proceeding was the
8 next thing that's going to happen in this case is,
9 we're going to complete Christina's deposition. There
10 was never any discussion that we would -- there would
11 be an ongoing deposition of Amy's father. In fact, I
12 said Amy's father -- we will talk to him to -- and
13 she -- you said that is part -- it has to be part and
14 parcel. I said we will be there at the time for his
15 deposition; I know Nick -- Mitch does not think that
16 that's his responsibility. It isn't. And if he
17 refuses, of course, we can't do anything about that.

18 MS. FUJII: Right.

19 MR. SMITH: But he's under subpoena.

20 MS. FUJII: And what I indicated on the record
21 was, I did not mind continuing Christina's deposition.
22 We could have arranged to do it at any time, because
23 we had her present right there.

24 What is more difficult is to reschedule a
25 subpoenaed witness for which we've already paid a

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1 additional legal process invoice of another hundred
2 and fifty dollars to try and serve him over the
3 Christmas holiday just to change locations. And we
4 were doing it at the same time.

5 So, I had a phone log of contact to
6 Mr. Hernandez and texts to him as well which he
7 ignored, which means, unfortunately, I am forced
8 that -- to -- to take his deposition at the location
9 previously agreed to, which was at my office, because
10 no one spoke to him, and he refused to respond to me.
11 So, I -- I have to now incur, because of e-mails from
12 Mr. Stipp -- I sent numerous e-mails regarding this,
13 giving deadlines, because I didn't want it to be
14 inconvenient, and did not receive a response only from
15 Mr. Stipp, the client, saying that he -- that I have
16 to make alternative arrangements with Mr. Hernandez
17 when I had subpoenaed him and gone to great lengths to
18 perfect that service when in -- in truth, we agreed to
19 all depositions being here on one location so all
20 counsel could attend.

21 Because I could not reach the witness, who I
22 guess Mr. Stipp is attesting he couldn't talk to
23 either, and my attempts, you know, were unsuccessful,
24 I have to then be at two places at one time. If
25 necessary, I can make it possible for Mr. Smith, of

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1 process server to serve. And being that we could not
2 reach him and no efforts were made by Mitch to help
3 assist in that regard, we have no choice but to be at
4 two places at the same time.

5 MR. SMITH: Do you really think that the judge
6 is going to think that after you have agreed that
7 we're going to complete the deposition here, that
8 it's -- and we did so because you had to go to your
9 hair appointment.

10 MS. FUJII: That is --

11 MR. SMITH: -- that that was -- that that's an
12 appropriate thing to do, is to proceed forward with a
13 deposition of a witness who is, by any means,
14 peripheral? I mean, the judge has made that -- over
15 and over indicated that the -- the -- he wants to hear
16 from the parties and the children. And we have
17 what --

18 MS. FUJII: Counsel, that's -- counsel, that's
19 your opinion.

20 MR. SMITH: One day.

21 MS. FUJII: The truth is, we have depositions
22 scheduled and set and timely noticed. Those were to
23 occur at certain times. If yours was cut short,
24 arrangements could have been made with Christina right
25 there as to another day -- let me finish. -- as to

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<p style="text-align: right;">109</p> <p>1 another day we could have done it. 2 What I couldn't do is re-serve a witness. So, 3 I made every attempts I could and -- 4 MR. STIPP: Valarie, you could have sent a 5 server -- a notice out on December the 20th. You 6 could have sent a notice on December the 20th. 7 MS. FUJII: -- here December 20th. And if -- 8 Radford, you say I leave for a hair appointment. I 9 said I had a party. 10 MR. STIPP: You said you had a hair 11 appointment. It's on the record. 12 MS. FUJII: And you indicated you were going 13 to leave at 12:30 in the beginning of the deposition. 14 MR. SMITH: No. I told you very clearly I had 15 made arrangements to cancel that meeting. 16 MS. FUJII: I never expected a deposition of a 17 witness in a custody case like this, where she has not 18 had contact with her kids, to last eight hours, nor 19 is -- is -- is Mr. Stipp's. 20 So, unfortunately, I'm trying to work with 21 everyone here, but I have to incur -- 22 MR. STIPP: When did you contact 23 Mr. Hernandez? 24 MS. FUJII: I have a phone log. 25 MR. STIPP: When?</p>	<p style="text-align: right;">111</p> <p>1 MR. STIPP: I understand. 2 MS. FUJII: -- issuing a subpoena signed by 3 the court clerk, not lawyer -- 4 MR. STIPP: One day. 5 MS. FUJII: -- by the court clerk -- 6 MR. STIPP: One day. 7 MS. FUJII: -- and serving it personally. 8 MR. STIPP: You had no problem serving the 9 first subpoena. 10 MR. SMITH: I thought subpoenas could be 11 issued by the lawyers. Or has that changed? I 12 thought -- 13 MR. STIPP: You don't need a court clerk to 14 sign the subpoena. You can sign it yourself. 15 MS. FUJII: You do when you personally 16 serve -- you do when you personally serve and you 17 issue a check to the witness, for the witness. 18 MR. STIPP: That's not true. I regularly 19 serve subpoenas without a -- without -- 20 MR. SMITH: I don't think the court clerk is 21 required. I could be wrong, unless they changed the 22 rule. I don't look at these -- 23 MR. STIPP: It's not required. Trust me. I 24 issue subpoenas all the time. 25 MS. FUJII: Can we --</p>
<p style="text-align: right;">110</p> <p>1 MS. FUJII: And I also have e-mails, and I 2 have -- invoice. 3 MR. STIPP: When did you contact him? 4 MS. FUJII: And I have text messages as well. 5 MR. STIPP: When did you contact him? 6 MR. SMITH: Have you shared those with us? 7 MS. FUJII: I will at the deposition. I'm 8 marking every single one of them. 9 MR. SMITH: We're going to see for the first 10 time a document you're going to use at the deposition 11 at the time that you actually take the deposition 12 across town during the time that you've agreed to 13 finish Ms. Calderon's deposition. 14 MS. FUJII: That's your opinion. I feel very 15 confident about the fact that I made clear that the 16 only way I would continue her deposition the morning 17 is if I had the opportunity to take my 18 already-subpoenaed witness and my -- and Mr. -- 19 MR. STIPP: You do. 20 MS. FUJII: -- Stipp's deposition. 21 MR. STIPP: -- re-notice your -- the 22 deposition, you serve the subpoena, and you schedule 23 it in the afternoon and -- 24 MS. FUJII: Okay. I don't think Mr. Stipp 25 understands --</p>	<p style="text-align: right;">112</p> <p>1 MR. SMITH: Yeah. We need to finish this, but 2 I'm telling you, Counsel, I -- I don't know that his 3 deposition is going to be any use for you, because 4 we're going to move to strike it. 5 MS. FUJII: That's fine. 6 MR. SMITH: Okay. All right. 7 MR. STIPP: And we have a right to be there. 8 Right? 9 MR. SMITH: Definitely have a right to be 10 there. 11 MR. STIPP: And we made it very clear that it 12 was your obligation to make those arrangements. 13 MS. FUJII: I move to strike your client's 14 comments unless he's commenting as counsel. 15 MR. SMITH: He's co-counsel. So, he can -- he 16 was -- that's why he arranged -- and the reason why is 17 because we knew that this would result in costs 18 associated that really should not have ever been 19 incurred. 20 MS. FUJII: I agree a hundred percent with 21 you. 22 MR. SMITH: I agree. 23 BY MR. SMITH: 24 Q. All right. So, in regard to the -- let's go 25 back on to your deposition, Ms. Calderon.</p>

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<p style="text-align: right;">113</p> <p>1 Let's look at -- have you ever referred to Amy 2 to -- to -- as Mexican trash? 3 A. Yes. 4 Q. When did you do that? 5 A. Before the divorce, in an e-mail to Mitch. 6 Q. And were -- have you ever referred to Amy in 7 this manner or anything else disparaging her ethnicity 8 to the children? 9 A. No. 10 Q. Do you know if the children ever saw that your 11 phone included Amy text messages as identified as 12 bruja, b-r-u-j-a? 13 A. Mia did. 14 Q. And when did she see that? 15 A. Shortly after the divorce. 16 Q. Okay. And you don't think that that was still 17 on your phone this past summer. 18 A. No. 19 Q. And if -- 20 A. I know it wasn't. 21 Q. Okay. And if -- if Mia had indicated that she 22 saw it on your phone prior to your changing of the 23 present phone in October, that she would not be being 24 truthful. Correct? 25 A. It would be a lie. That would be a lie. I</p>	<p style="text-align: right;">115</p> <p>1 from which I receive checks for the kids. 2 Q. And by checks for the kids, what type of 3 checks are you referring to? 4 A. Reimbursement checks. 5 Q. So, do you -- so, you're going to ask about 6 his banking with Amy? 7 A. I'm not going to. 8 Q. Okay. But that was your intent, is to ask him 9 about the banking. 10 A. It's been asked in discovery. 11 Q. All right. Anything else that you can tell me 12 that you're taking his deposition for? 13 A. No. 14 Q. Okay. What is your understanding to the time 15 that he takes care of the children? 16 A. I believe it's a lot. 17 Q. I mean, what's a lot? What is your 18 understanding that he takes care of the children? 19 A. He picks them up and takes them to school. He 20 takes Ethan to physical therapy. He picks them up 21 from school. He takes Mia to music. He takes Ethan 22 to the majority of baseball games, practices, 23 tournaments. 24 Q. What do you think -- what do you anticipate 25 his testimony is going to be in regard to how this</p>
<p style="text-align: right;">114</p> <p>1 know that, because I didn't save Mitch or Amy as any 2 contact until after the Starbucks meeting. 3 Q. Have you ever asked Amy's father for help with 4 child care? 5 A. Not that I recall, no. 6 Q. What, to your understanding, is your purpose 7 for taking his deposition? 8 His name is Jerry. Correct? 9 A. That's how the kids refer to him as: Grandpa 10 Jerry. 11 Q. What do you understand his name to be? 12 A. Gerardo Hernandez. 13 Q. Okay. And so why have you -- what is it that 14 you hope to -- what information do you hope to -- to 15 find out in Gerardo Hernandez's deposition? 16 A. The extent to which he takes care of the kids. 17 Q. Anything else? 18 A. His thoughts on how this is affecting the 19 kids. 20 Q. Anything else that you want to inquire of 21 Mr. Hernandez? 22 A. What are their arrangements for the 23 caregiving, in terms of financial support. 24 Q. Anything else? 25 A. Why he and Amy have a joint banking account</p>	<p style="text-align: right;">116</p> <p>1 arrangement is affecting the children -- 2 MS. FUJII: Objection: calls -- I'm sorry. 3 BY MR. SMITH: 4 Q. -- to your -- I'm just interested in your 5 opinion as to whether or not you think that he'll 6 testify that it's helpful or not helpful to have the 7 children not see you. 8 MS. FUJII: Objection: calls for speculation. 9 Go ahead and answer. 10 THE WITNESS: I think if he's honest, he will 11 say that depriving them of their mom is not good for 12 them. 13 BY MR. SMITH: 14 Q. Do you consider Amy a parent to the children? 15 A. Yes. 16 Q. Have you objected to Amy signing a consent 17 form for either child that is required to be signed by 18 a parent? 19 A. I believe I did. 20 Q. Why? 21 A. Mitch and Amy have historically deprived me of 22 knowledge of basic information regarding the kids. 23 So, to the extent that Amy signs up for information or 24 gives consent without informing me, I have an issue 25 with that.</p>

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<p style="text-align: right;">117</p> <p>1 Q. When was the last time you can recall Amy 2 giving permission for the children to do something 3 without your consent or knowledge? 4 A. I know that she signed up for Mia's PSAT 5 college board account, and she and Mitch refused to 6 provide me information regarding her test scores. 7 Q. When did you ask for that? 8 A. Jan -- December and -- December 2018 and 9 January 2019. 10 Q. And in both of those instances they refused to 11 provide you information regarding Mia's PSAT score. 12 A. Correct. 13 Q. Did you subsequently use -- learn what those 14 scores were? 15 A. Yes. 16 Q. And were they -- how did you learn about that? 17 A. I had to call the college board to find out 18 why I could not get information regarding Mia's 19 scores. They informed me that Amy Stipp had signed up 20 as the parent and that only she could provide that 21 information to me. The multiple requests I made to 22 Mitch and Amy on that joint e-mail account, the 23 responses were, "I have no information," even though 24 they both knew that the information was within their 25 control.</p>	<p style="text-align: right;">119</p> <p>1 view, that would be a different role that she would 2 have in the lives of the children? 3 A. She doesn't reside in my household. I don't 4 reside in hers. She works with her -- their dad to 5 parent the children when they're in his care. 6 Q. Okay. Have you communicated that there is a 7 difference between you and Amy, when it comes to 8 parenting the children, to the children? 9 A. No. 10 Q. Have you ever discussed Amy's role, in 11 parenting them, with the children? 12 A. No. 13 Q. What is Mia's relationship with Amy, to your 14 knowledge? 15 A. Good. 16 Q. Okay. And does that concern you? 17 A. Only to the extent that Amy is not supportive 18 of Mia having a healthy relationship with me. 19 Q. And this goes back to the idea that she's in 20 lockstep with Mitch in regard to what has occurred in 21 this litigation. Correct? 22 A. Yes. 23 Q. Do you consider Amy insecure? 24 A. Yes. 25 Q. And why is that?</p>
<p style="text-align: right;">118</p> <p>1 Q. How were you aware that the time of your 2 inquiries that that information was within their 3 control, based upon your conversation with somebody at 4 the board, did you say? 5 A. College board, yeah. 6 Q. And you don't have any independent knowledge 7 other than what this person told you? 8 A. Correct. 9 Q. Did -- did you ever advise Mitch and Amy that 10 you had gained access to the board scores? 11 A. Yes. I told them -- as soon as the college 12 board allowed my information to be used as the contact 13 information, I not only told them that, but I shared 14 with them the PSAT scores. 15 Q. Do you object to Amy being listed by Mitchell 16 as a parent on forms -- Mitch as a parent on forms 17 required by the children's schools to be completed? 18 A. No. 19 Q. Do you believe that you and Amy have different 20 roles in the children's lives? 21 A. Yes. 22 Q. And what is that, the difference in those 23 roles? 24 A. Amy is the stepmom. I'm the mom. 25 Q. So, what is it about being a stepmom, in your</p>	<p style="text-align: right;">120</p> <p>1 A. About a year ago it was suggested that it 2 would be helpful for the kids for Mitch and I to 3 interact as normal human beings during the school 4 functions and kid activities. 5 So, during a baseball game I went up to Mitch 6 and asked him how did Ethan bat. Mitch was sitting 7 next to Grandpa Jerry. Mitch told me about Ethan's 8 performance when I wasn't at the game. We shared 9 information about Ethan's thoughts on the baseball 10 team. Mitch was upset that they didn't put Ethan in 11 the infield, that they had him in the outfield. And I 12 went back to my seat. We had a normal conversation. 13 Right after that baseball game Mitch rushed 14 over to me with a weird expression on his face and he 15 said, "Amy said that she saw you walk over and talk to 16 me, and she thinks you did it to make her jealous. 17 So, I can no longer communicate with you in person. 18 All communications between us have to be in e-mail." 19 And Amy was circling, circling, watching us. And then 20 Mitch waved her over. She came over to both of us, 21 and she said, "You shouldn't talk to people who don't 22 like you." 23 Q. And when did these events occur? 24 A. About a year ago. It was before Ethan started 25 Club Baseball, so maybe the winter -- no, fall of</p>

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<p>1 2018.</p> <p>2 Q. Since that fall 2018 you have had</p> <p>3 communications with Mitch in person.</p> <p>4 A. Yes.</p> <p>5 Q. Many of them.</p> <p>6 A. No, not many.</p> <p>7 Q. Well, you're -- okay.</p> <p>8 A. Starbucks and the day after.</p> <p>9 Q. That's it. Those are the only in-person</p> <p>10 communication you've had with Mitch --</p> <p>11 A. Oh, and the garage.</p> <p>12 Q. -- is the garage and Starbucks. That's it.</p> <p>13 A. And the next day at the park.</p> <p>14 Q. All other communications have been through</p> <p>15 e-mail?</p> <p>16 A. E-mail, text message, some phone calls.</p> <p>17 Q. Is there any other reason why you would</p> <p>18 describe Amy as insecure?</p> <p>19 A. No.</p> <p>20 Q. Have you suggested to Mitch that Amy is trying</p> <p>21 to take your kids because she did not have a normal</p> <p>22 child with Mitch?</p> <p>23 A. That's not what I said.</p> <p>24 Q. Do you recall a statement to that effect?</p> <p>25 A. I recall speaking to Mitch outside of his home</p>	<p>1 A. I think he does it unnecessarily much.</p> <p>2 Q. And what would be his motivation for doing</p> <p>3 that, in your mind?</p> <p>4 A. To attempt to get sympathy.</p> <p>5 Q. Do you believe that when you reference</p> <p>6 Mitchell, that your intent was to say that you want to</p> <p>7 take the other children because they don't have</p> <p>8 Mitchell's special needs? Correct?</p> <p>9 A. Yes.</p> <p>10 Q. What -- what is it, in your knowledge, about</p> <p>11 Mitchell Junior's medical conditions?</p> <p>12 A. I only have the knowledge that Mitch has</p> <p>13 articulated --</p> <p>14 Q. But again, what is your knowledge?</p> <p>15 A. Oh, that he has a rare genetic condition.</p> <p>16 Q. And what is the manifestation of that</p> <p>17 condition? What are the -- the symptoms?</p> <p>18 A. He has autism, epilepsy. He's nonverbal. He</p> <p>19 doesn't go to school. He has multiple therapies.</p> <p>20 Q. Anything else?</p> <p>21 A. That's all I know.</p> <p>22 Q. Do you have any reason to believe that any of</p> <p>23 that is not true?</p> <p>24 A. No.</p> <p>25 Q. Did you ever communicate to the children that</p>
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<p>1 when he was withholding Mia from an exchange, and I</p> <p>2 speculated with him, What is the source of your desire</p> <p>3 and Amy's desire to keep the kids from me.</p> <p>4 Q. And what was your speculation?</p> <p>5 A. I said, "Does it have to do with Mitch</p> <p>6 Junior?" I didn't say he wasn't a normal child.</p> <p>7 Q. What did you mean by that?</p> <p>8 A. I was speculating as to what was the root</p> <p>9 cause of why Mitch and Amy would want to essentially</p> <p>10 exclude me from the lives of the kids.</p> <p>11 Q. Well, what was it about Mitchell, the child,</p> <p>12 that caused you to speculate that he had something to</p> <p>13 do with why they would want to preclude you from</p> <p>14 having contact with --</p> <p>15 A. I couldn't figure out --</p> <p>16 Q. -- the other children?</p> <p>17 A. I couldn't figure out why, what would the</p> <p>18 source and the genesis of all of this be.</p> <p>19 Q. That I get, but why would Mitchell come to</p> <p>20 your mind about -- as the source for that action?</p> <p>21 A. Because of all the special needs that Mitch</p> <p>22 documents repeatedly in every pleading.</p> <p>23 Q. So, do you think it's excessive that he</p> <p>24 documents the special needs of Mitchell in his</p> <p>25 pleadings?</p>	<p>1 you expected that Mitchell Junior would die as a</p> <p>2 result of his condition?</p> <p>3 A. No. Ethan communicated to me that Mitch and</p> <p>4 Amy told him they did not expect Mitchell Junior to</p> <p>5 live past 50 years old or something like that.</p> <p>6 Q. So, that's not something that you ever</p> <p>7 initiated as a statement to the children. It's</p> <p>8 something that you claim that Ethan told you that</p> <p>9 Mitch and Amy had stated about Mitchell Junior.</p> <p>10 A. Yes.</p> <p>11 Q. So, when they indicate that you made the</p> <p>12 statement that you believe that Mitchell would die,</p> <p>13 that's not true.</p> <p>14 A. Correct.</p> <p>15 Q. So, they lied about that.</p> <p>16 A. That's a misstatement.</p> <p>17 Q. Yeah, but it's a lie. I mean, they would know</p> <p>18 whether or not you said that, it was stated. Right?</p> <p>19 A. Yes.</p> <p>20 Q. And this is apparently a conversation you had</p> <p>21 with Ethan on Mother's Day.</p> <p>22 A. When he told me that? I don't recall when he</p> <p>23 told me that.</p> <p>24 Q. Do you recall it in or about May of 2019?</p> <p>25 A. No, it wasn't.</p>

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<p>1 Q. 2018?</p> <p>2 A. I don't think it was '18 either.</p> <p>3 Q. So, it was sometime earlier than that.</p> <p>4 A. I think so.</p> <p>5 Q. When you discussed the possible death of</p> <p>6 Mitchell Junior, how did the children react?</p> <p>7 A. I didn't discuss it. Ethan told me and he</p> <p>8 cried about it.</p> <p>9 Q. How would you characterize Mia's relationship</p> <p>10 with Mitchell Junior, to your knowledge?</p> <p>11 A. Very good.</p> <p>12 Q. And what's very good about that relationship?</p> <p>13 A. She seems loving and affectionate towards him.</p> <p>14 Q. How would you characterize Ethan's</p> <p>15 relationship with Mitchell Junior?</p> <p>16 A. Very good as well.</p> <p>17 Q. Is there value to the children spending time</p> <p>18 with Mitchell Junior?</p> <p>19 A. Yes.</p> <p>20 Q. What is the value?</p> <p>21 A. That they have a bond with their sibling.</p> <p>22 Q. Would Mitchell Junior's death affect the</p> <p>23 children, to your knowledge?</p> <p>24 A. Yes.</p> <p>25 Q. Adversely. Correct?</p>	<p>1 A. I believe that her not wanting me to be a part</p> <p>2 of her life will affect her long term more than what</p> <p>3 she thinks it will.</p> <p>4 Q. Anything else that you think is her view that</p> <p>5 would be characterized as a child's view of right and</p> <p>6 wrong?</p> <p>7 A. No.</p> <p>8 Q. Is she an honest person?</p> <p>9 A. Not always.</p> <p>10 Q. What has she been dishonest about that you</p> <p>11 believe is important in this matter?</p> <p>12 A. What has she not been honest?</p> <p>13 Q. Correct, dishonest?</p> <p>14 A. About me hitting her and like the different</p> <p>15 boundary testing that she's done in terms of saying</p> <p>16 she was at a club meeting and not being at a club</p> <p>17 meeting, in fact being with the boyfriend in a park.</p> <p>18 That's about it.</p> <p>19 Q. You understand that she describes the events</p> <p>20 of the incidents in April and August very differently</p> <p>21 than you do. Correct?</p> <p>22 A. Yes.</p> <p>23 Q. She indicates that you struck her as well.</p> <p>24 A. She said that, but she's also said different</p> <p>25 versions where she's admitted to hitting me.</p>
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<p>1 A. Yes.</p> <p>2 Q. Is Mia a good person?</p> <p>3 A. Of course.</p> <p>4 Q. Is she a good student?</p> <p>5 A. Yes.</p> <p>6 Q. What kind of grades does she receive?</p> <p>7 A. A's and Bs.</p> <p>8 Q. Would you characterize her as intelligent?</p> <p>9 A. Yes.</p> <p>10 Q. Does she understand the difference between</p> <p>11 right and wrong?</p> <p>12 A. As a child, from a child's perspective, yes.</p> <p>13 Q. What's the -- the qualification of a child's</p> <p>14 perspective -- please allow me to complete my</p> <p>15 question.</p> <p>16 A. I'm sorry.</p> <p>17 Q. What is the qualification that you've made as</p> <p>18 the difference between an adult's and a -- and a</p> <p>19 child's view of right and wrong?</p> <p>20 A. I would be saying that based on her -- based</p> <p>21 on maturity level. So, what you perceive to be right</p> <p>22 and wrong at 14 is different than when you're 44.</p> <p>23 Q. What is it that she perceives to be right or</p> <p>24 wrong that you would suggest to -- is a child's view</p> <p>25 of right and wrong?</p>	<p>1 Q. And when did she say those -- are -- are you</p> <p>2 referring to she said that in her interview with --</p> <p>3 she said that you had struck her in the interview with</p> <p>4 FMC. Correct?</p> <p>5 Is that your recollection?</p> <p>6 A. I don't know if she said it at FMC. I don't</p> <p>7 remember.</p> <p>8 Q. But you're saying she's given different</p> <p>9 versions of the same story.</p> <p>10 A. Yes.</p> <p>11 Q. Well, we know we have one version in the FMC</p> <p>12 report.</p> <p>13 Where were the other versions that you're</p> <p>14 referring to given?</p> <p>15 A. I don't think it's an FMC report. Is it?</p> <p>16 Q. I think it is but --</p> <p>17 A. Oh.</p> <p>18 Q. Let's assume that I'm right just for purposes</p> <p>19 of my questions --</p> <p>20 A. Okay.</p> <p>21 Q. -- that she describes what occurred on the</p> <p>22 incident of August or May or that she's described you</p> <p>23 striking her at least at the very least.</p> <p>24 You're saying you never have struck her. So,</p> <p>25 you're saying that she's -- she's made different</p>

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<p>1 statements of the August 23rd account. 2 When did she do that? 3 A. August 13th. 4 Q. Excuse me. August 13th. 5 A. In family therapy she said, "I hit my mom and 6 I'm proud of it." 7 Q. Okay. You have been handed -- okay. Has she 8 ever indicated that you did not hit her in any other 9 context? 10 A. Has she -- can you repeat that? 11 Q. So, Mia -- 12 A. Uh-huh. 13 Q. -- has stated that in the August 13th incident 14 you hit her. 15 Has she ever said otherwise? 16 A. That she didn't -- that I didn't hit her? 17 Q. Correct. 18 A. Not that I recall. 19 Q. Has Mia's -- well, has Mia's school ever 20 reported that Mia has behavioral issues? 21 A. No. 22 Q. Has Mitchell ever -- or Mitch ever told you 23 that Mia's been physically violent with him? 24 A. He has described a meltdown. So, I don't 25 know -- that's all he said. It was a meltdown. They</p>	<p>1 Q. Yes. 2 A. I don't recall. 3 Q. Do you believe that Mia respects you? 4 A. At times, but most times, no. 5 Q. And why do you believe that she does not 6 respect you at other times? 7 And again, I don't want you to relate to me 8 anything that's based on communications you've had 9 with her in family therapy. 10 A. I don't know why she doesn't. I can speculate 11 why. 12 Q. What is your belief? 13 A. I believe it's a systematic undermining of my 14 role as her mom. 15 Q. By Mitch? 16 A. By Mitch. 17 Q. And Amy? 18 A. And Amy. By words and actions. 19 Q. Why do you believe that -- well, first of all, 20 do you believe that Mia acts differently in your care 21 than she acts while in Mitch's care or Amy's care? 22 A. Not completely. I think there is 23 similarities. 24 Q. What are those similarities? 25 A. I -- from what I understand, Mia has similar</p>
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<p>1 had to take her phone away. 2 Q. Okay. So, the answer is, he's never described 3 her being physically violent with him. Correct? 4 Mitch -- 5 A. Not towards Mitch. Correct. 6 Q. Mitch has never described Mia being physically 7 violent with him. Correct? 8 A. Correct. 9 Q. Mitch has never reported Mia calling him 10 names. Correct? 11 A. Not to me. 12 Q. And Amy has never reported to you that Mia has 13 been physically violent with her. Correct? 14 A. Correct. 15 Q. And Amy has reported that -- never reported 16 that Mia has called her names. 17 A. Not to my knowledge. 18 Q. Do you believe that Mia hates you? 19 A. No. 20 Q. Has Mia communicated to you that she hated 21 you? 22 A. Yes. 23 Q. And was -- outside of your communication 24 with -- in family therapy, has that ever occurred? 25 A. That she's communicated that she hates me?</p>	<p>1 reactions like to smacking noises. I heard of an 2 incident where Mitch was chewing gum loudly and Mia 3 freaked out, because she doesn't like to hear those 4 noises. And apparently she slammed his car door and 5 she lost her phone for it. 6 I know that she's had meltdowns about blood 7 work. Amy has shared with me that her own mother has 8 had to take away Mia's phone for being disrespectful. 9 Q. That is Amy's mother. 10 A. Yes, Grandpa Jerry's wife, Martha. So, there 11 are similarities in her behaviors that are indicative 12 of normal teenage hormonal female behaviors. 13 Q. Has -- are there differences in the way 14 that -- that -- to your knowledge, that Mia treats 15 Mitch versus treats you? 16 A. I don't reside in their home. So, I don't 17 know how she acts with them. 18 Q. The answer could be "I don't know" if you 19 don't know. 20 A. Yeah. I don't know. 21 Q. So, you -- you haven't -- what have you 22 witnessed in your interactions when you see Mia and 23 Ethan with Mitch? Do they ever treat him 24 disrespectfully? 25 A. I haven't seen them.</p>

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1 Q. Okay. And same with Amy: They have never
2 treated her disrespectfully in your presence.
3 Correct?
4 A. Not in my presence, no.
5 Q. Do you -- you love Mia.
6 A. Yes.
7 Q. What is the -- what do you -- do you want what
8 is best for her?
9 A. Yes.
10 Q. Has -- has Mia communicated to you, outside of
11 the family context, your preference for her living
12 arrangements?
13 A. Yes. After Mitch sent that settlement e-mail,
14 Mia wanted to negotiate the time share.
15 Q. Did -- what do you think -- I mean, one of the
16 questions that's going to be raised here is, What do
17 you think would happen if the court orders -- well,
18 first of all, what are you asking the court to order,
19 I mean, that Mitch do what?
20 A. Follow the court order.
21 Q. But, I mean, what does he do to make them go?
22 Just tell them?
23 A. Yeah, just like he did this last Sunday: Come
24 pick up the kids at eleven. Guess what. The kids got
25 in my car.

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1 Q. I don't know that Mitch has the -- well, all
2 right.
3 So, in regard to the -- the order, you're
4 expecting some sort of liquidated damages clause for
5 the children not coming to see you as a method for
6 enforcement?
7 A. The judge already ruled against that.
8 Q. I'm asking what you are asking for.
9 A. Yeah. That's what we asked for.
10 Q. Okay. Is there anything else that you're
11 asking for for the enforcement of the order?
12 A. No.
13 Q. How do you anticipate that the children will
14 act if they're forced to go visit you?
15 A. I think initially they will challenge it,
16 because they have been given this impression, by Mitch
17 keeping them for six months, that -- that it's okay
18 and it's good for them. But when Dad has to actually
19 facilitate a healthy relationship with their mom, they
20 will benefit from that.
21 Q. One of the things that you requested in this
22 case is that you be provided essentially sole care of
23 the children without Mitchell's interference.
24 Correct?
25 A. If he's unable to comply with joint, that

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1 Q. Okay. The -- in regard to the -- the -- the
2 order of the court, you're expecting the order to
3 simply say abide by the current time share.
4 A. Yes.
5 Q. So, how would that be different than what's
6 occurred presently?
7 A. The court will enforce it this time. Right?
8 He said he wants to hear from the kids and then he'll
9 enforce it.
10 Q. And how do you expect the court to enforce it,
11 putting Mitch in jail?
12 A. I don't know. If that is one of the
13 options --
14 Q. Is that something you're requesting?
15 A. I haven't requested it. We requested
16 contempt.
17 Q. Okay. And what were you seeking in contempt?
18 A. Fees, a thousand dollars a day.
19 Q. So, some sort of liquidated damage type clause
20 where every time the children didn't want to go see
21 you, he would pay a thousand dollars.
22 A. Right. But the court said I'm not going to
23 give him custody and let him pay for it. Right? The
24 court said I'm going to change custody if I can't
25 follow it.

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1 was -- yes. That's my position.
2 Q. And do you think that would be something that
3 the children will react well to?
4 A. Not initially, but eventually, yes.
5 Q. What do you base that on? What do you base --
6 is it some sort of reading that you've done? Is it
7 somebody that's told you this? Or is it just your own
8 notion that by forcing the children to be in your
9 care, that would be what's best for them?
10 MS. FUJII: I'm going to object:
11 argumentative.
12 THE WITNESS: Yes, just my own belief.
13 BY MR. SMITH:
14 Q. As part of your work in the juvenile area, do
15 you read psychological studies associated with the
16 alienation of children?
17 A. Not in abuse and neglect, no.
18 Q. Because there is always some sort of
19 systematic problem with the abuse or neglect that
20 results in the difference between the children being
21 with one parent or the other. Correct?
22 MS. FUJII: Objection: argumentative, assumes
23 facts not in evidence.
24 THE WITNESS: We don't deal with custody.
25

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<p style="text-align: right;">137</p> <p>1 BY MR. SMITH: 2 Q. Okay. But you deal with placement. 3 A. Yes. 4 Q. Which is sort of the same, don't you think? I 5 mean, eventually the court will have to make a 6 determination of custody, based upon your findings, 7 but the courts defer to what you do -- 8 A. -- do not do custody. 9 Q. The courts defer to what you do. Correct? 10 The district courts and the custody courts defer to 11 what the DA and the outcome of the juvenile court is 12 in regard to the care of the child. 13 A. Incorrect. 14 Q. So, you're saying that you had circumstances 15 in which you -- the juvenile court has ordered that 16 the children have to follow a certain plan where 17 they're in -- unable to have contact with a particular 18 abusing parent but the district court has granted that 19 parent custody. 20 Has that ever happened to you? 21 A. Our cases, the court doesn't grant custody. 22 That's specifically excluded from the jurisdiction of 23 our courts. 24 Q. But the court does placement. Otherwise, 25 the --</p>	<p style="text-align: right;">139</p> <p>1 example. 2 A. Yeah, or just back off. 3 Q. Okay. Does it -- the disputes you had with 4 Mia, did they help or hurt her level of anxiety? 5 A. I think it's a manifestation of her anxiety. 6 Q. Explain that to me. 7 A. Like I think her anxiety causes her to react 8 the way she does. 9 Q. So, more react in a manner or in the intensity 10 of her action? 11 A. Both. 12 Q. So, you believe she may overreact, compared to 13 someone who doesn't suffer anxiety, in circumstances 14 associated with her care. 15 A. It could be her disposition, too, her general 16 disposition. 17 Q. So, is Mia simply overreacting here by not 18 wanting to spend time with you? 19 A. No. 20 Q. No. This is something more than that. And I 21 think you've described earlier that it's caused by 22 Mitch's not supporting you in your -- as a parent. 23 Correct? 24 A. Correct. 25 Q. Is there any other like congenital reason? Is</p>
<p style="text-align: right;">138</p> <p>1 A. Placement with like victim kin or foster 2 parents. 3 Q. Okay. So, if there is another parent involved 4 in the abuse and neglect that is not abusing or 5 neglecting the children, they can place it with -- 6 they can place the child with that parent. Correct? 7 A. Yes. 8 Q. Do you believe that Mia continues to suffer 9 from anxiety? 10 A. Yes. 11 Q. And you've -- have indicated in your previous 12 testimony that you understand that condition has been 13 diagnosed. Correct? 14 A. I don't think it's been officially diagnosed. 15 No. 16 Q. Okay. But you do believe she suffers from 17 anxiety. 18 A. Yes. 19 Q. What kind of things cause Mia to be anxious? 20 A. School, tests, social interactions. 21 Q. And what do you do to calm Mia in those 22 circumstances? 23 A. I give her her space. I provide her what she 24 asks me for. 25 Q. By space, allowing her to be in her room, for</p>	<p style="text-align: right;">140</p> <p>1 there any anxious reason? Is there anything about Mia 2 that causes her to want to be with Mitch? 3 A. I wish we could have gotten her another 4 evaluation or treatment, like any type of therapy. 5 But Amy said she was her therapist. 6 Q. When did Amy say that she was Mia's therapist? 7 A. At the Starbucks meeting. 8 Q. Did you understand Amy to be saying that they 9 would not support Mia having a therapist but that they 10 would only support Amy being her therapist? 11 A. Amy's position was such, but Mitch made her 12 agree to consider private third party. So, after the 13 Starbucks meeting, well, actually and before, I told 14 them my insurance covers therapy; it would be 15 beneficial. I shared with them that other teenagers I 16 know of benefit from therapy, especially as she's 17 testing boundaries and -- and maturing. And they 18 agreed to consider it. 19 Q. Okay. So, that Amy statement that she's the 20 therapist for Mia was not the final word on their 21 position regarding therapy. Correct? 22 A. I don't know, because they never followed 23 through and allowed her to get therapy. 24 Q. In between the Starbucks meeting and the 25 incident of August 13th did you ask them to place Mia</p>

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<p style="text-align: right;">141</p> <p>1 into therapy?</p> <p>2 A. Yes.</p> <p>3 Q. And when -- how did you do that, via e-mail?</p> <p>4 A. Yeah, e-mail.</p> <p>5 Q. And what were -- did you propose a specific</p> <p>6 therapist?</p> <p>7 A. I think I gave them three names or provided</p> <p>8 them the provider directory for my insurance. And</p> <p>9 from my recollection, I remember saying to Amy either</p> <p>10 verbally at the meeting or in the e-mail, "Why don't</p> <p>11 you take the lead on introducing therapy to Mia."</p> <p>12 Q. And did you ever hear back from Mitch or Amy</p> <p>13 in regard to your request for therapy?</p> <p>14 A. No.</p> <p>15 Q. So, they just ignored it?</p> <p>16 A. Yeah.</p> <p>17 Q. What extracurricular activities is Mia</p> <p>18 involved in?</p> <p>19 A. Piano, voice lessons. She's part of the</p> <p>20 Conservatory of the Fine Arts at Faith. Last year she</p> <p>21 was in an anime club. I'm not sure that she's in it</p> <p>22 this year. She used to do swimming, but then the</p> <p>23 teacher scolded her during a trip and she no longer</p> <p>24 wanted to be part of that program.</p> <p>25 Q. Do you support Mia's interest in choir?</p>	<p style="text-align: right;">143</p> <p>1 A. Former music teacher.</p> <p>2 Q. And what is Mia's relationship with</p> <p>3 Ms. Yeomans, to your knowledge?</p> <p>4 A. Since she retired and Ms. Ermeling took over,</p> <p>5 I don't think she has a relationship with Ms. Yeomans.</p> <p>6 Q. What is the ACDA honors choir?</p> <p>7 A. What is it?</p> <p>8 Q. Yes.</p> <p>9 A. It's a choir from which kids in the city are</p> <p>10 invited to participate.</p> <p>11 (Whereupon, Ms. Fujii exited the deposition</p> <p>12 proceedings.)</p> <p>13 BY MR. SMITH:</p> <p>14 Q. And do you recall Mia's participation -- I'll</p> <p>15 wait for the other counsel.</p> <p>16 MR. SMITH: Let's take a quick break. Let's</p> <p>17 go off the record.</p> <p>18 (Off the record.)</p> <p>19 (Whereupon, Mr. Page entered the deposition</p> <p>20 proceedings.)</p> <p>21 MR. SMITH: So, we're -- the record will note</p> <p>22 that Ms. Fujii has left at about 11:30 for an 11:30</p> <p>23 deposition. And Mr. Page has, I assume at the -- with</p> <p>24 the agreement with Ms. Calderon, is now appearing and</p> <p>25 this is counsel in the deposition.</p>
<p style="text-align: right;">142</p> <p>1 A. Yeah.</p> <p>2 Q. I'm sorry?</p> <p>3 A. Yes.</p> <p>4 Q. Yes. Who is Mia's choir teacher?</p> <p>5 A. Ms. Ermeling (phonetic).</p> <p>6 Q. And who is Mia's hand bells teacher?</p> <p>7 A. Ms. Neuhofer (phonetic).</p> <p>8 Q. From whom does Mia receive private singing</p> <p>9 lessons?</p> <p>10 A. Ms. Warling.</p> <p>11 Q. Do you pay for those private singing lessons?</p> <p>12 A. I did when she was in my care.</p> <p>13 Q. So, when was the last time that you paid for</p> <p>14 one of Mia's private singing lessons, to your</p> <p>15 recollection?</p> <p>16 A. August 2019.</p> <p>17 Q. And you stopped paying because she's no longer</p> <p>18 in your care.</p> <p>19 A. Yes.</p> <p>20 Q. How would you describe Mia's relationship with</p> <p>21 her teachers?</p> <p>22 A. Good.</p> <p>23 Q. And with school administrators?</p> <p>24 A. As far as I know, good.</p> <p>25 Q. Okay. Who is Sandra Yeomans (phonetic)?</p>	<p style="text-align: right;">144</p> <p>1 BY MR. SMITH:</p> <p>2 Q. Is that correct, Ms. Calderon?</p> <p>3 A. Correct.</p> <p>4 Q. All right. We're good. So, we were talking</p> <p>5 about the extracurricular activities and Ms. Yeomans.</p> <p>6 Do you recall Mia's participation in an event</p> <p>7 in -- for ACDA honors choir in March of 2018?</p> <p>8 A. Yes.</p> <p>9 Q. And you wanted to be a chaperone for that</p> <p>10 event. Correct?</p> <p>11 A. Not a chaperone but take Mia.</p> <p>12 Q. Okay. And this is the incident that we talked</p> <p>13 to you at the last deposition about where Amy -- she</p> <p>14 wanted -- Mia wanted Amy to go and Amy ultimately went</p> <p>15 with her. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. All right.</p> <p>18 (Whereupon, Mr. Stipp exited the deposition</p> <p>19 proceedings.)</p> <p>20 BY MR. SMITH:</p> <p>21 Q. Connie Warling is Mia's singing teacher.</p> <p>22 Correct?</p> <p>23 A. Piano and voice.</p> <p>24 Q. Voice. Thank you. What period of time has</p> <p>25 Mia received singing lessons from Ms. Warling?</p>

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1 A. Let's see. A couple -- from Ms. Warling?
 2 Q. Yes.
 3 A. A couple of years. Let's see. Maybe two and
 4 a half, three, a couple years at least.
 5 Q. And during that period of time have you ever
 6 threatened to cancel singing lessons with Ms. Warling
 7 toward Mia or anyone else?
 8 A. Entirely?
 9 Q. Yes.
 10 A. No.
 11 Q. And was the only instance the one we talked
 12 about before where you indicated that you didn't want
 13 her to attend the singing lesson because of her -- as
 14 a consequence of her inappropriate action?
 15 A. Yeah, that she had to earn music lessons with
 16 good behavior.
 17 (Whereupon, Mr. Stipp entered the deposition
 18 proceedings.)
 19 BY MR. SMITH:
 20 Q. Okay. So, the -- but I just want to be clear.
 21 The only music lesson she's ever missed at your
 22 request was in or about August of 2019. Correct?
 23 A. That I can recall. Yes.
 24 Q. Okay. Have you ever indicated to Mia or Mitch
 25 that you were going to contact anyone employed by

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1 A. So, maybe 2017 or 2018.
 2 Q. Okay. And in that time frame what was -- what
 3 caused you to contact the school counselors?
 4 A. Just the general boundary testing that Mia was
 5 exhibiting in my home.
 6 Q. What was actually she doing that you're
 7 describing as boundary testing?
 8 A. Being disrespectful, talking back. That was
 9 about it.
 10 Q. Why did you believe that the best place to go
 11 for that type of behavior would be a school counselor?
 12 A. Because when Mia started at Faith, we met with
 13 the school counselor, and he said he was open to
 14 meeting with us to discuss any dynamics in the home or
 15 affecting the students, that he would be open to doing
 16 that.
 17 Q. Who was that?
 18 A. Dr. Knorr.
 19 Q. And is that who you contacted in 2017, 2018?
 20 A. No, because he was her sixth-grade teachers --
 21 or six-grade counselors. I don't recall -- it was a
 22 woman, but I don't recall who she was assigned the
 23 following year to.
 24 Q. And that was again at Faith Lutheran.
 25 Correct?

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1 Mia's school about Mia's behaviors in your home?
 2 A. Yeah. I said that I wanted Mia to meet with
 3 the school counselors.
 4 Q. And did you contact the school in regard to
 5 that issue?
 6 A. Uh-huh. Yes.
 7 Q. And did you speak to the school counselors?
 8 A. I got a list of referrals for counseling,
 9 individual counselors.
 10 Q. Okay. So --
 11 A. So, I did.
 12 Q. -- in answer to my question, did you actually
 13 talk to any school counselors?
 14 A. Yes.
 15 Q. And -- and those discussions that you had with
 16 the school counselors, did you relate to them the
 17 behaviors in your home that caused you to give them a
 18 call?
 19 A. Yes.
 20 Q. And that was Mia's behaviors in your home that
 21 you found unacceptable, and you thought that she
 22 needed counseling at the school.
 23 A. Not behaviors, because it wasn't about -- it
 24 wasn't in 2019. It was before that.
 25 Q. When was it?

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1 A. Faith. Uh-huh.
 2 Q. And did Mia end up seeing that counselor or
 3 anyone other at Faith Lutheran at any time?
 4 A. No.
 5 Q. Why?
 6 A. She wasn't receptive to it and Mitch was not
 7 supportive of it.
 8 Q. And she wasn't receptive. Are your referring
 9 to Mia?
 10 A. Yeah. Mia.
 11 Q. Did you expect her to be receptive toward your
 12 reaction to what you described as her boundary
 13 testing, to set her up with counseling?
 14 A. I didn't expect automatically that she would
 15 be opposed.
 16 Q. Did she ever express to you words to the
 17 effect that caused you to believe that she felt that
 18 she had an issue that needed counseling?
 19 A. No.
 20 Q. No, she's never expressed that to you.
 21 Correct?
 22 A. No.
 23 Q. No, she has not.
 24 A. No, she has not.
 25 Q. Thank you. Have you asked Mia's teachers to

<p style="text-align: right;">149</p> <p>1 help you with parenting issues you had with -- with 2 Mia? 3 A. No, I have not. 4 Q. Have you ever related to them this what you -- 5 what you identify as boundary testing with Mia: any of 6 Mia's teachers? 7 A. No. 8 Q. Did you ever threaten to call Mia's teachers 9 about her behavior toward you? 10 A. No. 11 Q. How would you describe Mia's behavior when she 12 was in your care on a regular basis? 13 A. When? 14 Q. Prior to the commencement of this litigation 15 after the August event. 16 A. After August 13th and before Mitch -- 17 Q. Prior to August, yeah. 18 A. Wait. 19 Q. Let's -- let's go prior to August 13th. How 20 would you describe Mia's behavior when she was in your 21 care? 22 A. Can you give me a time frame, like -- 23 Q. Between April and May -- or April and August 24 of 2019. 25 A. April and May was difficult with the -- the</p>	<p style="text-align: right;">151</p> <p>1 A. Yes. 2 Q. Have you used any other names when referring 3 to Mia? 4 A. Me? 5 Q. Yes. 6 A. Name-calling her? No. 7 Q. Have you ever called Mia a bitch? 8 A. No. 9 Q. Have you ever called her a whore? 10 A. Absolutely not. 11 Q. What was the context of when you recall Mia 12 referring to you as a whore? 13 A. I don't recall. 14 Q. Was it within the last year, or was it prior 15 to that time? 16 A. Prior. I don't even remember when she would 17 have said it. 18 Q. Did your mother ever refer to you with 19 derogatory names when you were a child? 20 A. Not that I recall. 21 Q. So, she's never used a name like something 22 that would be inappropriate, like bitch or whore or 23 any other curse word? 24 A. She might have. 25 Q. Did you think that that was acceptable to</p>
<p style="text-align: right;">150</p> <p>1 cell phone incident in April and the doorbell incident 2 in May. But the summer was relatively calm. And then 3 school started in August, and she was in my care for 4 the first week of school, her first full week of 5 school. Then that cell phone incident happened and I 6 lost the kids. 7 Q. When you say it was uneventful, was Mia and 8 you spending time, doing things together, that sort of 9 thing? 10 A. Yeah. So, one week I had Mia all to myself, 11 because Ethan was in New York with Mitch at a baseball 12 camp. And we went shopping. We were getting ready -- 13 oh, because she was going to a summer camp in Arizona, 14 of music camp. So, we would go shopping for little 15 things that she needed for camp. 16 Q. And you would -- would you -- did you have 17 conflict with Mia during that period of time, or would 18 you -- 19 A. No. 20 Q. -- describe it as generally conflict free? 21 A. Conflict free. 22 Q. Has she ever called you a -- Mia ever called 23 you a bitch? 24 A. I don't recall if she did. 25 Q. Did she ever call you a whore?</p>	<p style="text-align: right;">152</p> <p>1 parenting behavior? 2 A. No. 3 Q. But, to your knowledge, you've never referred 4 to Mia using any of those epithets or any other type 5 of profane name or derogatory name; correct: stupid, 6 whore, bitch, a-hole, whatever? 7 A. No. 8 Q. Nothing like that? 9 A. And I don't recall that she's said I have 10 either. 11 Q. Who is Mitch's -- Mitchell's biological 12 father? 13 A. Joseph Robert Troutman. 14 Q. And what do you know about him? 15 A. I know that he cheated on his mom and Mitch 16 had no relationship with him after he was 12 years old 17 and that Mitch and his siblings pretended that their 18 stepdad was their actual biological dad for years. 19 Q. Was your mother aware of this circumstance 20 with Troutman? 21 A. Yes. I -- my family and I have known Mitch 22 since we were both 12 years old. 23 Q. Okay. And were you aware of your mom's recent 24 communication to Mia via text referring to Mia as a 25 Troutman?</p>

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1 A. Mitch made me aware of communications from my
2 mom to Mia. I didn't see them.
3 Q. And did you ask your mother about them?
4 A. Yes.
5 Q. And what was her response?
6 A. She had deleted them, but she generally
7 communicated the sentiment to me that she was upset
8 with how the kids were treating me.
9 Q. Okay. And why do you believe that your mother
10 referred to them -- how did she explain that she --
11 why she referred to them as a Troutman?
12 A. I don't know why.
13 Q. Well, it was to insult them. Correct?
14 A. Okay.
15 Q. Well, you tell me.
16 A. I don't know. I didn't see that. Mitch told
17 me that.
18 Q. So, did you ask your mom, "Mom, did you say
19 that" -- you know, "text something to Mia that said
20 she was a Troutman?"
21 A. No.
22 Q. Would you want your mother to refer to Mia as
23 a Troutman?
24 A. No.
25 Q. Do you think that if she used that, assuming

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1 A. I -- when I learned that the e-mail from Mitch
2 saying that my mom text Mia that -- I had a discussion
3 with my mom where I was upset and told her that she
4 should not have communicated that with Mia if that's
5 what she said.
6 Q. And did you ask them not to communicate with
7 Mia in the future?
8 A. I asked my mom not to --
9 Q. So, the answer to that question is yes or no.
10 You asked them not to communicate with her or you
11 didn't.
12 A. No. No.
13 Q. What did you ask your mom to do or not do in
14 regard to communication with Mia?
15 A. Not to send communications like that in the
16 future.
17 Q. Communications that were designed to be
18 insulting?
19 A. To say -- to restrict access, to say when
20 they're not to contact them in the future. But my dad
21 I didn't -- I never said anything to my dad about
22 communicating or not communicating to Mia. He still
23 reaches out to Mia.
24 Q. How do you communicate with the children when
25 they're not in your care?

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1 that she used that phrase, that she was attempting to
2 vex or annoy or harass Mia?
3 A. I don't know.
4 Q. Do you recall whether Mitch told you that in
5 the communication in which your mother referred to Mia
6 as a Troutman, she also advised her that -- not to
7 contact her, being your mother, or her family again?
8 A. I don't recall that Mitch communicated to me
9 the Troutman thing. The latter part I believe he did
10 say.
11 Q. And did you ask your mother about that?
12 A. Yes.
13 Q. And is that when she said that, well, she was
14 just upset?
15 A. Yes.
16 Q. And she doesn't really mean that, even though
17 she said it in a text.
18 A. I don't know that she said she didn't mean it.
19 Q. Okay. Does she -- is it her intent to have --
20 or is her desire that Mia not communicate with her or
21 her family again?
22 A. No.
23 Q. Have you ever had any conversations with your
24 mom and dad in which you've asked them not to
25 communicate with Mia?

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1 A. I try to call and e-mail them.
2 Q. Do you have their phone numbers?
3 A. Yes.
4 Q. You have their e-mail addresses?
5 A. Not e-mail. Sorry. Text.
6 Q. Text. Do you have their e-mail addresses?
7 A. They have a couple.
8 Q. Do you have them?
9 A. Yes.
10 Q. And do you have the ability to post on their
11 social media accounts?
12 A. No.
13 Q. Do you communicate with them via text or
14 e-mail?
15 A. Text.
16 Q. And do you ever call them?
17 A. I try, but they block me. So, it goes
18 straight to voicemail. They don't pick up.
19 Q. So, in regard to the texts, do you have
20 regular contact with them via text?
21 A. It's 90 percent unilateral. So, it's me
22 reaching out to them and them not responding.
23 Occasionally they will respond.
24 Q. What has been your time share or time that
25 you've seen the children over the course of the

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1 last -- since the last time that we were in court?
 2 A. Outside of family therapy or including family
 3 therapy?
 4 Q. Both.
 5 A. So, I would say a handful of times. So, with
 6 Mia -- let's see. With Mia only once alone, twice
 7 with Ethan; with Ethan probably about two or three
 8 times and then --
 9 Q. Alone?
 10 A. Alone. And that includes time outside of
 11 therapy. So, like I'll take them to therapy, and then
 12 I'll take Ethan to eat after.
 13 Q. Okay.
 14 A. One time that they both were in my house for
 15 four hours.
 16 Q. How would you describe the visits that you've
 17 had with -- or visit you've had with Mia outside of
 18 therapy?
 19 A. Good.
 20 Q. What did you do?
 21 A. One, we went to Cheesecake Factory with my
 22 nieces. And then we went back to my house and made
 23 cookies. Another one I took the kids, both Mia and
 24 Ethan, to Yard House. The other one was at my house.
 25 We played games that I had purchased, like cornhole

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1 mom, my brother. We've gone to BJ's for dinner. He's
 2 fine.
 3 Q. Have you talked with either of them about
 4 spending more time with you?
 5 A. I always keep that door open. Yeah. I've
 6 told them.
 7 Q. And what -- when you've mentioned that to
 8 Ethan or whatever words you kept to keep that door
 9 open, what was his response?
 10 A. He said, "No. I'm fine. I'm good. I'm good
 11 with the way it is."
 12 Q. But he doesn't express to you anything about
 13 why or what his concerns are or how you can get past
 14 his concerns, or is that conversations that you have
 15 in therapy?
 16 A. When Mia is around, he'll start saying, "You
 17 need to take responsibility." Like he changes his
 18 persona when in front of Mia. I believe he -- like
 19 it's like they play off each other and he knows that
 20 it's going to get reported back to Mitch.
 21 And then in therapy he'll -- for the most
 22 part, he's fine. And sometimes he'll say, "You need
 23 to take responsibility." But then when asked, "Do you
 24 have a good relationship with your mom," Ethan says
 25 yes.

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1 and horseshoe indoor. They opened up Christmas gifts.
 2 They ate their favorite dishes.
 3 Q. So, it was -- you would describe it as a
 4 pleasant meeting?
 5 A. (No audible response.)
 6 Q. Do you want to take a break?
 7 A. It was beautiful.
 8 Q. The -- in regard to the times that you've been
 9 with the children together and had time with them, has
 10 that been -- did that go okay?
 11 A. It went okay.
 12 Q. Okay. Has there -- any sort of arguments or
 13 any kind of problems? Communication was okay?
 14 A. Like all teenagers, they're addicted to their
 15 phone. So, I have to restrict -- like I'll have to
 16 say, "Okay, guys. Let's talk. Let's interact.
 17 Food's here or" -- and that's been a little bit of a
 18 struggle. Sometimes they're more receptive to
 19 conversation than others. But for the most part, I
 20 try to keep it lighthearted, you know.
 21 Q. You've said you've taken Ethan by himself two
 22 other times to dinner.
 23 Has that gone well?
 24 A. Yeah. Ethan doesn't have -- I don't have any
 25 issues with Ethan. I took him to see my dad and my

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1 Q. So, you -- you've described the two occasions
 2 in which you attempted or did attempt or did take away
 3 Mia's phone.
 4 Were there other occasions other than the
 5 April and August confrontations or altercations?
 6 A. No.
 7 Q. And how about Ethan? Does he have a phone
 8 that you've taken away?
 9 A. He has a phone. I don't recall that I have
 10 taken away his phone.
 11 Q. And I believe it's implied in your statements,
 12 but you believe that taking away the children's cell
 13 phones is a good tool to punish them for what you
 14 believe is bad behavior. Correct?
 15 A. No.
 16 Q. No, you do not?
 17 A. No, I don't. I don't see it as a punishment.
 18 It's a motivation. So, in order to earn the privilege
 19 of having a phone --
 20 (Whereupon, Ms. Fujii entered the deposition
 21 proceedings.)
 22 MS. FUJII: I'm back.
 23 MR. SMITH: That was quick.
 24 MS. FUJII: Yes. Sorry to interrupt, counsel.
 25 You can note for the record I'm back in --

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<p style="text-align: right;">161</p> <p>1 MR. SMITH: Okay.</p> <p>2 MS. FUJII: -- tapping out Mr. Page, who has</p> <p>3 been present.</p> <p>4 Thank you so much.</p> <p>5 MR. SMITH: It was short and sweet, Fred.</p> <p>6 MR. PAGE: Yeah. It was short. I took notes.</p> <p>7 MS. FUJII: Thank you so much, my dear. Just</p> <p>8 e-mail. Thank you.</p> <p>9 (Whereupon, Mr. Page exited the deposition</p> <p>10 proceedings.)</p> <p>11 MR. SMITH: Okay. So, we just have a few</p> <p>12 minutes here.</p> <p>13 What time is it presently?</p> <p>14 THE WITNESS: Twelve.</p> <p>15 MR. STIPP: 12:01</p> <p>16 MR. SMITH: Okay. So, we got about fifteen</p> <p>17 minutes. So...</p> <p>18 BY MR. SMITH:</p> <p>19 Q. Do you believe the children have a right to</p> <p>20 privacy?</p> <p>21 A. Yes.</p> <p>22 Q. And when the children were in your care, did</p> <p>23 you review their phone logs from their cell phones?</p> <p>24 A. No.</p> <p>25 Q. Did you ever review their text messages from</p>	<p style="text-align: right;">163</p> <p>1 if the children dispute your account of their</p> <p>2 behaviors in your home?</p> <p>3 A. What would be my response to Mitch?</p> <p>4 Q. Yes. In other words, if -- if Mitch -- Mitch</p> <p>5 is operating under a different set of facts that are</p> <p>6 told to him by you and by the children.</p> <p>7 A. Yes.</p> <p>8 Q. How do you think he should resolve those --</p> <p>9 those questions of fact?</p> <p>10 A. The way that Nick Ponzo recommends is that</p> <p>11 Mitch not just accept as fact what the children report</p> <p>12 to him and that as an adult he should communicate with</p> <p>13 me if he has issues that are of concern to him.</p> <p>14 Q. Was there ever a time that you believe that</p> <p>15 there was an incident between you and the children</p> <p>16 that you brought to Mitch's attention that he didn't</p> <p>17 communicate with you or refused to communicate with</p> <p>18 you about?</p> <p>19 A. Yeah.</p> <p>20 Q. What was that?</p> <p>21 A. August 13th.</p> <p>22 Q. Well, on August 13th he believed the story</p> <p>23 that was told to him by his daughter in which included</p> <p>24 you striking her.</p> <p>25 Do you understand that to be the truth of</p>
<p style="text-align: right;">162</p> <p>1 their cell phones?</p> <p>2 A. I didn't have access to their phone logs or</p> <p>3 text messages.</p> <p>4 Q. So, the answer is, no, you did not review</p> <p>5 either of those things on the children's phone when</p> <p>6 they were with you in your care. Correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did the children ever prevent you from</p> <p>9 accessing those items?</p> <p>10 A. Yes.</p> <p>11 Q. How?</p> <p>12 A. They would not provide their password, and</p> <p>13 they would ask Mitch and Amy to cut service from their</p> <p>14 phone.</p> <p>15 Q. Do you have any reason to believe that the</p> <p>16 children are communicating with others</p> <p>17 inappropriately?</p> <p>18 A. I fear that. Yes.</p> <p>19 Q. And you would like to monitor their phones to</p> <p>20 make sure that they're not communicating with somebody</p> <p>21 inappropriately.</p> <p>22 A. Yes.</p> <p>23 Q. Correct?</p> <p>24 A. Uh-huh.</p> <p>25 Q. What would be your request of Mitch if he --</p>	<p style="text-align: right;">164</p> <p>1 that?</p> <p>2 A. He didn't come up with the "I struck Mia"</p> <p>3 until a week later. The -- the communications he said</p> <p>4 to me throughout that week were that he was mad that I</p> <p>5 contacted Joey's mom and he was going to keep the</p> <p>6 kids.</p> <p>7 Q. Okay.</p> <p>8 A. He didn't actually say that I struck Mia, I</p> <p>9 think, until his August 26th pleading.</p> <p>10 Q. Okay. And, in your mind, you believe that the</p> <p>11 delay in bringing to your attention that Mia was</p> <p>12 claiming that you had struck her was evidence that it</p> <p>13 really didn't happen. In other words, he and Mia made</p> <p>14 it up. Correct?</p> <p>15 A. You're asking two different questions. Did --</p> <p>16 did -- is it evidence that it didn't happen? Yes.</p> <p>17 Q. Okay.</p> <p>18 A. Did -- did Mia make it up? If that's what she</p> <p>19 said to him, then yes.</p> <p>20 Q. Okay. And -- okay. So, the -- you believe</p> <p>21 that Mitchell should have believed you in that</p> <p>22 circumstance when you denied that you had struck Mia.</p> <p>23 Correct?</p> <p>24 A. I didn't even deny it to him, because he</p> <p>25 didn't say I hit her.</p>

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<p style="text-align: right;">165</p> <p>1 Q. Well, there was a time in which you indicated 2 that he had brought to your attention that Mia had 3 indicated that you had struck her. 4 A. In his court pleadings was the first time he 5 had made the allegation that I struck her. 6 Q. Okay. And based upon the fact that he filed a 7 pleading and it said "I think that -- that the 8 children should have teenage discretion and should go 9 to therapy, I believe, with their mother," did you 10 think that that was an inappropriate response to his 11 understanding that you had struck Mia? 12 A. Yes. 13 Q. And why? 14 A. You were privy to six years of custody 15 litigation. 16 Q. That's true. 17 A. I don't think that re-initiating custody 18 litigation between the two of us after five years of 19 peace was a great idea to help the situation. 20 Q. Okay. But he wasn't seeking custody. He 21 was -- you're saying he was. 22 A. Yes. Everyone knows he was. 23 Q. Okay. We did -- and you're aware that both 24 Mr. Stipp and our office communicated to your counsel 25 that his desire was to have you go to counseling and</p>	<p style="text-align: right;">167</p> <p>1 BY MR. SMITH: 2 Q. Here's the form of the question. The form of 3 the question is this. 4 A. Okay. 5 Q. That I had advised Ms. Fujii that you could -- 6 we could avoid all this litigation by simply having 7 you go to counseling and work your way back into a 8 relationship with your children. 9 Were you aware -- are you -- have you ever 10 heard that concept before at all? 11 A. Not -- 12 Q. Let me ask the question this way. 13 MS. FUJII: Ask her if she -- 14 BY MR. SMITH: 15 Q. Would you -- would you believe that that would 16 have been a better way to approach this action than to 17 file additional pleadings? 18 A. No. 19 Q. Why not? 20 A. Because having my custody dependent on the 21 discretion of Mitch, when he deems it appropriate, is 22 not something advisable to me. 23 Q. He placed that responsibility in the people 24 that you had decided in your stipulation would be 25 responsible for that kind of counseling.</p>
<p style="text-align: right;">166</p> <p>1 that we should actually cease the litigation. 2 Correct? 3 A. Still withholding the kids, though, until he 4 deemed it appropriate. 5 Q. Well -- 6 A. Yes. 7 Q. You're -- your understanding of the 8 communication was that I had expressed to Ms. Fujii 9 that we should continue this litigation until -- or we 10 should continue to withhold the children, as you have 11 indicated to Mitch, until he deemed it appropriate. 12 A. I don't know what your communications to Val 13 were. 14 Q. She didn't express those to you? 15 A. No. 16 MS. FUJII: I'm going to object to any -- 17 MR. SMITH: That's a fair objection. That's a 18 fair objection. 19 MS. FUJII: Attorney-client privilege. 20 BY MR. SMITH: 21 Q. In regard to -- to -- let me just tell you 22 this. So -- 23 A. Okay. 24 MS. FUJII: And I'm -- now I'm going to object 25 to the form, because you're not going to tell --</p>	<p style="text-align: right;">168</p> <p>1 He was faced with two children who did not 2 want to go to the counseling, and so he proposed -- or 3 did not want to go to your home. So, he proposed that 4 you go to counseling and try to work it out. 5 Do you think that was wrong? 6 MS. FUJII: Objection: lacks foundation, 7 compound, assumes facts not in evidence. 8 BY MR. SMITH: 9 Q. Okay. I'm going to ask you to assume that we 10 proposed, we thought, to you that you go to counseling 11 and you avoid this litigation and we see how that 12 counseling turns out so that you can restart your 13 relationship with the children. 14 Do you believe that that -- is that something 15 that you believe would have been better than 16 proceeding forward in litigation in this matter? 17 MS. FUJII: And I'm going to object to the use 18 of the word "we." And it assumes facts not in 19 evidence, lacks foundation. 20 MR. SMITH: I'm giving her a statement that I 21 want her to expect -- to act as true. 22 MS. FUJII: To assume something that hasn't 23 occurred? 24 MR. SMITH: I'll just pull out the e-mail if 25 you need me to, Ms. Fujii</p>

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<p style="text-align: right;">169</p> <p>1 MS. FUJII: Yeah. I think that would be 2 helpful. 3 MR. SMITH: Okay. Let's do that. I'll be 4 right back. 5 THE WITNESS: Okay. 6 (Off the record.) 7 BY MR. SMITH: 8 Q. We'll -- as soon as she grabs that e-mail 9 we'll discuss it. 10 Has -- has either Mia or Ethan refused to 11 remain in your physical care once you have them in 12 your physical care? 13 In other words, did -- when you take them to 14 dinner and so forth or when you've taken them to these 15 times, have they refused to remain in your physical 16 care? 17 A. Yes. 18 Q. Have you asked them to remain? 19 A. Yes. I've invited them to spend the night or 20 stay longer. 21 Q. And they have indicated they didn't want to. 22 A. They said, "No. We're good with the way it 23 is." 24 Q. Okay. All right. When Mia returned to your 25 physical care after the Starbucks meeting in May of</p>	<p style="text-align: right;">171</p> <p>1 deposition proceedings.) 2 MS. FUJII: One second. The court reporter. 3 Is it my court reporter? 4 UNIDENTIFIED WOMAN: Yes. The other reporter 5 is here. 6 (Whereupon, the unidentified woman exited the 7 deposition proceedings.) 8 MR. SMITH: All right. So, we can continue 9 after 12:15 using your court reporter? 10 MS. FUJII: No. No. I'm going to start with 11 Mitch, but I'll tell you, I don't think I'll be long. 12 And if -- if Christina plans on staying, I have no 13 issue if you have additional questions, Radford, while 14 we're here. 15 MR. SMITH: Well, okay. Let me just ask these 16 last questions, and we'll get you out of here so you 17 can -- let's mark this as the next -- an exhibit. 18 (Whereupon, Defendant's Exhibit C was marked for 19 identification.) 20 BY MR. SMITH: 21 Q. Showing you what's been marked as Exhibit C, 22 have you ever seen this document before? 23 A. No. 24 Q. Okay. You'll see in this document that my 25 suggestion was that you go to counseling before we</p>
<p style="text-align: right;">170</p> <p>1 2019, did you make her any promises as to what would 2 change, if anything? 3 A. Oh, yeah. That reminds me. The promise that 4 Mitch extracted from me in Starbucks in order to start 5 helping with the phone was that I had to promise not 6 to punish Mia for destroying the Ring doorbell and 7 hitting me in April. 8 So, I wasn't allowed to, when she returned to 9 my home, in exchange for Mitch promising to support my 10 parenting finally -- was not to give her any 11 consequences. 12 Q. And that would have been something that was 13 expressed in this communication you had at Starbucks. 14 A. Yes. 15 Q. Which you have a transcript you prepared, but 16 you don't have the tape. 17 A. It's not the whole conversation. 18 Q. So, it's just a portion of the conversation 19 that you pulled out. 20 A. The only portion that it recorded. 21 Q. Okay. So -- and -- but you don't have the 22 recording. 23 A. I'm going to get it. I'll get it for you. 24 Q. Okay. All right. 25 (Whereupon, an unidentified woman entered the</p>	<p style="text-align: right;">172</p> <p>1 ever engage in additional litigation, because then, I 2 put in the second paragraph, having a good therapist 3 and family counseling is a good way to resolve issues 4 without court intervention and I propose that we go 5 to -- 6 A. Oh, I might -- I'm sorry. I might have seen 7 this e-mail. It might have been forwarded to me from 8 Val. 9 Q. Okay. 10 A. It's just so long ago. 11 Q. Let me ask the question differently, though. 12 Do you believe that going to counseling would have 13 been a better choice rather than proceeding forward 14 with litigation? 15 A. No. 16 Q. And why not? 17 A. The premise that you keep asking me this 18 question is that the kids refuse to go with me when, 19 in fact, the reality was, Mitch kept them, expressed 20 that that was what he was going to do. And now you're 21 saying, a month after he kept them, do I want to go to 22 counseling and maybe when Mitch determine it's 23 appropriate, I can have my kids back. No. I don't 24 think that is a great option. 25 Q. But where did you think that I was indicating</p>

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1 that it would only be when Mitch thought it was
 2 appropriate for you to have contact with the children
 3 that that therapy would be completed?
 4 A. When else would I get the kids back? Who
 5 would determine when I get them back? Nick Ponzo?
 6 Q. Your relationship with the children would
 7 determine that.
 8 A. Okay.
 9 Q. The children would -- would have a
 10 relationship with you that would -- would through
 11 counseling resolve the issues that you had that led to
 12 them indicating that they didn't want to have time
 13 with you.
 14 A. So, I've had four months of counseling. That
 15 still hasn't happened. So, they would be what, 18?
 16 Q. One of the issues that has been raised over
 17 and over again in your statements is there -- the
 18 statement of the children that have stated to you
 19 outside of any kind of counseling that you need to
 20 take responsibility for your own actions.
 21 Has that statement ever been made in relation
 22 to Mia's or Ethan's statements to you that you
 23 actually did engage in physical discipline of them?
 24 A. No.
 25 Q. So, Mia has, for example, never indicated to

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1 Q. You understand the difference between
 2 assessment and therapy. Correct?
 3 A. Yes.
 4 Q. And have you ever had to deal with that issue
 5 in regard to your own professional work: the
 6 difference between assessment and therapy?
 7 A. Yes.
 8 Q. Okay. And you know that one is -- is a
 9 different role, that no person can have the same role.
 10 In other words, they can't be a therapist and somebody
 11 that provides an assessment. Correct?
 12 A. Yes.
 13 MR. SMITH: All right. Well, I should let you
 14 go so you can be on time, Madam Court Reporter. So,
 15 thank you very much for hanging in there.
 16 MS. FUJII: Yeah. Thank you.
 17 THE WITNESS: Thank you.
 18 MR. SMITH: I appreciate it.
 19 THE COURT REPORTER: Ms. Fujii, copy?
 20 MS. FUJII: No.
 21 * * * * *
 22 (Whereupon, the deposition was concluded at
 23 12:18 p.m.)
 24
 25

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1 you that you're not being truthful about what happened
 2 on either the May -- or excuse me, April or August
 3 incidents and you need to be truthful about that.
 4 A. No.
 5 Q. Okay. So, your notion was that, at least as
 6 expressed to me and as referenced in this letter or
 7 this e-mail -- was that you wanted Mr. Ponzo to do a
 8 brief focused assessment.
 9 Do you recall that? It's in the third
 10 paragraph of Exhibit --
 11 A. This was a text message and an e-mail from Val
 12 to you.
 13 Q. Did -- I assume that she would not have
 14 expressed this to me unless she had your approval.
 15 Or are you suggesting that nobody received any
 16 approval from you to have Mr. Ponzo do a brief focused
 17 assessment?
 18 A. I don't know if she had it before or after. I
 19 trust my lawyer. I don't have to control every
 20 communication or recommendation she makes. So --
 21 Q. Well, it's -- did you ever consider -- let me
 22 just say, outside of any communication with your
 23 lawyer, did you ever consider having an assessment
 24 done of your relationship with the children?
 25 A. Yes.

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1 CERTIFICATE OF DEPONENT
 2
 3 I, CHRISTINA CALDERON, deponent herein, do
 4 hereby certify and declare the within and foregoing
 5 transcription to be my deposition in said action,
 6 subject to any corrections I have heretofore
 7 submitted; and that I have read, corrected, and do
 8 hereby affix my signature to said deposition.
 9
 10 CHRISTINA CALDERON, Deponent
 11
 12 STATE OF NEVADA)
 13) ss.
 14 COUNTY OF CLARK)
 15 Subscribed and sworn to before me this
 16 _____ day of _____, _____.
 17
 18
 19
 20
 21 Notary Public
 22
 23
 24
 25

1 CERTIFICATE OF REPORTER

2

3

4 I, Janice David, a Certified Court
Reporter licensed by the State of Nevada, do hereby
certify:

5

6 That I reported the deposition of the witness,
CHRISTINA CALDERON, commencing on January 7, 2020, at
the hour of 8:18 a.m.;

7

8 That prior to being examined, the
witness was by me first duly sworn to testify to the
truth, the whole truth, and nothing but the truth;
9 that I thereafter transcribed my related shorthand
notes into typewriting and that the typewritten
transcript of said deposition is a complete, true, and
10 accurate record of testimony provided by the witness
at said time.

11

12 I further certify (1) that I am not a relative
or employee of an attorney or counsel of any of the
parties, nor a relative or employee of any attorney or
counsel involved in said action, nor a person
13 financially interested in the action, and (2) that
pursuant to Rule 30(e), transcript review by the
witness was not requested.

14

15 IN WITNESS WHEREOF, I have hereunto set my hand
in my office in the County of Clark, State of Nevada,
16 this 13th day of January, 2020.

17

18

19

20 Janice David, CCR No. 405

21

22

23

24

25

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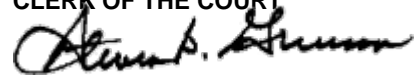
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**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**MOTION TO COMPEL
RESPONSES TO DISCOVERY AND
FOR ATTORNEY'S FEES AND
COSTS**

**[HEARING REQUESTED BEFORE
DISCOVERY COMMISSIONER]**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced motion. This motion is based on the papers and pleadings on file in this case, the memorandum of points and authorities that follow, and Defendant's exhibits filed concurrently herewith.

1 Dated: January 29, 2020

2 **LAW OFFICE OF MITCHELL STIPP**

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8

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 There was an evidentiary hearing on January 23, 2020 and continued hearing
11 scheduled on March 5, 2020 to address physical custody. Defendant served written
12 discovery on December 3, 2019. **See Exhibit A.** Plaintiff, Christina Calderon
13 (“Plaintiff”), e-served her responses on December 31, 2019 (responses to requests for
14 admissions) and January 2, 2020 (responses to interrogatories and requests for
15 production of documents). Plaintiff’s responses to Defendant’s interrogatories and
16 requests for production of documents are included as part of **Exhibit B.**
17
18
19

20 NRCP 37(a) provides as follows (emphasis added):

21 Rule 37. Failure to Make Disclosures or to Cooperate in
22 Discovery; Sanctions

23 (a) Motion for an Order Compelling Disclosure or Discovery.

24 (1) In General. On notice to other parties and all affected
25 persons, a party may move for an order compelling disclosure or
26 discovery. The motion must include a certification that the movant has
27 in good faith conferred or attempted to confer with the person or party
28 failing to make disclosure or discovery in an effort to obtain it without
court action.

(2) Appropriate Court. A motion for an order to a party must
be made in the court where the action is pending. A motion for an order
to a nonparty must be made in the court where the discovery is or will

1 be taken.

2 (3) Specific Motions.

3 (A) To Compel Disclosure. If a party fails to make a
4 disclosure required by Rule 16.1(a), 16.2(d), or 16.205(d), any other
5 party may move to compel disclosure and for appropriate sanctions.

6 (B) To Compel a Discovery Response. A party seeking
7 discovery may move for an order compelling an answer, designation,
8 production, or inspection. This motion may be made if:

9 (i) a deponent fails to answer a question asked
10 under Rule 30 or 31;

11 (ii) a corporation or other entity fails to make a
12 designation under Rule 30(b)(6) or 31(a)(4);

13 (iii) a party fails to answer an interrogatory
14 submitted under Rule 33; or

15 (iv) a party fails to produce documents or fails to
16 respond that inspection will be permitted — or fails to permit inspection
17 — as requested under Rule 34.

18 (C) Related to a Deposition. When taking an oral
19 deposition, the party asking a question may complete or adjourn the
20 examination before moving for an order.

21 (4) Evasive or Incomplete Disclosure, Answer, or Response.
22 For purposes of Rule 37(a), an evasive or incomplete disclosure,
23 answer, or response must be treated as a failure to disclose, answer, or
24 respond. A party's production of documents that is not in compliance
25 with Rule 34(b)(2)(E)(i) may also be treated as a failure to produce
26 documents.

27 (5) Payment of Expenses; Protective Orders.

28 (A) If the Motion Is Granted (or Disclosure or Discovery
Is Provided After Filing). If the motion is granted — or if the
disclosure or requested discovery is provided after the motion was filed
— the court must, after giving an opportunity to be heard, require the
party or deponent whose conduct necessitated the motion, the party or
attorney advising that conduct, or both to pay the movant's reasonable
expenses incurred in making the motion, including attorney fees. But
the court must not order this payment if:

(i) the movant filed the motion before attempting
in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response,
or objection was substantially justified; or

(iii) other circumstances make an award of
expenses unjust.

(B) If the Motion Is Denied. If the motion is denied, the

1 court may issue any protective order authorized under Rule 26(c) and
2 must, after giving an opportunity to be heard, require the movant, the
3 attorney filing the motion, or both to pay the party or deponent who
4 opposed the motion its reasonable expenses incurred in opposing the
5 motion, including attorney fees. But the court must not order this
6 payment if the motion was substantially justified or other circumstances
7 make an award of expenses unjust.

8 (C) If the Motion Is Granted in Part and Denied in Part.
9 If the motion is granted in part and denied in part, the court may issue
10 any protective order authorized under Rule 26(c) and may, after giving
11 an opportunity to be heard, apportion the reasonable expenses for the
12 motion.

13 If a party resists discovery, the requesting party may file a motion to compel. See
14 NRCP 37. A facially valid motion to compel has two components. First, the motion
15 must certify that the movant has in good faith conferred or attempted to confer with the
16 party resisting discovery. ShuffleMaster, Inc. v. Progressive Games, Inc., 170 F.R.D.
17 166, 171 (D. Nev. 1996). Second, the motion must include a threshold showing that
18 the information in controversy is relevant and discoverable under NRCP 26. See Hofer
19 v. Mack Trucks, Inc., 981 F.2d 377, 380 (8th Cir. 1992) (citing Oppenheimer Fund, Inc.
20 v. Sanders, 437 U.S. 340, 352 (1978)).

21 Defendant and his co-counsel, Radford Smith, have in good faith conferred with
22 Plaintiff's attorney, Valerie Fujii, regarding the deficiencies in Plaintiff's responses to
23 Defendant's discovery, and the disputes have not been resolved. See Exhibit C.

24 ///

25 ///

26 ///

27 ///

1 A. Plaintiff fails properly to answer Defendant's Interrogatories

2 Defendant propounded Interrogatory # 8 which provides as follows:

3 **INTERROGATORY #8:**

4 Do you claim to have been denied access to the children by the adverse
5 party? If so, describe each such event by providing the date access was
6 requested, the response date (if any), and the content of the response.
7

8
9 Plaintiff's response to Interrogatory #8 was as follows:

10
11 **ANSWER NO. 8:**

12 The circumstances involved with respect to Mitchell's unwillingness to
13 abide by the stipulation and Court Order of joint custody is fully set forth in all of
14 the documents that I have filed following Mitch's August 23, 2019, refusal to
15 abide by the existing custodial order, to wit: a) Plaintiff's Motion for Order to
16 Show Cause Against Defendant for Wilfully Disobeying the Custody Order; a
17 Request for Immediate Return of the Children, Make Up Visitation and an Award
18 of Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to
19 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
20 Motion for Child Interview by FMC and Related Relief; and Countermotion for
21 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
22 Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application
23 for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency
24 Motion for Temporary Primary Physical Custody and Request for Writ of
25 Attachment Order and Attorney's Fees filed on October 9, 2019; and all related
26 affidavits and exhibits in support of the above-referenced filings.

27 No objections were provided. Instead, Plaintiff fails to answer the interrogatory and
28 refers Defendant to the filings in the case. Plaintiff's allegation is Defendant has denied

1 her access to the children in accordance with the parties' parenting plan. Reference to
2 the docket is non-responsive.

3 Defendant propounded Interrogatory # 9 which provides as follows:

4
5 **INTERROGATORY #9:**

6 Do you claim that it is the preference of either child to be in your physical
7 custody, and if so, state each date when such preference was expressed, the
8 circumstances giving rise to such expression, and the words used in
9 expressing the preference, and the names of any witnesses to such
10 expressions.
11

12
13 Plaintiff's response to Interrogatory #9 was as follows:
14

15
16 1 **ANSWER NO. 9:**

17 2 Mia and Ethan should be exercising custodial time with me as set forth in
18 3 our existing custodial order, which the Court has affirmed is still valid and
19 4 operative in our case.
20 5

21
22 No objections were provided. Instead, Plaintiff fails to answer the interrogatory and
23 provides an argument. If it is not her claim, then the answer is "no." If it is her claim,
24 then the answer is "yes," and she is obligated to provide the explanation requested.
25

26 ///

27 ///

Defendant propounded Interrogatory # 11 which provides as follows:

INTERROGATORY #11:

Describe in detail what efforts you have undertaken to spend time with each of the children since August 23, 2019.

Plaintiff's response to Interrogatory #11 was as follows:

ANSWER NO. 11:

The efforts I have undertaken to spend time with each of the children since August 23, 2019, consist of multiple written communications to Mitchell via text message and email to request his compliance with the existing custodial order and are detailed in the following court filings: a) Plaintiff's Motion for Order to Show Cause Against Defendant for Wilfully Disobeying the Custody Order; a Request

for Immediate Return of the Children, Make Up Visitation and an Award of Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC and Related Relief; and Countermotion for Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency Motion for Temporary Primary Physical Custody and Request for Writ of Attachment Order and Attorney's Fees filed on October 9, 2019; and all related affidavits and exhibits in support of the above-referenced filings.

No objections were provided. Instead, Plaintiff fails to answer the interrogatory and refers Defendant to the filings in the case. Plaintiff's allegation is Defendant has denied her access to the children in accordance with the parties' parenting plan. Defendant is entitled to know what efforts Plaintiff has undertaken to spend time with the children. Reference to the docket is non-responsive.

1 Defendant propounded Interrogatory # 12 which provides as follows:

2 **INTERROGATORY #12:**

3 State the general condition of your physical and mental health at the present time,
4 including reference to any physical disabilities or chronic ailments, continuing
5 diagnosis, mental health disorders, prescribed medication, and continuing treatment
6 or care plans, including the name, address and telephone number of any physician,
7 hospital or practitioner, psychologist, psychiatrist, or mental health professional
8 who is presently or has at any time in the past five years treated you for such
9 condition.
10

11
12 Plaintiff's response to Interrogatory #12 was as follows:

13
14 **ANSWER NO. 12:**

15 I am in good health. I do not have any physical disabilities or chronic
16 ailments or mental health disorders for which I am prescribed medication or a
17 continuing treatment or care plan.

18 No objections were provided. Instead, Plaintiff qualifies her response with reference to
19 **physical disabilities or chronic ailments or mental health disorders** for which she is
20 **prescribed medication or a continuing treatment or care plan.** This was not the
21 question. Plaintiff testified at her deposition that she receives counseling services from
22 Ann Nichols (personal therapist), Donna Wilburn (personal therapist/parent coach), and
23 Nicholas Ponzo (family therapy). **See Exhibit D.** These mental health providers were
24 not disclosed and details requested in the response to the interrogatory. Since Plaintiff's
25
26
27
28

1 fitness as a parent is at issue, Defendant is entitled to a complete response to this
2 interrogatory without qualifications.

3 Defendant propounded Interrogatory # 14 which provides as follows:

4 **INTERROGATORY #14:**

5 Identify each person who has knowledge of the facts and events described in the papers and
6 pleadings filed in this case on or after August 26, 2019 or in any answers to these Interrogatories
7 or who may testify at any proceeding in this matter, including the following information:

- 8
- 9 a. Name;
- 10 b. Address;
- 11 c. Telephone;
- 12 d. Email address;
- 13 e. Topic of anticipated testimony;
- 14 f. Identify whether the person is expected to testify; and
- 15 g. Identify any documents in the person's custody or control relevant to any issue in this
- 16 matter.
- 17
- 18
- 19

20 Plaintiff's response to Interrogatory #14 was as follows:

21 **ANSWER NO. 14:**

22 Mitchell Stipp, Amy Stipp, Gerardo Hernandez, Martha Hernandez, James
23 Upp, Joseph Robert Trautman, Misayo Lopez, Allison Morris, Elena Calderon,
24 Peter Calderon, Anthony Calderon, Antonia Calderon, Nicholas Petsas, and Donna
25 Wilburn. In addition, discovery is continuing and Plaintiff reserves her right to
26 supplement this Answer as additional information becomes available.

27

28 No objections were provided. However, Plaintiff lists potential fact witnesses by name

1 but does not provide any other information requested by this interrogatory. Plaintiff's
2 answer is not complete.

3 Defendant propounded Interrogatory # 15 which provides as follows:
4

5 **INTERROGATORY #15:**

6 The factors set forth below are derived from NRS 125C.0035(4) and are
7 used by the court in determining the best interest of the children with respect to
8 custody and timeshare. With respect to the following, state each material fact upon
9 which you rely and the name, address, and telephone number of each witness to
10 such material facts:

11 (a) The wishes of each child if the child is of sufficient age and capacity
12 to form an intelligent preference as to his or her physical custody.
13

14 (b) Any nomination of a guardian for each child by a party.

15 (c) Which party is more likely to allow each child to have frequent
16 associations and a continuing relationship with the non-custodial party.

17 (d) The level of conflict between the parties.

18 (e) The ability of the parties to cooperate to meet the needs of each
19 child.
20

21 (f) The mental and physical health of the parties.

22 (g) The physical, developmental and emotional needs of each child.

23 (h) The nature of the relationship of each child with each party.

24 (i) The ability of each child to maintain a relationship with any sibling.

25 (j) Any history of parental abuse or neglect of each child or a sibling of
26 the child.
27
28

1 (k) Whether either party seeking physical custody has engaged in an act
2 of domestic violence against either child, a parent of either child or any other person
3 residing with either child.

4 (l) Whether either party seeking physical custody has committed any
5 act of abduction against either child or any other child.
6
7

8 Plaintiff's response to Interrogatory #15 was as follows:

9 **ANSWER NO. 15:**

10 Please see the detailed analysis previously provided to you in my Court
11 filings, including, in particular, Plaintiff's Emergency Motion for Temporary
12 Primary Physical Custody and Request for Writ of Attachment Order and
13 Attorney's Fees filed on October 9, 2019, which sets forth the facts in support of
14 the factors identified in this interrogatory, as well as the following: a) Plaintiff's
15 Motion for Order to Show Cause Against Defendant for Wilfully Disobeying the
16 Custody Order; a Request for Immediate Return of the Children, Make Up
17 Visitation and an Award of Attorney's Fees, filed on August 29, 2019; b) Ex Parte

18 Application for Order to Show Cause filed on August 30, 2019; c) Plaintiff's
19 Opposition to Defendant's Motion for Child Interview by FMC and Related
20 Relief; and Countermotion for Immediate Return of the Children, Make-up
21 Visitation, Sanctions, and Award of Attorney's Fees, filed on September 11, 2019;
22 d) Plaintiff's Ex Parte Application for Order Shortening Time filed on September
23 26, 2019; and all related affidavits and exhibits in support of the above-referenced
24 filings.

25 No objections were provided. Instead, Plaintiff fails to answer the interrogatory
26 and refers Defendant to the filings in the case. The best interest of the children is
27 relevant to the analysis of physical custody. Defendant is entitled to know Plaintiff's
28 response to the factors in NRS 125C.0035(4) Reference to the docket is non-

1 responsive.

2 B. Plaintiff fails to produce documents required by Defendant's Request for
3 Production.
4

5 In response to Defendant's requests for production #1, #3, #4, #9, #10, #12, and
6 #15, Plaintiff makes no objections, produces nothing, and refers Plaintiff to the docket
7 in this case. Reference to the docket is non-responsive.
8

9 With respect to Defendant's requests for production #5, Plaintiff stated that she
10 would produce baseball and music performance videos of the children. However, the
11 request was broader. In addition, Plaintiff never produced even these videos.
12

13 Request #7 asks for medical records. Plaintiff provides no objections and
14 produces nothing. Plaintiff responds she does not have chronic illness, physical
15 disability, addiction or rehabilitation treatment, mental health diagnosis, mental health
16 treatment or mental health testing. This statement is not responsive to the request.
17 Moreover, Plaintiff admits during her deposition to receiving services from multiple
18 therapists (Ann Nichols, Donna Wilburn, and Nicholas Ponzo). See Exhibit D.
19
20

21 Request #13 asks for communications and documents provided to Donna
22 Wilburn. Plaintiff responds as follows:
23

24 RESPONSE TO REQUEST NO. 13:

25 I do not recall specifically what documents or communications Donna
26 Wilburn reviewed in connection with her letter dated September 11, 2019, entitled
27 "Recommended Protocol Regarding Child Visitation Refusal." In addition,
28 discovery is continuing and Plaintiff reserves her right to supplement this
Response as additional information and documentation become available.

1 No objections were made. This response is non-responsive. Plaintiff has the ability to
2 review her emails (or other communications) and consult with Ms. Wilburn regarding
3 the documents and communications Plaintiff provided to her. Ms. Wilburn wrote a letter
4 in support of Plaintiff's requested relief. She has listed Ms. Wilburn as a witness.
5 However, Plaintiff has produced nothing.

7 Request #3 provides as follows:

8
9 **REQUEST FOR PRODUCTION # 3:**

10 Provide all documentation which tend to support the ability (or inability) of the parties
11 to work with one another to resolve disputes.

12
13 As discussed above, Plaintiff referred Defendant to the docket in this case:

14
15 **RESPONSE TO REQUEST NO. 3:**

16 Please see all of the documents listed in the 71 pages consisting of the
17 current docket sheet available on Odyssey for Case No. D-08-389203-Z. 52 of 71
18 pages consist of documents filed by the parties from 2008-2014. Ten pages
19 consist of filings from August 29, 2019, to the present. There was NO
20 LITIGATION between July 2014 to August 2019. The remainder are
21 financial/administrative entries. In addition, discovery is continuing and Plaintiff
reserves her right to supplement this Response as additional information and
documentation become available.

22 Clearly, there are documents responsive to this request. Plaintiff testified that she
23 recorded an "in-person" parent meeting at Starbucks after Plaintiff and one of the
24 parties' minor children were in a physical fight. **See Exhibit D.** The term "documents"
25 is defined and includes the audio recording and the transcript of the recording. Plaintiff
26 disclosed the audio recording on the last day of discovery (1/13/2020) despite allegedly
27
28

1 being provided to Plaintiff's attorney (together with the transcript) for disclosure.
2 However, the transcript has not been produced. Reference to the docket is non-
3 responsive.
4

5 For the reasons set forth above, Defendant's motion to compel should be granted,
6 and he should be awarded \$5,000.00 in attorney's fees and costs.

7 Dated: January 29, 2020
8

9 **LAW OFFICE OF MITCHELL STIPP**

10 /s/ Mitchell Stipp, Esq.
11 MITCHELL STIPP, ESQ.
12 Nevada Bar No. 7531
13 LAW OFFICE OF MITCHELL STIPP
14 10120 W. Flamingo Rd., Suite 4-124
15 Las Vegas, Nevada 89147
16 Telephone: 702.602.1242
17

18 **DECLARATION OF MITCHELL STIPP**

19 I hereby declare and state as follows:
20

21 1. I am competent and willing to testify in a court of law as to the facts contained in
22 this motion (which are incorporated herein by this reference) and exhibits which are
23 filed concurrently herewith.
24

25 2. I have personal knowledge of these facts, save those stated upon information
26 and/or belief, and as to those matters, I believe them to be true.
27

28 /s/ Mitchell Stipp

Mitchell Stipp

///

///

1
2 **CERTIFICATE OF SERVICE**

3 I HEREBY CERTIFY that on the 29th day of January, 2020, I filed the foregoing
4 together with Defendant's Exhibits using the Court's E-filing system, which provided
5 notice to the e-service participants registered in this case.
6

7
8 By: */s/ Amy Hernandez*
9

10 _____
11 An employee of the Law Office of Mitchell Stipp
12
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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

<input checked="" type="checkbox"/> \$25	The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
-OR-	
<input type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
<input type="checkbox"/>	The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
<input type="checkbox"/>	The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
<input type="checkbox"/>	The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
<input type="checkbox"/>	Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

<input checked="" type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
<input type="checkbox"/>	The Motion/Opposition is being filed in a case that was not initiated by joint petition.
<input checked="" type="checkbox"/>	The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
-OR-	
<input type="checkbox"/> \$129	The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
-OR-	
<input type="checkbox"/> \$57	The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

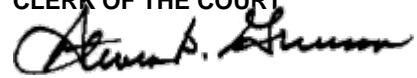
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Mitchell Stipp Date 1/29/2020

Signature of Party or Preparer /s/ Mitchell Stipp



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**Supplemental Declaration/Affidavit of
Mitchell Stipp**

[Discovery Commissioner]

Defendant, Mitchell Stipp, hereby files his above-referenced declaration.

///

///

///

1 **LAW OFFICE OF MITCHELL STIPP**

2
3 /s/ Mitchell Stipp, Esq.
4 MITCHELL STIPP, ESQ.
5 Nevada Bar No. 7531
6 LAW OFFICE OF MITCHELL STIPP
7 10120 W. Flamingo Rd., Suite 4-124
8 Las Vegas, Nevada 89147
9 Telephone: 702.602.1242
10 mstipp@stipplaw.com

11
12
13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 29th day of January, 2020, I filed the foregoing
15 using the Court's E-filing system, which provided notice to the e-service participants
16 registered in this case.

17 By: /s/ Amy Hernandez

18 _____
19 An employee of the Law Office of Mitchell Stipp
20
21
22
23
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DECLARATION OF MITCHELL STIPP

I hereby declare and state as follows:

1. I attempted to meet and confer with Valerie Fujii who represents the Plaintiff in this case regarding the deficiencies in her client's responses to written discovery. Ms. Fujii refused to respond to emails or speak to me via telephone. Emails are attached as part of Exhibit C to Defendant's Exhibits.
2. Radford Smith (co-counsel with the undersigned) and Ms. Fuji had a telephone conference on January 14, 2020 regarding these deficiencies and other matters.
3. Plaintiff has not supplemented her responses to written discovery.
4. Trial is scheduled to resume on March 5, 2020.
5. A motion to compel is necessary to obtain complete responses by Plaintiff before trial is completed.
6. I am competent and willing to testify before the Discovery Commissioner as to the facts contained in the motion to compel and exhibits filed in support. I have personal knowledge of these facts, save those stated upon information and/or belief, and as to those matters, I believe them to be true.

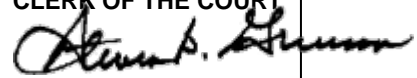
January 20, 2020

/s/ Mitchell Stipp

Mitchell Stipp

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
1/30/2020 8:38 AM
Steven D. Grierson
CLERK OF THE COURT



In the Matter of the Joint Petition for
Divorce of:
Mitchell David Stipp and Christina
Calderon Stipp

Case No.: D-08-389203-Z

Department H

NOTICE OF HEARING

Please be advised that the Mitchell Stipp's Motion to Compel Responses to Discovery and for Attorney's Fees and Costs in the above-entitled matter is set for hearing as follows:

Date: March 06, 2020

Time: 1:00 PM

Location: Courtroom 15
Family Courts and Services Center
601 N. Pecos Road
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

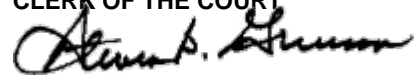
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Carmelo Coscolluela
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Carmelo Coscolluela
Deputy Clerk of the Court



RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK
FAMILY DIVISION**

CHRISTINA CALDERON,
Plaintiff,
v.
MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**EX PARTE APPLICATION FOR
ORDER SETTING HEARING ON
MOTION IN LIMINE**

Defendant, Mitchell Stipp (“Defendant”), by and through his co-counsel of record,
Radford J. Smith, of the firm Radford J. Smith, Chtd., hereby files the above-referenced
ex parte application for hearing on Defendant’s countermotion in limine, which is
attached hereto as **Exhibit A**.

///

///

///

DECLARATION OF RADFORD J. SMITH

I hereby declare and state as follows:

1. Plaintiff filed a motion to compel before the court on January 14, 2020. Defendant filed an opposition with supporting exhibits on the same date. A hearing was set for February 28, 2020. Plaintiff filed an ex parte application for an order shortening time. The matter was referred to the Discovery Commissioner to be heard on January 24, 2020.
2. Defendant also filed a supplement to the opposition (countermotion in limine) with supporting exhibits on January 15, 2020. A request for a hearing on that matter was made on January 17, 2020. No hearing was scheduled.
3. On January 24, 2020, the parties appeared before the Discovery Commissioner. The Discovery Commissioner referred the parties to the court on the relief requested by the countermotion in limine. Accordingly, this matter should be heard at or before the trial at **9:00 a.m. on March 5, 2020.**
4. I am competent and willing to testify in a court of law as to the facts contained in this application
5. I have personal knowledge of these facts, save those stated upon information and/or belief, and as to those matters, I believe them to be true.

/s/ Radford J. Smith

Radford J. Smith

[PROPOSED ORDER FOLLOWS]

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1 **ORDER SCHEDULING HEARING/SHORTENING TIME**

2 TO: CHRISTINA CALDERON AND HER COUNSEL OF RECORD (IF
3 ANY)
4

5 **IT IS HEREBY ORDERED THAT** DEFENDANT’S SUPPLEMENT
6 (COUNTERMOTION IN LIMINE) will be heard on the 5th day of March, 2020, at the
7 hour of 9:00 a.m. or as soon thereafter as counsel may be heard.
8

9 **IT IS SO ORDERED** this _____ day of _____,
10 2020.
11

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13 _____
14 DISTRICT COURT JUDGE
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EXHIBIT A

COUNTERMOTION IN LIMINE

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1 exhibits filed concurrently herewith. Mitchell incorporates by reference his opposition
2 to the motion to compel and related relief filed on January 14, 2020.

3 ///
4
5

6 Dated: January 15, 2020
7

8 **LAW OFFICE OF MITCHELL STIPP**

9 /s/ Mitchell Stipp, Esq.
10 MITCHELL STIPP, ESQ.
11 Nevada Bar No. 7531
12 LAW OFFICE OF MITCHELL STIPP
13 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

14 **MEMORANDUM OF POINTS AND AUTHORITIES**
15

16 **I. Witnesses**

17 Christina Calderon (“Christina”) e-served her **initial** list of witnesses and
18 disclosure of documents on **January 13, 2020** (the end of discovery). See Exhibit A.¹
19

20 **None of these witnesses** were disclosed as trial witness prior to the end of discovery.
21

22 Mitchell expected Christina to identify the parties, Amy Stipp (“Amy”), and Mia and
23 Ethan Stipp. Christina seeks the trial testimony of the following **13 additional** persons:
24

25 Gerardo Hernandez (Dad to Amy Stipp); Martha Hernandez (Mother to Amy Stipp);
26

27 ¹ Mitchell served his witness list and disclose of documents (including trial exhibits) on the same
28 date. Ms. Fujii claims these disclosures were not made. This statement is demonstrably false. See Exhibit B.

1 Donna Wilburn (Purported Expert/Personal Therapist of Christina); Peter Calderon
2 (Christina's Dad); Antonia Calderon (Christina's Mom); Anthony Calderon (Christina's
3 Brother); Elena Calderon (Christina's Sister), Nick Petsas (Husband of Elena
4 Calderon/Brother-in-Law to Christina); Allison Morris (Mother of Ethan's close friend);
5 Mindi Gellner (former girlfriend of Marshall Stipp—brother to Mitchell); Misayo Lopez
6 (Mother to Mia's boyfriend); Mauricio Molina (Ethan's baseball coach); and Scott Fogo
7 (Faith Lutheran High School Principal).
8
9

10 The court was clear at the last hearing. Christina refused to stipulate to the
11 admission of the child interview report. Therefore, Mia and Ethan are being forced to
12 testify. The point of the evidentiary hearing is to provide the opportunity for Mia and
13 Ethan to confirm their statements in the report, and Christina the opportunity to confront
14 them consistent with her due process rights. Mitchell, Amy and Christina may also be
15 asked to testify. The hearing is not intended to allow Christina's relatives who were not
16 disclosed to testify. Why would Christina want to give the impression to the children
17 that her entire family will be testifying against them? The hearing is not intended to
18 allow Christina to harass the relatives and friends of Mia and Ethan (parents of
19 Amy/grandparents to Mia and Ethan), Ethan's baseball coach, and Mia's principal. The
20 issue before the court is the relationship of the children with Christina (not the other
21 persons).
22
23
24
25

26 The hearing also is not intended to allow Christina to have her personal therapist
27 (who claims to be an expert) to testify. The court set the trial at the earliest time available
28

1 at the request of Christina. This schedule did not allow either party to retain an expert
2 for trial. To get around this, Christina has changed Donna Wilburn's role—from expert
3 to personal therapist.
4

5 NRCP 37(c)(1) provides as follows:

6 (c) **Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

7 (1) **Failure to Disclose or Supplement.** If a party fails to provide
8 information or identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e),
9 16.205(d) or (e), or 26(e), the party is not allowed to use that information or
10 witness to supply evidence on a motion, at a hearing, or at a trial, unless the
11 failure was substantially justified or is harmless.

12 To allow any of these witnesses to testify is prejudicial. If timely disclosed,
13 Mitchell would have had the opportunity to depose these witnesses and complete written
14 discovery. Further, Christina should not be permitted to harass or intimidate the
15 children by exposing their friends, family, and others to trial. It was her decision to have
16 them testify. The harm should not be compounded by the weight of these peripheral
17 witnesses which were untimely disclosed. Mitchell cannot imagine the effect of 13
18 witness (many of which are family members) outside of court waiting to testify.
19

20 **II. Documents.**

21
22 Other than text messages purportedly by and between Christina and the children,
23 **Christina never disclosed any of the documents which she now asserts to be trial**
24 **exhibits.** The following items should be excluded from the trial.
25

- 26 1. An audio of a meeting she secretly recorded at Starbucks in April/May of 2019.

27 Christina did not disclose the audio file until January 13, 2020---the last day
28

1 of discovery. A transcript was prepared of this meeting according to Christina
2 and her attorney. Yet, Christina did not produce the transcript. The transcript
3 should be produced. However, neither the audio file nor the transcript should
4 be permitted by Christina to be used at trial.
5

- 6 2. Communications and documents which involve therapy with Nicholas Ponzo
7 are confidential and privileged. See Stipulation and Order, filed on July 9,
8 2014 (lines 15-26, page 13) and (lines 1-19, page 14); NRS 49.246-.249.
9 Mitchell has subpoenaed Mr. Ponzo who has agreed to appear at the trial (if
10 needed). If Christina wants to waive all confidentiality and privilege, Mitchell
11 and Amy are willing to do the same. In that case, Mr. Ponzo should be
12 permitted to testify, and the parties should be permitted to discuss matters of
13 therapy at the trial. Mr. Ponzo prepared an assessment of family therapy which
14 he provided to Christina via email on December 30, 2010 at 5:14 p.m.
15 Interesting, she did not include that assessment in her disclosures (only self-
16 serving emails). In anticipation of Christina's argument that she is the only
17 client of therapy, Mr. Ponzo has confirmed that Mitchell, Amy and the children
18 are clients. See Declaration of Mr. Ponzo attached as **Exhibit C** (Paragraph
19 4: "Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
20 purposes of family therapy. I recently provided services at the request of the
21 parties to address the relationship between Ms. Calderon and her children with
22 Mr. Stipp (Mia and Ethan Stipp).")
23
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1 3. Mitchell provided a settlement offer to Christina on December 21, 2019.

2 Christina discloses this document and identifies it as a trial exhibit. Use of
3 settlement communications violates applicable settlement privileges. See
4 NRS 48.105. This settlement communication should be excluded.
5

6
7
8 EDCR 5.510 provides as follows:

9 **Rule 5.510. Motions in limine.**

10 (a) Except as otherwise provided herein or by court order, a motion in limine to exclude or
admit evidence must ordinarily be in writing and must be heard not less than 5 calendar days prior
to trial.

11 (b) Where the facts that would support a motion in limine arise or become known after it is
practicable to file a motion in the ordinary course as set forth above, the filing party may seek an
12 order shortening time to hear the motion as provided by these rules, or bring an oral motion in limine
at a hearing. The court may refuse to sign any such order shortening time or to consider any such
13 oral motion.

14 (c) A written motion in limine must be supported by affidavit and, if not filed in the ordinary
course, must detail how and when the facts arose or became known. The motion shall also set forth
that after a conference or a good-faith effort to confer, counsel were unable to resolve the matter
satisfactorily, detailing what attempts to resolve the dispute were made, what was resolved and what
15 was not resolved, and why. A conference requires either a personal or telephone conference between
or among the parties. If a personal or telephone conference was not possible, the motion shall set
16 forth the reasons.
17

18 Mitchell was not aware that Christina intended to call any witness other than the
19 parties and the children until she disclosed the same at the end of discovery. Mitchell
20 learned after Christina's deposition and during his own deposition on January 7, 2020
21 that she viewed confidentiality and privilege with respect to family therapy as being only
22 applicable to her. Mitchell and Amy were involved in therapy. The point was to address
23 the relationship between Christina and the children. See Paragraph 4 of the Declaration
24 of Mr. Ponzo. However, they deserve the protections of confidentiality and privilege
25 afforded to Christina (because the family is the client). Mitchell and Amy are open to
26
27
28

1 waiving these protections upon agreement of Christina to waive the same. Otherwise,
2 all matters involving therapy including communications with Mr. Ponzo should be
3 excluded.

4
5 Although the communication to Christina on December 21, 2019 was not
6 “marked” as “settlement communication,” it is an offer to compromise protected by NRS
7 48.105. Therefore, it should be excluded.

8
9 For the reasons set forth above, Mitchell’s countermotion should be granted.

10 Dated: January 15, 2020

11
12 **LAW OFFICE OF MITCHELL STIPP**

13 /s/ Mitchell Stipp, Esq.
14 MITCHELL STIPP, ESQ.
15 Nevada Bar No. 7531
16 LAW OFFICE OF MITCHELL STIPP
17 10120 W. Flamingo Rd., Suite 4-124
18 Las Vegas, Nevada 89147
19 Telephone: 702.602.1242
20 mstipp@stipplaw.com

21
22 **DECLARATION OF MITCHELL STIPP**

23 I hereby declare and state as follows:

24 1. Radford Smith and I made good faith efforts to resolve the matters described in
25 this supplement with Valerie Fujii and her client, Christina Calderon. Neither Ms. Fujii
26 nor Ms. Calderon will respond to my objections.

27 2. Mr. Smith discussed these matters via telephone on January 14, 2020. Ms. Fujii
28 excluded me from participating on the call. My correspondence to Ms. Fujii was

1 ignored. Ms. Calderon offered to address the issue of confidentiality and privilege with
2 respect to family therapy; however, she has not responded to date.

3 3. I am competent and willing to testify in a court of law as to the facts contained in
4 this opposition (which are incorporated herein by this reference).
5

6 4. I have personal knowledge of these facts, save those stated upon information
7 and/or belief, and as to those matters, I believe them to be true.
8

9 /s/ Mitchell Stipp

10 Mitchell Stipp
11
12

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 15th day of January, 2020, I filed the foregoing
15 using the Court's E-filing system, which provided notice to the e-service participants
16 registered in this case.
17
18

19 By: /s/ Amy Hernandez
20

21 An employee of the Law Office of Mitchell Stipp
22
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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

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Step 1. Select either the \$25 or \$0 filing fee in the box below.

<input checked="" type="checkbox"/> \$25	The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
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<input type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
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<input type="checkbox"/>	The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
<input type="checkbox"/>	The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
<input type="checkbox"/>	Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

<input checked="" type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
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<input checked="" type="checkbox"/>	The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
-OR-	
<input type="checkbox"/> \$129	The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
-OR-	
<input type="checkbox"/> \$57	The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

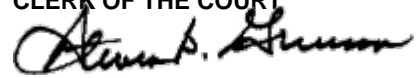
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Mitchell Stipp Date 1/15/2020

Signature of Party or Preparer /s/ Mitchell Stipp



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
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RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
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Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

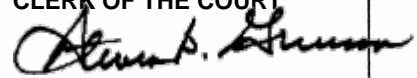
Dept. No.: H

**EXHIBITS IN SUPPORT OF
DEFENDANT'S
SUPPLEMENT:
COUNTERMOTION IN LIMINE**

Defendant, Mitchell Stipp, hereby files the above-referenced exhibits (which are
identified below):

///

EXHIBIT A



1 **PROD**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **PLAINTIFF'S PRODUCTION OF DOCUMENTS AND**
20 **LIST OF WITNESSES PURSUANT TO NRCP 16.2**

21 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
22 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
23 FUJII & ASSOCIATES, and hereby submits the following Production of
24 Documents and List of Witnesses Pursuant to NRCP 16.2. as follows:

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I.

LIST OF EXHIBITS

<u>Exhibit</u>	<u>Document Title</u>
1.	Decree of Divorce filed on March 6, 2008, incorporating the Marital Settlement Agreement (MSA) (BATES STAMPS PL00001-PL00035)
2.	Stipulation and Order Resolving Physical Custody, Timeshare, Child Support, and Parenting Matters filed on July 9, 2014 (BATES STAMPS PL00036-PL00051)
3.	Emails between the parties dated August 2019, which proves the Defendant's Contempt in his withholding the children from CHRISTINA (BATES STAMPS PL00052-PL00058)
4.	Pictures of MIA and CHRISTINA at Middle School Graduation on May 22, 2019; and picture of MIA that CHRISTINA took of her at summer music camp on June 21, 2019 (BATES STAMPS PL00059-PL00061)
5.	Email from CHRISTINA to the Defendant when MIA was found with her boyfriend at the park alone (co-parenting) (BATES STAMPS PL00062)
6.	Email from ETHAN's teacher Ms. Wandel regarding him receiving special recognition for showing kindness to a special needs child at school (BATES STAMPS PL00063)
7.	Donna Wilburn, MS, LMFT, Letter dated September 11, 2019, entitled "Urgent: Children in Crisis, Recommended Protocol Regarding Child Visitation Refusal" (BATES STAMPS PL00064-PL00067)
8.	Notice of Appearance by Radford J. Smith, Esq. as counsel on behalf of Defendant filed on September 24, 2019 (BATES STAMPS PL00068-PL00070)
9.	Reply to Opposition to Motion for Child Interview and Teenage Discretion filed on September 25, 2019 by Defendant solely and e-served by his wife Amy; Exhibits in Support of Reply to Opposition filed by Defendant on September 25, 2019, solely and e-served by his wife (BATES STAMPS PL00071-PL00115)
10.	Status Report filed by Defendant listing himself as co-counsel with Radford Smith, Esq., filed on October 7, 2019, and e-served by his wife Amy (BATES STAMPS PL00116-PL00121)

11.	Counsel's many objections to pleadings filed by Defendant: Objection to Status Report filed on 10-7-19; Objection to letter from Dr. Roy Lubits; Objection to Exhibits Improperly cut and pasted within Defendant's Motion for Child Interview in support of Motion (BATES STAMPS PL00122-PL00128)
12.	Affidavit of Plaintiff Christina Calderon in Support Of Order to Show Cause Against the Defendant for Willfully Disobeying the Custody Order; a Request for Immediate Return of the Children, Make up Visitation and an Award of Attorneys Fees dated August 29, 2019 (BATES STAMPS PL00129-PL00135)
13.	Affidavit of Christina Calderon in support of Emergency Motion for Temporary Primary Physical Custody dated October 9, 2019 (BATES STAMPS PL00136-PL00139)
14.	Supplemental Affidavit of Plaintiff Christina Calderon in Support Emergency Motion for Temporary Primary Physical Custody dated October 21, 2019 (BATES STAMPS PL00140-PL00143)
15.	Affidavit of Plaintiff Christina Calderon regarding Donna's House
16.	Declaration of Amy Stipp filed on September 6, 2019 (BATES STAMPS PL00144-PL00160)
17.	Declaration of Defendant Mitchell D. Stipp, attorney for Mitchell Stipp, Defendant filed on September 6, 2019 (BATES STAMPS PL00161-PL00177)
18.	Court Minutes from Hearings of October 1, 2019, and October 22, 2019 (BATES STAMPS PL00178-PL00181)
19.	Texts between Plaintiff Christina Calderon and the children from October 4, 2019 to the present (Responses to RPD's) (BATES STAMPS PL00182-PL00266)
20.	Proof that Plaintiff Christina Calderon paid attorney's fees to Valarie I. Fujii, Esq. (BATES STAMPS PL00267-PL00268)
21.	Emails by and between the parties (BATES STAMPS PL000269-PL00279)
22.	Additional Emails by and between the parties (BATES STAMPS PL00280-PL00487)
23.	Audio of conversation between the parties at Starbucks on May 17, 2019
	Any and all exhibits produced by Plaintiff;

Any and all pleadings in this matter filed by either party, including any and all exhibits attached thereto; and any and all correspondence and emails between the parties and/or counsel.

Plaintiff CHRISTINA CALDERON reserves the right to use any and all documentation produced or listed by the Defendant herein; and the Plaintiff further reserves the right to supplement this list prior to trial.

II.

LIST OF WITNESSES

1. CHRISTINA CALDERON (Plaintiff)
c/o Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101

She is the Plaintiff and is expected to testify as to the relationship of the parties; her relationship with the children MIA and ETHAN; Defendant's relationship with the children; Plaintiff's parenting skills; Defendant's parenting skills; the actions of the Defendant; Defendant's motive for withholding the children; Defendant's reliance upon third parties for the physical and emotional welfare of the children; the affect the litigation has had on her, the children and their relationship; the physical and mental health of the parties and the children; Defendant's abuse, including its affects on the minor children; and/or any other matters related to the litigation of this action.

2. MITCHELL STIPP (Defendant)
c/o Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

He is the Defendant and is expected to testify as to the relationship of the parties; Plaintiff's relationship with the children MIA and ETHAN; Defendant's

1 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
2 skills; the actions and motives of the Defendant in withholding the children from
3 Plaintiff; Defendant's reliance upon third parties for the emotional and physical
4 welfare of the children; the physical and mental health of the parties and the
5 children; and/or any other matters related to the litigation of this action.

6
7 3. Amy Stipp
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
10 Henderson, Nevada 89074

11 She is the Defendant's wife and is expected to testify as to her relationship
12 with the children MIA and ETHAN; her relationship with the Plaintiff;
13 Defendant's relationship with the children; Plaintiff's parenting skills;
14 Defendant's parenting skills; her parenting skills and her actions/inactions in
15 improving, worsening and/or aggravating the co-parenting problems between the
16 parties; her actions and motives in assisting and abetting the Defendant in
17 withholding the children from Plaintiff; Defendant's reliance upon third parties for
18 the emotional and physical welfare of the children; the physical and mental health
19 of herself, Defendant, and the children; and/or any other matters related to the
20 litigation of this action.

21 4. GERARDO HERNANDEZ
22 c/o Radford Smith, Esq.
23 2470 St. Rose Parkway, #206
24 Henderson, Nevada 89074

25 He is Amy Stipp's father and is expected to testify as to his care-giving of
26 the children MIA and ETHAN, and/or any other matters related to the litigation of
27 this action.

28

1 5. Martha Hernandez
2 c/o Radford Smith, Esq.
3 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

4 She is Amy Stipp's mother and is expected to testify as to her care-giving of
5 the children MIA and ETHAN, and/or any other matters related to the litigation of
6 this action.

7 6. Mia Stipp (minor child of the parties)
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

10 Mia, Date of Birth: October 19, 2004, currently age 15 years and 3 months,
11 is the minor child of the parties, and is expected to testify regarding matters related
12 to the litigation of this action based upon the Court's direction.

13 7. Ethan Stipp (minor child of the parties)
14 c/o Radford Smith, Esq.
15 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

16 Ethan, Date of Birth: March 24, 2007, currently age 12 years and 10
17 months, is the minor child of the parties, and is expected to testify regarding
18 matters related to the litigation of this action based upon the Court's direction.

19 8. Donna Wilburn, LMFT
20 10655 Park Run Drive, #210
21 Las Vegas, Nevada 89144
 702-234-9325

22 Donna Wilburn is Plaintiff's therapist and is expected to testify as to her
23 Letter dated September 11, 2019, entitled "Urgent: Children in Crisis,
24 Recommended Protocol Regarding Child Visitation Refusal", and/or any other
25 matters related to the litigation of this action.
26

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1 6. Elena Calderon
2 913 Hickory Park Street
3 Las Vegas, Nevada 89138
4 702-575-7465

5 Elena will testify as to the relationship between Plaintiff Christina Calderon
6 and the children MIA and ETHAN, and the relationship between the children and
7 their maternal relatives, and/or any other matters related to the litigation of this
8 action.

9 7. Nicholas Petsas
10 913 Hickory Park Street
11 Las Vegas, Nevada 89138
12 408-706-0636

13 Nicholas will testify as to the relationship between Plaintiff Christina
14 Calderon and the children MIA and ETHAN, and the relationship between the
15 children and their maternal relatives, and/or any other matters related to the
16 litigation of this action.

17 8. Peter Calderon
18 3136 Donnegal Bay Drive
19 Las Vegas, Nevada 89117
20 702-321-7819

21 Peter will testify as to the relationship between Plaintiff Christina Calderon
22 and the children MIA and ETHAN, and the relationship between the children and
23 their maternal relatives, and/or any other matters related to the litigation of this
24 action.

25 9. Antonia Calderon
26 3136 Donnegal Bay Drive
27 Las Vegas, Nevada 89117
28 702-759-5626

 Antonia will testify as to the relationship between Plaintiff Christina
Calderon and the children MIA and ETHAN, and the relationship between the

1 children and their maternal relatives, and/or any other matters related to the
2 litigation of this action.

3 10. Anthony Calderon
4 3136 Donnegal Bay Drive
5 Las Vegas, Nevada 89117
6 725-212-0747

7 Anthony will testify as to the relationship between Plaintiff Christina
8 Calderon and the children MIA and ETHAN, and the relationship between the
9 children and their maternal relatives, and/or any other matters related to the
10 litigation of this action.

11 11. Allison Morris
12 8725 Newport Isle Court
13 Las Vegas, Nevada 89117
14 702-219-4880

15 Allison will testify as to the relationship between Plaintiff Christina
16 Calderon and the children MIA and ETHAN, and/or any other matters related to
17 the litigation of this action.

18 12. Mindi Gellner
19 702-278-3213

20 Mindi will testify as to the relationship of the parties, the relationship
21 between Plaintiff Christina Calderon and the children MIA and ETHAN, and
22 Defendant's relationship with the children. Mindi will also testify as to her
23 experiences attempting to co-parent and raise a child with Defendant Mitchell
24 Stipp's brother, Marshal Stipp, and/or any other matters related to the litigation of
25 this action.

26 13. Misayo Lopez
27 702-510-0922
28

1 Misayo is the mother of Mia's boyfriend Joey Lopez, and is expected to
2 testify as to the Mia's relationship with Joey, and her interactions and experiences
3 with the parties, and/or any other matters related to the litigation of this action.

4 14. Mauricio Molina
5 702-767-1557

6 Mauricio will testify as to Ethan's baseball experience and his interactions
7 with the parties, and/or any other matters related to the litigation of this action.

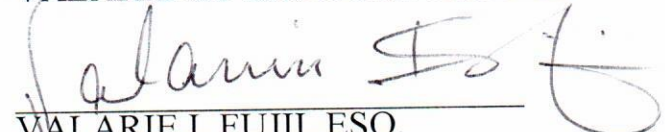
8 15. Scott Fogo
9 Faith Lutheran Middle & High School Principal
10 2015 South Hualapai Way
11 Las Vegas, Nevada 89117
12 702-804-4400

13 Scott will testify as to his interactions and experiences with the parties and
14 the children, and/or any other matters related to the litigation of this action.

15 Any and all witnesses identified by Defendant, including rebuttal witnesses.
16 Plaintiff reserves the right to supplement this list of witnesses, including those for
17 rebuttal and impeachment purposes.

18 DATED this 13th day of January, 2020.

19 VALARIE I. FUJII & ASSOCIATES

20 

21 VALARIE I. FUJII, ESQ.
22 Nevada Bar No. 005955
23 704 South Sixth Street
24 Las Vegas, Nevada 89101
25 Attorney for Plaintiff
26 CHRISTINA CALDERON
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RADFORD J. SMITH, CHTD.
Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

MITCHELL STIPP, ESQ.
1180 North Town Center Drive, #100
Las Vegas, Nevada 89144
Acting as party and counsel for
MITCHELL STIPP

Kathie
An employee of VALARIE I. FUJII, ESQ.

EXHIBIT B

WITNESSES

1. Mitchell Stipp
c/o RADFORD J. SMITH, ESQ.
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074

2. Amy Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

3. Mia Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

4. Ethan Stipp
10120 W. Flaming Rd., #4124
Las Vegas, Nevada 89147

5. Christina Calderon
c/o VALERIE FUJII, ESQ.
VALERIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101

6. Nicholas Ponzio*
10161 Park Run Drive,
Suite 150
Las Vegas, Nevada, 89145

* Plaintiff has disclosed that she intends to use matters of therapy protected by the parties' Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 and NRS 49.246-49.249 at trial. Mr. Ponzio has voluntarily agreed to appear and will testify if the confidentiality and privileges are waived and/or as permitted, directed or otherwise ordered by the court.

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1 **DOCUMENTS**

2 Defendant discloses documents identified as **DEFENDANT BATES**
3 **NOS. 000001-001129**, which are attached hereto. These documents also are offered
4 as trial exhibits in accordance with the court's order setting an evidentiary hearing on
5 January 23, 2020.
6

7 **RESERVATIONS**

8
9 Defendant reserves the right to call any witness named by Plaintiff.

10 Defendant reserves the right to call any witnesses as may be necessary for the
11 purpose of rebuttal or impeachment and to name such other witnesses as may become
12 known before trial.
13

14 Defendant reserves the right to designate as an exhibit any document designated
15 by Plaintiff as an exhibit or filed in this case on or before trial.
16

17 Defendant reserves all objections as to the admissibility of all documents filed
18 or produced in this matter.
19

20 Dated: January 13, 2020

21 **LAW OFFICE OF MITCHELL STIPP**

22 /s/ Mitchell Stipp, Esq.
23 MITCHELL STIPP, ESQ.
24 Nevada Bar No. 7531
25 LAW OFFICE OF MITCHELL STIPP
26 10120 W. Flamingo Rd., Suite 4-124
27 Las Vegas, Nevada 89147
28 Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of January, 2020, I served the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case:

Valerie Fujii

Christina Calderon

The Audio and Video Files referenced herein were delivered by Mitchell Stipp to Ms. Fujii via email as follows: Audio was delivered on August 28, 2019, and Video was delivered on January 13, 2020.

By: */s/ Amy Hernandez*

An employee of the Law Office of Mitchell Stipp

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Exhibit	Description	Offered Date	Objected	Admitted Date
1 A	Decree of Divorce filed March 6, 2008 (Defendant Nos. 000001-000038)			
2 B	Judge Frank Sullivan's Order Filed on November 4, 2010 (Defendant Nos. 000039-000058)			
3 C	Judge William Potter's Order Filed on October 11, 2011 (Defendant Nos. 000059-000061)			
4 D	Judge William Potter's Order Filed on July 30, 2013 (Defendant Nos. 000062-000065)			
5 E	Judge Frank Sullivan's Order Filed on May 27, 2014 (Defendant Nos. 000066-000074)			
6 F	Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 (Defendant Nos. 000075-000091)			
7 G	Child Psychological Evaluation by Dr. Lewis Etcoff dated July 27, 2011 (Defendant Nos. 000092-000105)			
8 H	Declaration of Amy Stipp In Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000106-000123)			
9 I	Audio File Transcribed by Depo International (08/23/2019)			
10 J	Declaration of Mitchell Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000124-000141)			
11 K	Video File Transcribed by Depo International (09/6/2019)			
12 L	Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit in Support of Objection filed on September 13, 2019 (Defendant Nos. 000142-000196)			
13 M	Exhibits in Support of Defendant's Opposition to Ex Parte Application for Order Shortening Time on Plaintiff's Motion for Primary Physical Custody (Redacted to			

1		Remove Exhibit A) (Defendant Nos. 000197-000217)			
2	N	Transcript of Deposition of Christina Calderon-December 20, 2019 (Defendant Nos. 000218-000351)			
3	O	Transcript of Deposition of Christina Calderon-January 7, 2020 (Defendant Nos. 000352-000540)			
4	P	Transcript of Deposition of Mitchell Stipp-January 7, 2020 (Defendant Nos. 000541-000749)			
5	Q	Defendant's Interrogatories and Requests for Production of Documents and Admissions e-served on December 3, 2019 (Defendant Nos. 000750-000763)			
6	R	Plaintiff's Responses to Defendant's Requests for Admissions e-served on December 31, 2019 (Defendant Nos. 000764-000768)			
7	S	Plaintiff's Responses to Defendant's Interrogatories e-served on January 2, 2020 (Defendant Nos. 000769-000784)			
8	T	Plaintiff's Responses to Defendant's Requests for Production of Documents e-served on January 2, 2020 (Defendant Nos. 000785-000883)			
9	U	Plaintiff's Requests for Admissions e-served on December 12, 2019 (Defendant Nos. 000884-000892)			
10	V	Plaintiff's Interrogatories e-served on December 12, 2019 (Defendant Nos. 000893-000911)			
11	W	Plaintiff's Requests for Production of Documents e-served on December 12, 2019 (Defendant Nos. 000912-000920)			
12	X	Emails by and between Mitchell Stipp and Christina Calderon (Defendant Nos. 000921-001097)			
13	Y	Email to Dr. Knorr dated September 24, 2019 (Defendant Nos. 001098-001101)			
14	Z	Schedules for Mia and Ethan Stipp (August 2019-January 2020) (Defendant Nos. 001102-001111)			
15	AA	Grades and Awards (Defendant Nos. 001112-001129)			
16	BB	Child Interview Report by m'Ryah Littleton from Interview on October 23, 2019 at 3:30 p.m.			

EXHIBIT C

DECLARATION OF NICHOLAS PONZO

I hereby declare and state as follows:

1. I have an extensive and varied history of providing mental health and related assessment and treatment services in a variety of settings and specific areas of practice. My educational background includes undergraduate degrees in Philosophy and Psychology, and graduate degrees in Clinical Social Work and Counseling Psychology. I have been in practice for approximately 30 years, and have worked and offered consultation services in psychiatric hospitals, child and adolescent treatment centers, addiction treatment and research centers, corporate and federal occupational settings, as well as in the area of program design and consultation, training, workshop, and in educational and teaching capacities. I am experienced in high-conflict and dispute resolution issues and offer mediation and parent coordination services to parents involved with such issues. In addition, I provide Specialized Assessments and Reports, Child Interviews, and Reunification Therapy services. I am an approved provider of services for the Family Courts of Las Vegas, Nevada. My background, training and practice experience involves treatment and counseling with adults, children and adolescents, as well as in relationship and marital therapy, and family counseling.

2. I am the family therapist for Christina Calderon, Mitchell Stipp, Amy Stipp, and their children (including Mia and Ethan Stipp).

3. I have a copy of the parties' parenting plan which I understand prohibits matters of therapy to be used in any child custody litigation.



1 4. Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
2 purposes of family therapy. I recently provided services at the request of the parties to
3 address the relationship between Ms. Calderon and her children with Mr. Stipp (Mia and
4 Ethan Stipp).
5

6 5. It is my understanding that matters of therapy including statements of the
7 parties during sessions and my observations, assessments, and recommendations are
8 confidential and privileged unless all parties agree to waive such confidentiality and
9 privilege or there is a requirement by Nevada law to provide disclosure. For example,
10 my office policy on privacy and confidentiality is as follows:
11

12 The law protects the relationship between a client and a
13 psychotherapist, and information cannot be disclosed without
14 written permission.

15 Exceptions include:

16 Suspected child abuse or dependent adult or elder abuse, for
17 which I am required by law to report this to the appropriate
18 authorities immediately.

19 If a client is threatening serious bodily harm to another person/s,
20 I must notify the police and inform the intended victim.

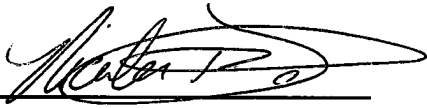
21 If a client intends to harm himself or herself, I will make every
22 effort to enlist their cooperation in ensuring their safety. If they
23 do not cooperate, I will take further measures without their
24 permission that are provided to me by law in order to ensure their
25 safety.
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1 6. Mr. Stipp has asked me to appear at the trial on January 23, 2020 in the
2 event I am asked to testify. However, I will need all parties to waive the confidentiality
3 and privilege applicable to my testimony.
4

5 7. I have personal knowledge of these facts, save those stated upon
6 information and/or belief, and as to those matters, I believe them to be true.
7

8 January 14, 2020
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12 Nicholas Ponzo
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