

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE OSCAR SALAZAR
Appellant,

v.

AGUSTINA CERVANTES LANDA,
Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 83111

District Court No.: D-19-595434-D

**APPEAL FROM DECREE OF DIVORCE AND PLAINTIFF'S MOTION TO
RECONSIDER**

Eighth Judicial District Court of the State of Nevada
In and for the County of Clark
THE HONORABLE DAWN THORNE
DISTRICT COURT JUDGE

APPELLANT'S APPENDIX – VOL. 2

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CERTIFICATE OF SERVICE

I, an employee of McFarling Law Group, hereby certify that on the 28th day of October, 2021, I served a true and correct copy of this Appellant's Appendix as follows:

☒ by United States mail in Las Vegas, Nevada, with First-Class postage prepaid and addressed as follows:

Agustina Cervantes Landa
1600 Ardmore St.
Las Vegas, NV 89104

☒ via the Supreme Court's electronic filing and service system (eFlex):

Augustana Cervantes

/s/ Alex Aguilar
Alex Aguilar

1 obviously saw it happening, correct?

2 A Yes, that's correct.

3 Q And did she ever tell you why?

4 A No, she never told me.

5 Q And you -- you don't know what happened between the
6 -- your mother and your father regarding that, right?

7 A No. From my understanding, she just said that she
8 didn't want to live in that house anymore.

9 Q Okay. All right. Then I -- I think that's all the
10 questions I have. I appreciate your patience and time.

11 A Okay. Thank you.

12 THE COURT: Anything else?

13 MR. GONZALEZ: I got a few questions in -- for
14 redirect.

15 REDIRECT EXAMINATION

16 BY MR. GONZALEZ:

17 Q Mr. Whipple asked you about do you -- knowing what
18 happened in the bedroom. Remember that?

19 A Yes.

20 Q Okay. You never heard your dad raise his voice in
21 the bedroom to the point where he like -- angry at your mom?

22 A I feel like the only time I ever heard them arguing
23 was both of them yelling at the same time. But other than
24 that, I never heard him yell at her, like for no reason. It

1 was just like, an argument that they had.

2 Q Okay. And -- and as far as you know -- well, did --
3 did your dad pack your mom's things before she left?

4 A No.

5 Q Did your dad put your mom's things outside the house
6 before she left?

7 A No.

8 Q Did your dad help your mom move?

9 A No.

10 Q Did your mom pack her own things?

11 A Yes.

12 Q Did she -- your mom put her own things in a vehicle
13 and drive away on her own, voluntarily?

14 A Yes.

15 Q Okay. And, at any point, did your dad do anything
16 to either stop her or force her to leave?

17 A My dad -- when she left, my dad was working.

18 Q Okay. All right. Now, as -- as far as this -- this
19 seven-minute distance, does your mom -- even though you guys
20 live that close, do you guys make more of an effort to go see
21 her?

22 A Well, so I have a pretty busy -- like, not busy, but
23 like, I try to dedicate to like, study.

24 Q Okay.

1 A So like, I study, and I go see her on the weekends,
2 when I don't have school.

3 Q All right. Now, how often do your siblings see
4 their mom?

5 A Because they have school, as well, they visit her
6 Fridays, Saturdays, and Sundays.

7 Q And is that every single weekend, or once in a
8 while?

9 A It's been every single -- almost every single
10 weekend.

11 Q How -- how -- how often has that happened?

12 A Like -- like, since she left, it's been like,
13 roughly seven times.

14 Q Seven times? Okay. And -- and so it hasn't been on
15 the weekend, then?

16 A I'm not too sure, but I -- yeah, I don't think it's
17 been every weekend.

18 Q Okay. And is it something that your dad prevents
19 your mom from doing, or is it something that just happens that
20 way?

21 A It depends, because like I said, she would work. So
22 sometimes, they don't see her because she's working.

23 Q Okay. Now, do they stay overnight at your mom's
24 house?

1 A Yeah, they have stayed a couple times.

2 Q How many times since your mom left?

3 A Like, five times, or four times.

4 Q Four to five times? Okay. And whose choice is it

5 that that happens?

6 A It's the kids.

7 Q Okay. And does your mom want them -- or has your

8 mom made any efforts to require them to stay with her more?

9 A I'm not sure. That's like -- my mom talks to my

10 siblings, so --

11 Q Okay. You don't know?

12 A Yeah, they just say, I'm going to it.

13 Q Okay. But the reality is, your -- your siblings

14 only stayed four to five time in the last 10 -- or seven or

15 eight months?

16 A Yes.

17 Q Okay. And that -- that's not something that your

18 dad has forced upon your siblings, is it?

19 A No. He just says that when they want to visit my

20 mom, they could visit my mom.

21 Q Okay. So your -- your dad is -- is -- he's

22 indifferent about whether they come and go. Does he encourage

23 you -- your siblings to go visit Mom?

24 A I just recall one time they hadn't seen her in, and

1 he was like, you should go visit then. You could visit her.

2 Q Okay. So he's encouraging that? All right. And --
3 and when they weren't seeing her for a few weeks, did your mom
4 try to go to the house and visit them?

5 MR. WHIPPLE: Judge, objection. How would she know
6 much -- lack of foundation, Your Honor.

7 THE COURT: Sustained.

8 MR. GONZALEZ: I got no further questions.

9 MR. WHIPPLE: Nothing further, Your Honor. Thank
10 you.

11 THE COURT: Thank you. All right. Thank you. So
12 now she'll be leaving, right?

13 MR. GONZALEZ: Yeah.

14 THE COURT: Thank you. Have a good day.

15 THE WITNESS: Thank you, you, too.

16 MR. GONZALEZ: If you could call your brother to
17 come in?

18 THE WITNESS: Yes.

19 MR. GONZALEZ: Good morning, Oscar. How are you
20 today?

21 MR. SALAZAR: Good morning, good morning.
22 (Indiscernible).

23 MR. GONZALEZ: Go ahead and speak up, and then have
24 you state your name for the record, and spell out your name.

1 MR. SALAZAR: Okay. Oscar Salazar O-s-c-a-r S-a-l-
2 a-z-a-r.

3 MR. GONZALEZ: Okay. How old are you, Oscar?

4 MR. SALAZAR: Nineteen --

5 THE COURT: I -- I need to -- hold on. I need to
6 swear him in.

7 MR. GONZALEZ: Oh, sorry.

8 THE COURT: That's okay. All right. Oscar, if
9 you'd please raise your right hand, the Clerk will swear you
10 in. Thank you.

11 THE CLERK: You do solemnly swear the testimony you
12 are about to give in this action shall be the truth, the whole
13 truth, and nothing but the truth, so help you, God?

14 THE WITNESS: Yes.

15 THE COURT: Thank you. Go ahead.

16 OSCAR SALAZAR
17 called as a witness on behalf of the Petitioner, and being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. GONZALEZ:

21 Q Oscar, how old are you?

22 A I'm 19.

23 Q What's your date of birth?

24 A February 1st, 2001.

1 Q All right. And where do you live?
2 A I live in 3127 Panocha Street.
3 Q Who do you live with?
4 A I live with my dad and my siblings.
5 Q All right. And how big is the house?
6 A It's a four room, three bathroom house. And it has
7 a -- a kitchen, you know, and --
8 Q Well, is it well furnished?
9 A Yes, it is.
10 Q Okay. And you have your own bed?
11 A I do.
12 Q All right. And what's your relationship -- how
13 would you characterize your relationship with your dad?
14 A I mean, I love my relationship with my father, you
15 know. It's -- it's a relationship that I guess every kid
16 would want to have with his father. He's very observant.
17 He's very responsible. He's a fun guy. You know, like, all
18 the time there's just laughter and (indiscernible) there's --
19 there's usually like nothing serious unless it has to be
20 serious, you know?
21 Q Okay. So --
22 A He's a fun guy, in general.
23 Q So when he needs to be serious, he's serious.
24 A He's serious.

1 Q Okay. Is he -- does he discipline you guys?

2 A He disciplines us, but not in a manner where it's
3 like, hitting, yelling.

4 Q Okay. How --

5 A He disciplines us with like, real life situations
6 and then he just lets us know like, things that might happen
7 to us in the future. So he's like, setting up that awareness,
8 so that way, when it does happen, we are very aware of it.

9 Q Okay. So -- so for -- so he shows the consequences
10 of your potential actions?

11 A Yes.

12 Q Okay. And -- and he talks you through it on an
13 analysis type of format?

14 A Yes. Like a real life situation. Like he -- he'll
15 -- he'll set an example like, this has happened to me before.
16 This -- this happened to me before, so like, you just need to
17 be careful in these certain areas. And then he'll set on
18 like, like a little (indiscernible) like, this is where I like
19 -- this is my (indiscernible) might go wrong.

20 Q Okay. Has he ever been abusive to you?

21 A No, never.

22 Q Is he ever abusive to your siblings?

23 A No. He's never laid a hand on or anything on any of
24 us.

1 Q Okay. Has he ever laid a hand on your mom?

2 A Never.

3 Q Is he abusive to your mom?

4 A No, not abusive.

5 Q All right. And -- and when -- when -- what kind of
6 activities did you guys do for fun with your dad?

7 A Well, we go bowling. We go -- we play pool. We go
8 riding bikes, like off-roading.

9 Q Okay. And does your mom participate in those
10 activities?

11 A She usually doesn't, no.

12 Q Okay. All right. Do you know why?

13 A I don't know why. I'll -- you know, she's -- she's
14 not more of a like -- she's more like a -- she's not on the
15 fun side, you know?

16 Q Okay.

17 A Like, she's like, not -- not strict, but she's
18 strictly in her own way. She's -- she doesn't go like, to the
19 point -- to the fun sides on --

20 Q Okay. How would you characterize your relationship
21 with your mom?

22 A I have a good relationship with my mom, you know.
23 Yeah. I do have a good relationship with her. I don't -- I
24 don't know how to describe it. You know, she -- she's always

1 there for me, and stuff.

2 Q Okay. Do you trust her?

3 A In what sense?

4 Q Like, well, is she honest with you about certain
5 things?

6 A I mean, like there -- there is some truths that I
7 have heard, and there is some false information that I've
8 heard, as well.

9 Q Okay. So you -- you've -- you've caught your mom in
10 a lie before on certain things?

11 A On certain things, yes.

12 Q How often?

13 A Well, back in the day, it was pretty often.

14 Q All right. And -- and do -- do you think that your
15 mom's responsible with your siblings?

16 A Responsible? I wouldn't say much of, you know, like
17 -- not enough to have like, custody of the kids. Like, full
18 custody.

19 Q Okay. Do you have concerns if your mom was to have
20 joint custody half the time?

21 A I'll -- I'll be concerned, you know --

22 Q Why?

23 A I think it's just in my nature to be concerned, but
24 I -- I don't know. Like, I feel like I would always have to

1 keep up with them, like, let's say (indiscernible) if they are
2 home, I would have to be like, calling them or texting them,
3 asking them how they would be, you know, how they are, or, you
4 know, certain things like that. And if they're at my mom's
5 house, I'm constantly texting them, oh, how are you guys
6 doing, you know?

7 Q Okay.

8 A (Indiscernible) --

9 Q (Indiscernible) like whether they've been fed,
10 whether they're asleep, whether -- what would be your concern
11 if they were at your mom's house?

12 A Like, my concerns for me, it would be like, just the
13 well being of them. Like, mostly mentally.

14 Q Mentally? Okay. And what do you mean by -- by
15 their well being mentally? What -- give us an example of what
16 would be a concern of yours.

17 A Well, more like being fed negative stuffs, like --
18 like -- like, mentally being fed like -- like, being told some
19 negative things --

20 Q Okay.

21 A -- that's what I would mainly be concerned about.

22 Q All right. Does your dad feed your siblings
23 negative things?

24 A No.

1 Q All right. And are you happy with your living
2 arrangement right now with your siblings at your dad's house?

3 A I'm -- I mean, I'm happy, because they're happy the
4 way they're doing right now.

5 Q Okay.

6 A So that makes me happy, you know. Like, at the end
7 of the day, is their happiness that really matters. Just --

8 Q Okay. And do your siblings, your younger siblings,
9 not -- not Thaina --

10 A Right, right.

11 Q Do they -- are they in school right now?

12 A They are currently in school.

13 Q Okay. And are they doing well in school?

14 A They are doing well. They're --

15 Q How do you know -- how do you know that?

16 A Well, we've been checking up on them, like asking
17 them like, what are your grades, show me your grades. Show me
18 what you're missing. If they were missing something, they
19 have to, you know, do that. And if -- if it has a deadline,
20 do it prior to the deadline.

21 Q Okay. All right. So -- so you guys work together
22 and help out one another in the household, right?

23 A Yes.

24 Q All right. And -- and --

1 MR. GONZALEZ: Court's indulgence.

2 BY MR. GONZALEZ:

3 Q Do you know if your mom works?

4 A I do know that she works.

5 Q She works?

6 A Yes.

7 Q Okay. What does she do for a living?

8 A I -- I believe she cleans houses.

9 Q All right. And how often does she work?

10 A From what she told me, she works like every night.

11 Like, that's -- that's what she told me, that she works pretty
12 often.

13 Q Okay. All right.

14 MR. GONZALEZ: I have no further questions. A lot
15 of it's going to be repetitive, so I'm (indiscernible) what
16 I've already established.

17 CROSS EXAMINATION

18 BY MR. WHIPPLE:

19 Q Hey, Oscar, how are you?

20 A Hi, how are you doing?

21 Q Good. Can you hear me okay?

22 A Yes, I can.

23 Q Pretty crazy, doing questions over the video; isn't
24 it?

1 A It -- it is. I mean, we get a distance
2 (indiscernible) we get it, you know.

3 Q Life has definitely changed. So, Oscar, my name is
4 Bret Whipple, and I represent your mother. I'm just going to
5 ask some followup questions. Is that okay?

6 A That is okay.

7 Q Now, if you can't hear me, just raise your hand, and
8 I can stop. All right?

9 A All right.

10 Q And then you can just say, hey, I can't hear you, or
11 could you re-ask it, something like that. Okay?

12 A Sounds good.

13 Q So, Oscar, you're 19 years old?

14 A I am 19.

15 Q And you graduated from high school?

16 A I did about a year and a half ago, two years ago.

17 Q What high school did you go to?

18 A I went to Valley High School.

19 Q All right. Why did you go to Valley and your sister
20 go to Del Sol?

21 A She went to Del Sol because she used to live with my
22 aunt; I've always lived with my dad. Like -- like
23 (indiscernible).

24 Q You know, Oscar, I didn't hear that. Say that

1 again?

2 A She used to live with my aunt, so she was registered
3 -- her address was registered to an address that belonged to
4 the area of Del Sol; she lived in the area of Valley.

5 Q How -- how much time did she live with your aunt?

6 A I believe she -- from the age of four, up until --
7 I'm not sure when she came. I think I was a freshman, so I
8 would say 2014. So from I would say 2004 or '05, to 2014.

9 Q And then after your mother came back here to the
10 States, she -- she moved in -- into the same house with you
11 and your mom?

12 A Yes. When the -- actually, she -- she moved in when
13 the house was bought. So after the house was bought, that's
14 when she moved in.

15 Q I see. When the house was bought in 2014, right?

16 A Yes.

17 Q Do you remember that day, when you all moved in
18 together?

19 A I don't -- I -- I mean, back in the day, I wasn't
20 really paying attention to specific details, such as that.
21 But I -- I do remember. Like, not just specific days, but I
22 do remember when we all moved in.

23 Q I bet -- I bet that was a happy time, right?

24 A I mean, what can you say? I -- I can say so.

1 Q And then you had your three younger siblings, also
2 join you in the same house?

3 A Yes.

4 Q So that's like 2014, and then you all lived together
5 in the same house up until earlier -- about summer of this
6 year, right?

7 A A little bit prior to summer, so I would say like
8 around May.

9 Q And every morning, your sister would get up and go
10 to Del Sol, and you'd get up and go to Valley, you said?

11 A Yes.

12 Q Did -- did you ever have any complaints in all those
13 years, seven or eight years living together in -- in the
14 Panocha house?

15 A Like, complaints as in what type of complaints?

16 Q Any complaints. You ever -- anything that you felt
17 was -- could have been better?

18 A No, no. Every -- everything seemed fine at the
19 time.

20 Q Yeah. And you already told us you -- you feel like
21 you have a good relationship with your mother?

22 A I would say I personally do. I don't have a bad
23 relationship to start off with.

24 Q And you -- you seem to be successful. You graduated

1 from high school. What type -- what type of work are you
2 involved with?

3 A I'm a sales associate at Coach Industry.

4 Q What do you do?

5 A I'm a sales associate.

6 Q I -- oh, sales associate. I'm sorry. So you had
7 two parents who were very successful in raising you, and
8 you've been -- moved on to a successful career?

9 MR. GONZALEZ: Objection, misstates the prior
10 testimony.

11 THE COURT: Well, overruled as to that. But he
12 didn't get to answer. He can answer yes or no.

13 MR. GONZALEZ: Oh.

14 THE COURT: Can you ask him again?

15 MR. WHIPPLE: Sure.

16 THE COURT: He probably forgets the question.

17 BY MR. WHIPPLE:

18 Q You had -- you had -- lived for -- for the time you
19 lived in that house, you -- you're -- you had a successful
20 family, a mother and a father that raised you, and you were
21 successful, and you moved on to a successful career?

22 A I -- I can say so. I'm starting poor, yes.

23 Q You don't -- you don't love your father more than
24 your mother, or your mother more than your father, right?

1 A Well, I -- I personally wouldn't -- wouldn't like to
2 answer that, because, you know, how can you love a parent more
3 than the other?

4 Q Exactly. And -- and they were both there for you so
5 that you could be successful.

6 A Right, yes.

7 Q And they're both there for your younger brothers and
8 sisters?

9 A Yes, of course.

10 Q And --

11 A I --

12 Q -- do you even -- there came a time, I guess, where
13 your mother, this year, moved -- moved into another home?

14 A I'm sorry. What was that again?

15 Q Was there a time this year -- this year when your
16 mother moved into another home?

17 A Yes. She moved into another home. She left
18 voluntarily, so she left by choice. She had --

19 Q Do --

20 A -- she -- she left to the other house in like --

21 Q Okay.

22 A -- May.

23 Q Were your -- were your parents in the same bedroom
24 up until the time she left?

1 A They were in the same bedroom. They weren't
2 established. She -- she would sleep downstairs, and then he
3 would sleep upstairs. But that's only when he was here. So
4 my dad is a truck driver. I'm pretty sure that was
5 established. So when he wasn't here, she would sleep in the
6 room. When he was here, they would sleep separately.

7 Q How -- how long would he -- on -- on those trips,
8 how long would he be gone? Where -- when she'd be sleeping
9 downstairs.

10 A On the -- the --

11 Q I'm sorry. I'm sorry. I -- I -- I asked that
12 backwards, Oscar. How -- how long would your father normally
13 be long -- away, when she would be in her -- in the bedroom?

14 A It's -- it's hard to say like, a specific amount of,
15 you know, amount of time. But he's usually here -- like, he's
16 here, he's there, you know. He's here ever other day.

17 Q What -- what's the longest trip that he would take?
18 How long would he be gone?

19 A It -- it's been a long time since he took like, a
20 long road -- like, he took -- it's been a long time, you know,
21 ever since like, everything started happening.

22 Q Yeah.

23 A He's been -- he's been there like, home, then
24 actually going away.

1 Q So like, 2019, how long would his trips be when he
2 was gone?

3 A They -- they wouldn't actually be that long. It
4 would -- you know? He -- he's here like every other day. I'm
5 -- I'm not sure.

6 Q Okay. And so when he was gone, who was -- who was
7 in charge of the kids?

8 A Are you talking about in the sense of 2019?

9 Q Yeah.

10 A Well, we would usually like -- it's -- it's always
11 been like, my older sister and I that -- that had the
12 responsibility of taking care of them, you know? Feeding
13 them, whether they're showered, whether they're going to go to
14 school.

15 Q Your mom, right? When he's gone?

16 A I'm sorry?

17 Q When your mom -- when he was gone, your mom would
18 pick up and make sure everything got taken care of?

19 A Like, pick them up? No, I wouldn't say picked them
20 up. That was plenty of times where we would have to pick them
21 up from school. Like, I'm talking about my sister and I.

22 Q Oscar, that was my fault. I -- I meant to say your
23 mother would pick up where your father left off and just
24 continue to help the kids, help the family?

1 MR. GONZALEZ: Objection. Mischaracterizes what he
2 just said.

3 THE COURT: Overruled. Let him answer. Thanks.

4 THE WITNESS: Oh, I'm sorry. Can you ask that
5 again?

6 BY MR. WHIPPLE:

7 Q Yeah. When -- when your dad would be gone on
8 overnight trips, as a truck haul -- truck driver, your mother
9 would pick up right where he left off, and take care of the
10 family.

11 A You can say so in the sense of that she -- that --
12 like, she was sort of like someone that lived at the house.
13 But there was many times where she wasn't home. Like, there
14 was many times where like, we -- she was like, doing
15 something, and I would come out of school, and she would be
16 like, hey, can you pick up your siblings? You know, it was --
17 it was pretty often.

18 Q And -- and I understand that, Oscar. But it wasn't
19 like your siblings never got picked up. She either picked
20 them up or she asked you to pick them up, right?

21 A Yeah. Or my sister.

22 Q Okay. Do you own a vehicle today, Oscar?

23 A Do I own a vehicle?

24 Q Yes.

1 A I do.

2 Q What -- what type of vehicle do you own?

3 A I am currently driving the -- a -- an Escalade.

4 Q So is it titled in your name, or is it titled in
5 your dad's name?

6 A I'm not sure. I don't -- I don't believe it's
7 titled under my name.

8 Q And what year is that Escalade?

9 A I believe it's 2003.

10 Q 2003 Escalade? How long have you had it?

11 A A couple months. I don't remember the specific time
12 range.

13 Q How often did you see your mother the last couple,
14 three months since she moved out?

15 A I see her like, every -- I -- I usually see her when
16 I'm picking up my siblings from her house. Like, when they --
17 when they go visit her, I usually like, pick them up. Most --
18 for most of the time, I picked them up. I -- I go and I visit
19 her. Like, I can -- you can say -- so I -- I visit her like,
20 I would say once, twice a week.

21 Q And how -- how long does it take to drive from where
22 you're sleeping to your mom's house?

23 A Five to 10 minutes. Not -- not -- it's not that far
24 of a drive.

1 Q Okay.

2 A With the traffic.

3 Q Oscar, I appreciate your time. Thanks so much.

4 A Thank you.

5 REDIRECT EXAMINATION

6 BY MR. GONZALEZ:

7 Q Oscar, who -- the Escalade, who -- who purchased
8 that Escalade?

9 A What do you mean?

10 Q Who -- where did the money come from?

11 A We helped my dad pay for it because of the situation
12 that happened with the truck.

13 Q Okay. So when you say we helped pay for it, what --
14 what does that mean? Who -- who's we?

15 A Me and my sister.

16 Q Okay. So did you and your sister pay for it
17 entirely?

18 A I don't -- I don't really remember.

19 Q Okay. But --

20 A But and like, we split --

21 Q You and your sister split the -- the -- the purchase
22 price?

23 A Yeah.

24 Q Okay. So even though it's not -- might not be under

1 your name, you purchased it, and your sister purchased it?

2 A Absolutely, yes.

3 Q Okay. All right. When your dad went on these trips
4 for overnight, would your mom often go out at night?

5 A Constantly, yes.

6 Q Constantly? Okay. And how often, let's say, in a
7 -- when you guys lived together with her, in a -- in a one-
8 week period, how often would she go?

9 A About like 70, 80 percent of the time.

10 Q 70, 80 percent?

11 A Yes.

12 Q Okay. So when you were asked about your mom took
13 over, her body was basically there, but she wasn't there as a
14 parent, would you agree with that?

15 A I would -- I would -- like, I understood the
16 question. What I was trying to say is that, you know, like we
17 -- we have the -- oh, she's -- she -- she's Mom, so she's
18 home. Like, she lives home. But like, to say that she --
19 like, she was there, like she would usually like, leave, and
20 then come back later at night.

21 Q Okay. So who would be responsible for cleaning the
22 house?

23 A For cleaning the house?

24 Q Yeah.

1 A Well, she would clean the house, and then we will
2 like, help clean, too.

3 Q Okay. But when it came to the responsibilities for
4 your siblings, who would primarily do that?

5 A Like, to take care of them?

6 Q Yeah.

7 A We -- mainly my older sister and I would usually
8 take care of them.

9 Q Okay.

10 MR. GONZALEZ: No further questions, Judge.

11 THE COURT: Anything else?

12 MR. WHIPPLE: No, Your Honor. Thank you.

13 THE COURT: All right. Thank you, Oscar. Have a
14 good day.

15 THE WITNESS: Thanks, you, too.

16 MR. GONZALEZ: You guys -- you and your sister can
17 drive away. We're going to be here for a while.

18 THE WITNESS: Okay.

19 THE COURT: All right. So we need to take a short
20 recess.

21 MR. GONZALEZ: Oh --

22 THE COURT: So we're taking a -- a 10-minute recess.
23 Okay?

24 MR. GONZALEZ: Okay. Thank you.

1 THE COURT: Thank you.

2 (COURT RECESSED AT 11:14:26 AND RESUMED AT 11:27:25)

3 THE COURT: All right. We are back on the record.

4 Mr. Gonzalez, who is your next witness? Can you hear me?

5 MR. GONZALEZ: Oh, sorry, ma'am. My microphone was
6 muted.

7 THE COURT: Okay.

8 MR. GONZALEZ: So my next witness --

9 THE COURT: Who's your next -- who's your next --

10 MR. GONZALEZ: -- will be the -- the Defendant,
11 Judge.

12 THE COURT: Okay. All right. Ma'am, can you raise
13 your right hand? The Clerk will swear you in. Thank you.

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

17 THE DEFENDANT: Yes.

18 THE COURT: Thank you. Go ahead.

19 MR. GONZALEZ: Thank you, Judge.

20 AGUSTINA CERVANTES LANDA

21 called as a witness on behalf of the Petitioner, and being
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. GONZALEZ:

1 Q Ma'am, if we could have you state your name, and
2 spell out -- state your name for the record and spell out your
3 first name.

4 A Agustina Cervantes Landa A-g-u-s-t-I--a C-e-r-v-a-n-
5 t-e-s.

6 Q Okay. Is it all right if I call you Agustina?

7 A Yes, of course.

8 Q Okay. So it -- what I'm going to do is ask you a
9 series of -- of questions. Now, I understand that we're using
10 a relay -- a -- an interpreter, and you might be able to
11 understand some of my questions, and in every day
12 conversation, what people do is anticipate where the question
13 is going. But because we're using an interpreter, please wait
14 for the interpreter to interpret the question, and then answer
15 it. Do you understand that?

16 A Yes.

17 Q Okay. Now, this is also what's called cross (sic)
18 examination, so what I'm going to do is ask you questions that
19 require a yes, no, I don't know. If you want to go beyond
20 that, that would be -- that would be beyond the scope of my
21 question. I'd ask you not to do that. You understand that?

22 A Yes.

23 MR. WHIPPLE: Your Honor, I -- I object to that.
24 It's direct examination.

1 THE COURT: Yeah, technically it is.

2 MR. GONZALEZ: Well, it's a -- it's a direct
3 examination of an adverse party. So I could lead her.

4 THE COURT: Only -- only if the Court declares that
5 -- that she's not responsive.

6 MR. GONZALEZ: No, that's not the way the rules
7 work. She's an adverse party.

8 MR. GONZALEZ: I disagree.

9 THE COURT: You can -- are you asking that -- that
10 she's considered a hostile witness?

11 MR. WHIPPLE: Correct, Your Honor. That's not
12 happened.

13 MR. GONZALEZ: No, Judge. It -- the -- the rules
14 allow me to lead an adverse party.

15 MR. WHIPPLE: I disagree. Not on direct.

16 MR. GONZALEZ: I can show you the rule, Mr. Whipple.

17 MR. WHIPPLE: I've -- I've got a judge right here --

18 MR. GONZALEZ: Judge -- Judge -- Judge, sorry.

19 Yeah. That's why we have you. I apologize, Judge.

20 THE COURT: That's okay. What rule are you citing
21 so we have a record? Go ahead.

22 MR. GONZALEZ: Let me look that up real quick. I'm
23 citing Rule NRS 50-115.

24 THE COURT: And that says you can lead when there's

1 an adverse party; is that right?

2 MR. GONZALEZ: Yes, Judge.

3 THE COURT: You want to just read that into the
4 record?

5 MR. GONZALEZ: So it's -- it's subsection 4. It
6 says, a party's entitled to call a witness identified with an
7 adverse party and interrogate by leading questions. The
8 attorney for the adverse party may employ leading questions in
9 cross examination the party or witness so called only to the
10 extent permissible if the attorney had called that person on
11 direct examination.

12 MR. WHIPPLE: Your Honor, that's not 50-115.

13 MR. GONZALEZ: 50-115. I'm -- I'm reading it. It's
14 subsection 4.

15 THE COURT: All right. Let me look.

16 MR. GONZALEZ: Oh, that's in a criminal case.

17 Sorry.

18 THE COURT: You said 50-115?

19 MR. GONZALEZ: Yes. But that was -- I read the
20 wrong section. Give me a second.

21 THE COURT: Okay. I'll pull it up.

22 MR. GONZALEZ: It's subsection 4, Judge.

23 MR. WHIPPLE: Actually, it's subsection 3. Except
24 as provided in subsection 4, leading questions may not be used

1 on the direct examination of a witness without the permission
2 of the Court. And of course, the Court has to declare the
3 witness hostile, which you can't do until you start asking
4 questions.

5 MR. GONZALEZ: Okay. And then subsection 4 says,
6 except with -- except -- subsection 4 says except that the
7 prosecution may not call accused in a criminal case a party.
8 It is entitled to call an adverse party or a witness
9 identified with an adverse party, and interrogate by leading
10 questions.

11 THE COURT: Doesn't that say the Prosecution?

12 MR. WHIPPLE: Correct.

13 MR. GONZALEZ: No, except. Except. That's the only
14 time you can't do it. Except in the criminal case.

15 THE COURT: All right. So you can lead. Go ahead.
16 That's my finding.

17 MR. GONZALEZ: Thank -- thank you, Judge.

18 BY MR. GONZALEZ:

19 Q All right, Agustina. At the beginning -- so let me
20 --

21 MR. GONZALEZ: It kind of threw me off. Give me a
22 second, Judge.

23 THE COURT: Absolutely.

24 BY MR. GONZALEZ:

1 Q All right, Agustina. You and -- you and the
2 Plaintiff, Jose, you guys met in -- in -- in 1999, agreed?

3 A Yes.

4 Q Okay. And then you guys married in 2001; do you
5 agree with that?

6 A Yes.

7 Q Okay. And -- and the home that you currently live
8 in at 1600 Ardmore Street, that was purchased by Jose in 1999,
9 right?

10 A Yes.

11 Q Okay. And your attorney said that -- in his opening
12 statements that you guys already had kids when Jose purchased
13 the -- the Ardmore house. Do you remember him saying that?

14 A Yes.

15 Q Okay. And that's not necessarily true, right?
16 Because Thaina was born in 2000, and Oscar was born in 2001,
17 you agree with that?

18 A Yes.

19 Q Okay. All right. So now let's -- let's move on to
20 -- in this case, the Court hasn't set a particular custody
21 order, right? Where you get a -- a specified time share with
22 the children?

23 A Yes.

24 Q Okay. And -- and then do you agree then that in --

1 in late April, early May, you moved out of the Panocha home?

2 MR. WHIPPLE: Objection, foundation. Year?

3 THE COURT: Yeah, you don't have the year. You just
4 said late April.

5 MR. GONZALEZ: Okay.

6 BY MR. GONZALEZ:

7 Q So in -- in -- in late April, May, 2020, of this
8 year, about seven, eight months ago, you moved out of the
9 marital home, right? Or the Panocha home, right?

10 A Yes.

11 Q Okay. And you heard your kids testify that they saw
12 you voluntarily leave on your own, right?

13 A Yes.

14 Q Okay. And -- and you agree that -- that you
15 voluntarily left on your own, and you moved into the Ardmore
16 house?

17 A Yes.

18 Q Okay. So when your attorney said that you were
19 forced out by Jose, that was incorrect, right?

20 A No.

21 Q How was that not incorrect if you just finished
22 saying that you left voluntarily?

23 A Because he has mentally abused me, and so want --
24 who would want to live in a place like that?

1 Q Okay. All right. You also heard your kids that
2 Jose has never been abusive, verbally or physically with you,
3 right?

4 A Yes, I heard that they said that, but he would do it
5 when they were not there.

6 Q Okay. Well, you also heard them say that you were
7 really never there in the household, right?

8 A Yes, I heard.

9 Q Okay. Were they lying about that -- oh, sorry.
10 Excuse me.

11 A No.

12 Q Okay. You also heard them testify that Jose was a
13 truck driver, right? So -- so he was out and about a lot,
14 too, right?

15 A Yes.

16 Q Okay. So you were never there, he was really never
17 there, and you're claiming that he -- and -- and also the
18 children said that they never really heard or saw you -- or
19 saw him abuse you. When did you say that -- that he
20 physically or emotionally abused you?

21 MR. WHIPPLE: Your Honor, that's a compound
22 question.

23 THE COURT: Sustained.

24 MR. WHIPPLE: Could you break it down?

1 THE COURT: Sustained.

2 MR. GONZALEZ: Okay.

3 BY MR. GONZALEZ:

4 Q Agustina, you -- you -- did you pack your own -- you
5 packed your own belongings to move out, right?

6 A No.

7 Q Somebody packed -- some -- somebody packed them for
8 you?

9 A No, I left the house with nothing.

10 Q All right. You didn't take your clothes?

11 A No, that was after that I took my clothes.

12 Q Okay. But you packed your stuff. You -- and then
13 you moved out of the house on your own, right?

14 A Yes.

15 Q All right. And since you moved out, the children,
16 Thaina, Oscar, Mellyarive, Maybel, and Jormy all stayed with
17 Jose, right?

18 A Yes.

19 Q And they've continued to live with Jose since you
20 moved out, right?

21 A Yes.

22 Q And this is not something that Jose forced them to
23 do, right?

24 MR. WHIPPLE: Judge, objection, speculation.

1 THE COURT: Sustained.

2 MR. GONZALEZ: Okay.

3 BY MR. GONZALEZ:

4 Q Have you ever -- when you left, it was your decision
5 for the children to stay with Jose, right?

6 A Yes, because Jose called the police. He told them
7 that I was after him, but that was a lie.

8 Q Okay. But no matter what the reason was, it was
9 your choice, right, to leave the house without your children,
10 right?

11 A Yes.

12 Q Okay. And the children have only stayed at your
13 house to sleep over maybe three to four times since you left,
14 right?

15 A Yes.

16 Q Okay. And are you aware that your kids are doing
17 good in school?

18 A Yes, because I have a lot of communication with
19 them.

20 Q Okay. Good. And are you also -- and so that -- and
21 that's --

22 MR. GONZALEZ: Court's indulgence.

23 THE COURT: Okay.

24 BY MR. GONZALEZ:

1 Q And since Jose -- I mean, since the children have
2 lived -- since you moved out, you haven't -- Jose hasn't
3 interfered with your ability to visit with the children,
4 right?

5 MR. WHIPPLE: Again, speculation, Your Honor. It's
6 speculation.

7 THE COURT: Overruled. To her knowledge.

8 MR. WHIPPLE: Okay. To her knowledge.

9 BY MR. GONZALEZ:

10 Q Okay. So you're saying that Jose has interfered
11 with your ability to visit with the children. How so?

12 A It's because whenever I want to see them or -- I've
13 always had to call him. Whenever the children tell me that
14 they want to see me, they say, okay, but you need to call my
15 dad, or you need to call our dad. And what I try to tell
16 them, well, I'll go stop by to pick you up, they say for me to
17 do so.

18 And I tried calling him, I call him, but he doesn't
19 answer, because he says that he's going to answer when he
20 feels like it, or when he wants to do it, and not when I want
21 to do it. So it's hard for me to be able to go get them. I
22 can't just go get them and pick them up to -- to be with them,
23 because he says that if were to take them without permission,
24 he will call the police.

1 Q Okay. And you heard Jose testify -- or I mean,
2 Oscar testify that -- and -- and Thaina testify that they
3 facilitate a lot of the driving back and forth, right?

4 A I heard, but that is a lie. I always pick them up,
5 and I always drop them off.

6 Q Okay. So your children -- now you're saying the
7 children are liars?

8 MR. WHIPPLE: Judge, objection, form of the
9 question.

10 THE DEFENDANT: Yes.

11 THE COURT: I -- I think you should probably narrow
12 that down to that they weren't telling the truth about that
13 question.

14 MR. GONZALEZ: Okay.

15 THE COURT: Although she already answered yes.

16 MR. GONZALEZ: Okay.

17 BY MR. GONZALEZ:

18 Q Now, you heard them say that you often lie, right?

19 A Yes, I heard.

20 Q You also -- you also heard them say that they love
21 you, right?

22 A Yes, I heard.

23 Q And you also heard them say that they don't really
24 trust you, right?

1 A Yes.

2 Q So in this particular situation with facilitating
3 the driving back and forth, are you being more honest than
4 them?

5 MR. WHIPPLE: Judge, objection, form of the
6 question.

7 THE COURT: Sustained.

8 BY MR. GONZALEZ:

9 Q Were they lying about their statements?

10 MR. WHIPPLE: Judge, same objection.

11 THE COURT: All right. Sustained. You need to
12 change your question.

13 MR. GONZALEZ: Okay.

14 THE COURT: Just the form of it.

15 MR. GONZALEZ: Sure.

16 BY MR. GONZALEZ:

17 Q Has Jose or Oscar ever -- I mean, has -- has Oscar
18 or Thaina ever dropped off the children at your house?

19 MR. WHIPPLE: That's a compound question, Your
20 Honor, I'm sorry.

21 THE COURT: That's a -- will you say that question
22 again? It didn't sound compound.

23 BY MR. GONZALEZ:

24 Q Has Oscar or Thaina ever dropped off the children at

1 your house?

2 THE COURT: Overruled. You can answer.

3 THE DEFENDANT: Yes, sometimes.

4 BY MR. GONZALEZ:

5 Q Okay. And -- and so then why is it that you -- you
6 just finished saying that you -- you do the driving, and you
7 pick them up and you drop them off all the time. So what is
8 the truth?

9 MR. WHIPPLE: Judge, objection, argumentative.

10 THE COURT: Sustained.

11 MR. GONZALEZ: Okay. All right. I'll move on then.

12 BY MR. GONZALEZ:

13 Q You agree that you -- in 2000 -- you -- you were --
14 you left -- you were deported to Mexico?

15 A In 2001, yes.

16 Q Okay. And you lived in Mexico up until 2012 or
17 2013, right?

18 A Yes. Yes, 2012.

19 Q And when you were in Mexico, you developed a
20 relationship with an individual named Pedro Cisneros, right?

21 A No.

22 Q You were at -- okay. You were never in a romantic
23 relationship with Pedro?

24 A Yes, but as boyfriend/girlfriend only, but I told

1 Jose.

2 Q Okay. And you agree that Pedro lived with you,
3 right?

4 A He lived in the same house, but not with me. He
5 lived in the same household, but he was not living with me.
6 He was renting a -- a space in the back.

7 Q Okay. And you agree that you even held out Pedro as
8 the father of Maybel and Mellyarive, right?

9 A Can you repeat the question, please?

10 Q Do you agree that when you were in Mexico, you --
11 you -- you held Pedro out as the father of Mellyarive and
12 Maybel?

13 A Well, it's one thing to say whether he was the true
14 father or not, but it's another thing to say like for example,
15 I mean when they would see him, I -- if -- they didn't see
16 anybody else, so they would say, hey, Daddy, Daddy. And I
17 would say yes, that's your daddy. But anybody's having seen
18 me doing something like that, no. That's something that they
19 told Oscar. He is basing himself on -- on what they told him,
20 but nobody ever saw me.

21 Q Okay. And do you agree that you had Pedro baptize
22 Maybel and Mellyarive?

23 A Yes.

24 Q And -- and on the -- on the -- on the baptism

1 certificate, you placed Pedro as the father, right?

2 A Yes, but he never realized that those certificates
3 were false.

4 Q What do you mean, they were false?

5 A Because they're -- because they're not real.

6 Q So did you make them up?

7 A No. Somebody else did, but not me. I would like to
8 ask --

9 Q No, no --

10 A -- a question to you. May I?

11 Q No, let me ask you the questions. Let me show you
12 the baptism certificates that were produced during discovery.

13 A I didn't understand.

14 Q Do you see the screen?

15 THE COURT: Is this marked as an exhibit?

16 THE DEFENDANT: Yes.

17 THE COURT: Counsel, is this marked as an --

18 MR. GONZALEZ: Yes. It's D -- D157. And I'm going
19 to lay the foundation.

20 BY MR. GONZALEZ:

21 Q Agustina, do you see the -- the screen?

22 A Yes, of course.

23 Q And is it -- what -- what -- how do you recognize
24 this -- this document?

1 A I don't understand, because first you said Pedro
2 Cisneros, and now you're coming to me with Pedro Castelan
3 (ph). So what is it? Is it Cisneros or Castelan?

4 Q Okay. Do you recognize what I'm showing you on the
5 screen?

6 A Yes.

7 Q And what do you recognize it to be?

8 A You tell me.

9 Q Well, I'm asking you the question. You recognize
10 this, you disclosed it, right? So what is it?

11 A A certificate.

12 Q Okay.

13 A But that certificate is false.

14 Q All right. Hold on.

15 A Jose Salazar has the original certificate.

16 Q You've seen this -- you've seen this certificate
17 before, right?

18 A Yes.

19 Q And is it -- is this a true and correct copy of the
20 original that you've seen before?

21 MR. WHIPPLE: Well, I'm going to object as to true
22 and correct copy of one you've seen before. I think the
23 question would be true and correct copy of the original
24 certificate.

1 THE COURT: All right. With that clarification, she
2 can answer.

3 BY MR. GONZALEZ:

4 Q Agustina --

5 A What did you say?

6 Q -- is this -- is this a true and correct copy of the
7 document that you've seen before with Pedro Castelan on this
8 birth certificate?

9 MR. WHIPPLE: Objection, Your Honor. It should be a
10 true and correct copy of the original document, not what
11 you've seen before. Of the original document.

12 MR. GONZALEZ: Well, Judge, first of all, they
13 produced this, so I -- I'm not objecting to its authenticity.
14 And I would move to admit it based on that alone.

15 THE COURT: Any objection to its admission? And you
16 said it's D?

17 MR. GONZALEZ: D157.

18 MR. WHIPPLE: Yes, Your Honor. I object. It's not
19 certified.

20 MR. GONZALEZ: The certification's down there at the
21 bottom, and there was no objection about its authenticity --

22 THE COURT: I'm going to -- yeah. It's too late to
23 object to authenticity. Was that your objection?

24 MR. WHIPPLE: Yes, Your Honor. I saw it. I -- I

1 don't have a certified copy. I don't -- I -- all I -- all I
2 know is there's a piece of paper -- they've made a copy of a
3 piece of paper that had a certification on it. But the
4 document itself is not certified.

5 THE COURT: But my -- but what I said was, it's too
6 late to object to authenticity under the rules. So that's
7 overruled, and D is admitted.

8 (Plaintiff's Exhibit 11 admitted)

9 BY MR. GONZALEZ:

10 Q All right. So you see that Pedro Castelan --
11 Castelan is identified as the father of Maybel, right?

12 A Yes.

13 MR. GONZALEZ: Move as non-responsive.

14 THE DEFENDANT: Okay. Okay. But if Oscar believes
15 that he is the father of -- bear with me. If Oscar believes
16 that he is the father, then why won't he let me keep the
17 child?

18 THE COURT: Okay. Your motion to strike is granted.
19 I just needed to let the Interpreter finish interpreting.

20 MR. GONZALEZ: Got it. Thanks. Okay.

21 THE COURT: Okay.

22 BY MR. GONZALEZ:

23 Q So then would you agree then that -- did Pedro know
24 about this certificate?

1 THE INTERPRETER: Court's indulgence. The
2 Interpreter did not hear the full question.

3 BY MR. GONZALEZ:

4 Q Did Pedro know about this certificate?

5 A Yes.

6 Q And you showed this certificate to Pedro?

7 A He knew it was fake, yes.

8 THE COURT: Okay. I need just some clarification
9 for the record. So we've used two last names for Pedro. Are
10 we talking --

11 MR. GONZALEZ: That was --

12 THE COURT: -- about the same Pedro?

13 MR. GONZALEZ: Yeah, that was my mistake, Judge.
14 It's not -- it's not -- it's not Cervantes. It's Castelan.
15 Her last name is Cervantes.

16 THE DEFENDANT: He said Cisneros. He's
17 contradicting himself.

18 MR. GONZALEZ: Oh --

19 THE COURT: Ma'am, don't need your help right now.
20 Thank you, though. All right. So Pedro is Pedro Castelan?

21 MR. GONZALEZ: Correct. I -- I misspoke.

22 THE COURT: Okay. So can we just get a
23 clarification from the witness that all those questions you
24 asked about Pedro, we're talking about Pedro Castelan?

1 MR. GONZALEZ: Sure.

2 BY MR. GONZALEZ:

3 Q Ma'am, the -- just so you know, my -- it was my
4 mistake. It's not Cisneros, it's Castelan. Pedro had never
5 been known as Pedro Cisneros, right?

6 A I don't know.

7 Q Well, have you ever known him as Pedro Cisneros?

8 A You said he was Cisneros.

9 Q Have --

10 THE COURT: Ma'am, please listen to his question.

11 BY MR. GONZALEZ:

12 Q Please listen to the question.

13 THE COURT: Just listen to his question. Okay?
14 This isn't a trick question. This is just a clarification for
15 the record. I need to know which Pedro we're talking about.
16 Okay? Counsel, ask again, please.

17 BY MR. GONZALEZ:

18 Q You've never known Pedro as Pedro Cisneros, correct?

19 A I beg your pardon. I did not hear.

20 THE COURT: Mr. Whipple, were you talking to your
21 client?

22 MR. WHIPPLE: Your Honor, I'm trying to find the
23 actual exhibit. I don't have that exhibit in my pile. I'm
24 going to have to go see if I can't print it out. My exhibits

1 stop at 145.

2 MR. GONZALEZ: I emailed them this morning. I've
3 disclosed them in the past. You guys disclosed this.

4 MR. WHIPPLE: The --

5 MR. GONZALEZ: Well, not you. Prior counsel.

6 MR. WHIPPLE: -- (indiscernible). So I have the --
7 the list of exhibits show 1 through 8, and they end at 145.
8 So I'm trying to find it.

9 MR. GONZALEZ: They're in your email. I emailed
10 them to the Court and to you this morning.

11 MR. WHIPPLE: Perhaps I could take a minute
12 momentary break, Your Honor? Because I only got to 145. I'm
13 going to -- how far do they go?

14 MR. GONZALEZ: Just two more. It's 14 pages. I
15 only have like, two more, three more -- like about five more
16 questions on this issue.

17 MR. WHIPPLE: That's fine. I'll -- I -- you know, I
18 will have somebody print them out so I can go over them with
19 my client when -- on -- on cross, Your Honor.

20 THE COURT: Thank you.

21 BY MR. GONZALEZ:

22 Q So, ma'am, it's a very specific question. Have you
23 ever known Pedro Castelan to be Pedro Cisneros?

24 A No.

1 Q Okay. And so the Pedro that we've been talking
2 about for the last 10, 20 minutes, you agree that it's Pedro
3 Castelan?

4 A Yes.

5 Q Thank you.

6 THE COURT: Thank you.

7 BY MR. GONZALEZ:

8 Q Now, you -- you -- you also -- you told Pedro that
9 -- that -- that he was the father of Maybel, right?

10 A No. They called him Dad, but not because he was
11 really their dad. Their dad has always been Jose Salazar.

12 Q Okay. But your testimony is that Maybel has called
13 Pedro Dad, right?

14 A Yes.

15 Q Okay. And, now, let me show you this, D158, 058.

16 A What is that?

17 Q Do you recognize this? Okay.

18 A It's a baptism record.

19 Q And you've seen this baptism before, right? Baptism
20 record, sorry.

21 A Yes.

22 Q Okay. And is this a true and correct copy of the
23 original?

24 A No, that's just a copy. Can you please show me the

1 other one? The other one?

2 Q Listen to the question, ma'am. The question is, is
3 this a -- a true and correct copy? Is it a copy of the
4 original that you provided?

5 A I don't know.

6 Q Well, earlier, you testified that Pedro baptized the
7 children, and he was on the birth certificate, right? I mean,
8 on the baptism certificate. You remember stating that?

9 A Yes.

10 Q Okay.

11 MR. GONZALEZ: Now, Judge, I'll move to -- to admit,
12 based on those representations.

13 THE COURT: And what -- what exhibit is this?

14 MR. GONZALEZ: D -- D158. It's Bates stamp.

15 THE COURT: So are you having them all together D,
16 and then you're putting numbers behind them? I'm confused.

17 MR. GONZALEZ: Oh, this would be exhibit -- oh, I
18 see what the Court's saying.

19 THE COURT: Okay. The exhibit, yeah.

20 MR. GONZALEZ: I see. I guess that this would be
21 Exhibit 15. Let me -- yeah, that was our mistake, Judge.

22 THE COURT: So what was the last exhibit we
23 admitted, too? We have to figure that out. Madam Clerk, do
24 you know what these exhibits are marked as?

1 MR. GONZALEZ: It would be Exhibit 8. Bates stamps
2 0 -- I mean, Bates stamp 157 and 158. My apologies. I didn't
3 -- I didn't divide them up by exhibits, or my staff didn't do
4 it.

5 THE COURT: All right. So let's -- let's hold on a
6 second. So the birth certificate that you said was D157, in
7 reality, is what exhibit?

8 MR. GONZALEZ: It's 8.

9 THE COURT: 7? What number?

10 MR. GONZALEZ: I would have to redo them, and put --
11 and divide them up by exhibit numbers, Judge. So --

12 THE COURT: Just --

13 MR. GONZALEZ: -- that would be --

14 THE COURT: -- (indiscernible) --

15 MR. GONZALEZ: -- that would be exhibit --

16 THE COURT: Madam Clerk, do you have these exhibits?

17 THE CLERK: I -- Judge, I have them online. I was
18 printing them as -- as we go. And I was going off of the D158
19 number.

20 MR. GONZALEZ: So that would be Exhibit 11, Judge.
21 And I'll -- I'll fix it.

22 THE COURT: So the certificate of birth that's on
23 the screen right now is 11?

24 MR. GONZALEZ: Yes.

1 THE COURT: Okay. And then what is the number for
2 the baptism certificate?

3 MR. GONZALEZ: 12.

4 THE COURT: 12? All right. So you're offering 12,
5 and Mr. Whipple, do you have an objection to 12?

6 MR. WHIPPLE: Yes, Your Honor. I would object to
7 foundation.

8 MR. GONZALEZ: Well, she testified earlier that she
9 had Pedro baptize them, and that Pedro appeared on the birth
10 certificate. She also recognizes the certificate -- I mean,
11 the baptism certificate. So I -- I've laid the foundation.

12 THE COURT: All right. So that's noted and
13 overruled. 12 is admitted.

14 (Plaintiff's Exhibit 12 admitted)

15 MR. WHIPPLE: What exhibit number?

16 THE COURT: He said --

17 MR. GONZALEZ: 12.

18 THE COURT: -- 12.

19 MR. GONZALEZ: Yes.

20 BY MR. GONZALEZ:

21 Q So, Agustina, you agree then that you were holding
22 out Maybe and Mellyarive and Jormy as children of Pedro while
23 you were in Mexico, right?

24 MR. WHIPPLE: (Indiscernible) --

1 THE INTERPRETER: Court's indulgence, the
2 Interpreter did not hear the full question.

3 MR. WHIPPLE: And I would object to the form of the
4 question, held out is ambiguous.

5 THE COURT: And I think it might not translate well.
6 Did you want to --

7 MR. GONZALEZ: Okay.

8 THE COURT: -- state it a different way?

9 BY MR. GONZALEZ:

10 Q You agree that in that -- when you were in Mexico,
11 you were -- you -- you were claiming that Pedro was the father
12 of Jormy, Agustin -- I mean, Jormy, Maybel, and Mellyarive,
13 right?

14 A No.

15 Q Okay. So then the documents -- all these documents
16 are -- are -- are -- are not something that you did?

17 A Have you noticed or realized that each of the
18 signatures on the baptism certificate shows a different
19 signature? That's it's not the same signature for the father?

20 THE COURT: Ma'am, you're not answering his
21 question.

22 BY MR. GONZALEZ:

23 Q So are you saying that these -- these certificates
24 that you produced and they're fake?

1 (COUNSEL AND CLIENT CONFER BRIEFLY)

2 THE COURT: Are you talking to your client now?

3 THE DEFENDANT: Fake.

4 THE COURT: Okay. Mr. Whipple --

5 BY MR. GONZALEZ:

6 Q Okay. And --

7 THE COURT: -- I know -- hold on. Mr. Whipple, I
8 know she's right there, and we're on video. It's a little
9 different than a courtroom.

10 MR. WHIPPLE: Yeah.

11 THE COURT: But you can't talk to her during
12 questioning. Thank you.

13 MR. WHIPPLE: Yes, Your Honor. She is -- she is
14 confused. I was trying to help clarify --

15 THE COURT: That's not how it works. You -- you
16 know that. You know that.

17 MR. WHIPPLE: Okay.

18 BY MR. GONZALEZ:

19 Q Okay.

20 THE COURT: Go ahead, Mr. Gonzalez.

21 BY MR. GONZALEZ:

22 Q Agustina, you agree that in 2009 when this took
23 place, you were in Mexico, right?

24 A Yes.

1 Q Okay. And Jose wasn't in Mexico at that time,
2 right?

3 A No.

4 Q And you see the seal right here, too, right? It's
5 -- it's -- you see that seal?

6 A Yes.

7 Q Okay. And -- and Jormy also called Pedro Dad, too,
8 right?

9 A When he was small.

10 Q Okay. But my question is, Jormy called Pedro Dad
11 also, right?

12 A No.

13 Q No? It was just Maybel and Mellyarive?

14 A Who is Maryvale?

15 Q Mellyarive. Correct. It was just them two who
16 called --

17 A Maybel and Mellyarive.

18 THE INTERPRETER: Court's indulgence, the
19 Interpreter did not hear Counsel's question.

20 BY MR. GONZALEZ:

21 Q I said, it was Maybel and Mellyarive who called
22 Pedro Dad then?

23 A Yes.

24 Q All right. And then you agree then that Pedro was

1 killed because he was related to narco trafficking?

2 A No.

3 Q What was he killed -- why was he killed?

4 MR. WHIPPLE: Judge, speculation.

5 THE COURT: Sustained.

6 BY MR. GONZALEZ:

7 Q Do you know why Pedro was killed?

8 A Because he went to pick up a car that Jose Oscar had
9 sent me, so there, when he went to pick up the car, that's
10 when he was kidnaped and killed.

11 Q Okay. And so after he was killed, that's when you
12 came to the United States, right?

13 A I came after two years, yes.

14 Q All right. And while you were living in Mexico, you
15 were not providing any kind of financial support for Jose,
16 right? You didn't -- you weren't working, you weren't
17 providing any kind of financial assistance to Jose, right?

18 A Right.

19 Q All right. So how many bedrooms do you have in your
20 --

21 THE INTERPRETER: Court's indulgence. The
22 Interpreter's having technical difficulties. The Interpreter
23 needs to call the Defendant once again on the phone.

24 THE COURT: Yes, ma'am.

1 THE INTERPRETER: The Interpreter is ready.

2 BY MR. GONZALEZ:

3 Q All right. How many bed -- the -- the Ardmore house
4 that you live in, how many house is there -- I mean, I'm
5 sorry. Jesus. How many rooms does that house have?

6 A Four.

7 Q Okay. And even though you have a four-bedroom home,
8 you don't have your children in your custody, right?

9 A Bear with -- bear with me, bear with me. I got
10 confused. The house where I'm living at, it has two bedrooms.
11 I thought you were talking about the Panocha house.

12 Q Okay. And -- and you occupy one bedroom?

13 A Yes.

14 Q And then you have a roommate, right?

15 A No.

16 Q No one else lives on the property with you?

17 A I live alone.

18 Q All right. Are the bills in your name?

19 A No.

20 Q Who pays for the bills?

21 A Me, but they're under Jose Salazar's name.

22 Q Okay. And how long have you paid the bills for at
23 that Ardmore home?

24 A Ever since I moved in.

1 Q And about how much do you pay in utilities per
2 month?

3 A Not a lot, but maybe like around \$200.

4 Q Okay. And you also have a car, correct?

5 A Yes.

6 Q Okay. And let me break that down. When you first
7 moved you, you -- you were driving around the 2000 Yukon,
8 right?

9 A Yes.

10 Q And you were paying for the gas on that -- on that
11 vehicle, right?

12 A Yes.

13 Q About how much would you pay in gas per month?

14 A About \$80 a week.

15 Q So that's about 240 a month?

16 A Yes.

17 Q And you would also pay for the insurance on that
18 vehicle?

19 A No.

20 Q All right. You would buy your own food, though,
21 right, at your apartment? Or at your house?

22 A Yes.

23 Q And about how much would you spend a month on food?

24 A Like about 400 a month.

1 Q Okay. And then you would also maybe sometimes go
2 out to eat, and -- and entertain yourself, right?

3 A I beg your pardon? I couldn't hear.

4 Q Some -- sometimes you would go out to eat?

5 A Yes.

6 Q Okay. And when you go out to eat, about how much
7 would you spend a month?

8 A Like about \$100.

9 Q On a monthly basis, how much do you think that your
10 expenses are, total?

11 A I have no idea.

12 Q Well, you don't budget for your own expenses every
13 single month?

14 A Like about 800.

15 Q Okay. And do you agree then that since you and --
16 and -- and Jose separated, you've been paying out of your own
17 pocket without any help from Jose, this month \$800 a month,
18 right?

19 MR. WHIPPLE: Objection, Your Honor. There's a --
20 there's an actual payment made by -- by Plaintiff. There a
21 spousal payment made, Your Honor.

22 MR. GONZALEZ: Well, Judge, she can answer, and --
23 and if he -- if -- if she says that I've gotten help, then
24 I'll cross examine her on that.

1 MR. WHIPPLE: All right. Form of the -- form of the
2 question.

3 THE COURT: Overruled.

4 BY MR. GONZALEZ:

5 Q Does -- does Jose help you financially, month to
6 month, since you left?

7 A No. It's been three months now that he has not
8 given me the \$250 that he's supposed to be giving me.

9 Q Okay. And despite him not giving you that money,
10 you're still able to pay for your bills every month, right?

11 A I have to, yes.

12 Q And the way you're paying for your bills is through
13 your own employment, right?

14 A I had no other option. Even if I'm not able to
15 work, I have to work, otherwise, how would I eat?

16 Q Okay. So you work as a -- what -- what do you do
17 for a living?

18 THE INTERPRETER: Court's indulgence, the
19 Interpreter did not hear the question.

20 BY MR. GONZALEZ:

21 Q What do you do for a living?

22 A I clean houses when I get calls.

23 Q Would you say that you're -- you're good at your
24 job?

1 A So-so.

2 Q Okay. And you get a lot of return clients to
3 consistently call you to go clean houses?

4 A No, it went down a lot with this whole coronavirus.

5 Q Okay. But you were still -- let's say that -- you
6 get repetitive clients, right? They're -- they're satisfied
7 with your work?

8 THE COURT: Excuse me.

9 BY MR. GONZALEZ:

10 Q Was that a yes?

11 A Yes.

12 Q All right. And so when you're cleaning houses, you
13 have to mop, correct?

14 A I have a -- a person that accompanies me. She goes
15 and helps me to do the work. So I do what I can, and she does
16 more of the heavy work, and we split what we make. I don't go
17 alone. I go with somebody that helps me.

18 Q Okay. And so this person that you go with, she's --
19 she's satisfied with your work performance, right?

20 A Yes.

21 Q All right. And in this case, you haven't disclosed
22 any medical records showing that you're disabled, right?

23 A Yes, I am permanently disabled, and I have the
24 paper.

1 Q Okay. My question was, you haven't given Jose any
2 medical records showing that you're disabled, right?

3 A Yes. I told him, but he made fun of me. He told me
4 that it was a lie.

5 Q Okay. And when -- when you were -- you agree that
6 the Suburban, that it's pretty -- the -- the Suburban -- the
7 -- the Yukon that you were driving, it requires you to climb
8 onto it, right?

9 A I did not understand the question.

10 Q All right. I'll move on. I'll move onto another --
11 another -- another topic. Let's talk about Maybel and
12 Mellyarive. You agree that Maybel, she -- would you
13 characterize her as a smart girl?

14 A Yes.

15 Q And Mellyarive, she's also a smart girl, too, right?

16 A Yes.

17 Q And would you say that they're both mature?

18 A Yes.

19 Q And they're mature enough to make their own
20 decisions as to where they should live, agreed?

21 MR. WHIPPLE: Objection, Your Honor. Form of the
22 question (indiscernible).

23 THE COURT: Sustained.

24 MR. WHIPPLE: Legal question, thank you.

1 MR. GONZALEZ: The -- okay.

2 BY MR. GONZALEZ:

3 Q Would you -- would you say that they're -- they're
4 responsible?

5 MR. GONZALEZ: Judge, I'm going to object to the
6 form of the question. Responsible is ambiguous.

7 THE COURT: All right. That's sustained, and we
8 need to take our lunch recess. So I'm sorry, I -- there's no
9 good place to stop you, so I'm sorry.

10 MR. GONZALEZ: I -- that's fine, Judge.

11 THE COURT: So we're going to come back at 1:30.

12 MR. WHIPPLE: Your Honor, we --

13 THE COURT: (Indiscernible) we go, I'm going to have
14 -- the marshal's timed each side so you have equal time. So
15 I'm going to ask him -- let's give him a moment to tell us how
16 much time each of you have used so far, so you can kind of
17 gauge and plan your afternoon. Okay?

18 MR. WHIPPLE: Your Honor, how much time -- do we
19 have the entire afternoon open?

20 THE COURT: Well, we were set originally for a full
21 day, and --

22 MR. WHIPPLE: I have --

23 THE COURT: -- (indiscernible). Do you have
24 something else?

1 MR. WHIPPLE: I have a 3:00 o'clock in North Las
2 Vegas Municipal Court. I'll call and see if I can't get it
3 passed or taken care of.

4 THE COURT: Okay.

5 MR. WHIPPLE: And, Your Honor, I also need some --
6 to figure out -- I -- I need to be able to use the exhibits in
7 the same way that Mr. Gonzalez has, and I need to be able to
8 figure out how to -- I -- I'm not sure on Blue Jeans how to
9 pull up the exhibits. Is there somebody that can answer
10 questions at the Court?

11 MR. GONZALEZ: I can show you real quick.

12 MR. WHIPPLE: Okay. I'll take advantage of that.

13 THE COURT: All right. So the --

14 MR. GONZALEZ: So --

15 THE COURT: -- the marshal just texted me. He said
16 that Mr. Whipple is at 55 minutes, and Mr. Gonzalez is at an
17 hour and 20 minutes. And I was hoping -- was three hours each
18 enough, so that we can complete this?

19 MR. GONZALEZ: Yes.

20 THE COURT: All right. So if you can kind of plan
21 around that over the break, I'd really appreciate it. And
22 then, Mr. Gonzalez, if you're going to help him, that's great.
23 But we're going to recess now, and we'll be back at 1:30.
24 Thank you so much.

1 MR. WHIPPLE: Thank you, Your Honor.

2 (COURT RECESSED AT 12:25:44 AND RESUMED AT 1:36:16)

3 THE COURT: I just want to let you all know, around
4 2:30, I might have to take just a five-minute recess. But
5 I'll let you know. Okay? Just so you have a heads up.

6 MR. WHIPPLE: Your Honor, and we -- I actually have
7 a 3:00 battery domestic violence trial in North Las Vegas, so
8 I'm doing my best to get continued and moved. I was under the
9 understanding that this was only a three-hour trial when I
10 took the case on Friday.

11 THE COURT: Uh-huh.

12 MR. WHIPPLE: So I did not clear my calender this
13 afternoon. So I have folks calling right now, and I may even
14 need the Court, if you're willing, to leave a message with
15 them, letting them know I'm in trial -- or a contested
16 hearing.

17 THE COURT: I can have the marshal call them. Who
18 do you want them to call?

19 MR. WHIPPLE: North Las Vegas Municipal Court, just
20 room 2, Your Honor. Muni 2. North Las Vegas Muni 2.

21 THE COURT: Do we have a number?

22 MR. WHIPPLE: I'll -- I can get it for you. I had
23 (indiscernible).

24 THE COURT: And have we changed Interpreters for

1 Dad?

2 MR. GONZALEZ: We did, Judge, because the -- Patty
3 Gastelum had to go to court for the afternoon.

4 THE INTERPRETER: Renee -- Renee Gascon is the
5 Interpreter this afternoon for Ms. Agustina Cervantes Landa.

6 THE COURT: Thank you very much.

7 MR. WHIPPLE: So, Your Honor, I do have a number.

8 THE COURT: You have a number? Okay.

9 MR. WHIPPLE: Yes.

10 THE COURT: I'm going to ask that the marshal or the
11 clerk take it down. Thank you.

12 MR. WHIPPLE: Of course area code 702-633-2475.

13 THE COURT: And do you have a case number or a name
14 that --

15 MR. WHIPPLE: I do.

16 THE COURT: -- the number that you want to put on
17 there?

18 MR. GONZALEZ: Judge, so we can put our new
19 Interpreter on the record.

20 THE COURT: I thought she just did.

21 MR. GONZALEZ: No, that was the -- the -- the
22 Defendant --

23 THE COURT: Oh --

24 MR. GONZALEZ: -- also has a new Interpreter.

1 THE COURT: Oh, okay. I'm sorry.

2 THE INTERPRETER: Estela Castro NVCE403.

3 THE COURT: Thank you. Thank you both.

4 MR. WHIPPLE: I -- I do have that case number, Your
5 Honor.

6 THE COURT: Okay.

7 MR. WHIPPLE: It's CR000250-20.

8 THE COURT: All right. So you would like the
9 marshal to call and let them know that you're in the middle of
10 a trial here, correct?

11 MR. WHIPPLE: Yes. And have it continued, please.

12 THE COURT: Well, I'm not sure he can do that for
13 you, but we can ask.

14 MR. WHIPPLE: Yes, of course.

15 THE COURT: All right. So I'm going to ask my
16 marshal as a courtesy, as we always do, when you're in a
17 different courtroom or expected in a different courtroom, to
18 please let them know where he is. Thank you.

19 MR. WHIPPLE: Thank you.

20 THE COURT: And Madam Clerk, did you get that
21 information?

22 THE CLERK: Yes.

23 THE COURT: Thank you very much. All right. So
24 when we left, Mom was on the witness stand, and Mr. Gonzalez

1 was still questioning her. So when you're ready.

2 MR. GONZALEZ: Thank you, Judge.

3 BY MR. GONZALEZ:

4 Q Agustina, do you -- do you remember that you
5 received a request for production of certain documents from my
6 office, sent to your prior attorney, Mr. Escobar?

7 A I don't understand what request -- I don't
8 understand.

9 Q Okay. Well, without getting into what you and your
10 prior attorneys spoke about, do you remember bringing -- or do
11 you remember having to bring documents such as bank statements
12 to your prior attorney?

13 A Nothing like that was asked -- was asked of me.

14 Q Okay. Well, let me -- let me see if I could refresh
15 your memory. Do you see the screen?

16 A Yes.

17 Q Okay. And do you recognize Christy Brad Escobar as
18 your prior attorney?

19 A Yes.

20 Q And do you see that it's -- that it has a -- a -- an
21 electronic stamp up on top, February 13th, 2020, 11:40 a.m.?

22 A (No audible response).

23 Q And do you see the title -- the document where it
24 says Defendant's answers to Plaintiff's request for

1 production?

2 A Yes, I remember it now. Yes.

3 Q Okay. And in this request for production, we asked
4 you to produce bank statements. Do you remember that?

5 A At the time, I no longer had a bank account. I had
6 a bank account with Jose Salazar.

7 Q Okay. So do you have a bank account now?

8 A I have just opened one, yes.

9 Q When did you open one?

10 A It's been about -- I don't remember exactly. Five
11 months.

12 Q Okay. And you did not produce those bank
13 statements, right?

14 A No, because when I opened the -- the account, you
15 know, they -- they should have been presented already.

16 Q Okay. Are you aware that you have an ongoing
17 obligation to supplement your -- your disclosures?

18 A Now I've learned about that, yes.

19 Q Okay. So because we don't have your bank
20 statements, fair to say that we have no idea what your true
21 financial situation is? Do you agree with that?

22 A Yes. What can I do?

23 Q Well, no, the question is, do you agree with that we
24 can't identify your true financial statements without your

1 bank -- bank statements.

2 A Yes.

3 Q All right. And do you get paid in checks?

4 A No. Cash. Cash.

5 Q And about how much do you make a month?

6 A Like 800.

7 Q 800 a month?

8 A Yes. Yes, approximately.

9 Q Okay. And you heard your children testify that
10 they've witnessed you work all week, every -- every day of the
11 week, right?

12 THE INTERPRETER: I'm sorry, Counsel. Can you
13 repeat please? There was echo. Interpreter couldn't
14 understand everything.

15 BY MR. GONZALEZ:

16 Q You heard your children testify that they've seen
17 you work all week, every day of the week, right?

18 A Yes.

19 Q Okay. So now -- now if you -- if you're work -- how
20 many hours a day do you work?

21 A Three hours.

22 Q For the entire day?

23 A Yes.

24 Q All right. So if -- if you work three hours a day,

1 seven days a week, you agree that's 21 hours?

2 A Yes.

3 Q Your children said that you -- they saw you work all
4 day. Was that incorrect?

5 A They have not seen me. They know from what I tell
6 them. They have not seen.

7 Q Okay. And did you tell them that you worked pretty
8 much all day, every day?

9 A No.

10 Q Okay. So your children made a misrepresentation
11 when they said that you work all day, every day?

12 MR. WHIPPLE: Judge, object to the form of the
13 question, argumentative.

14 THE COURT: Sustained.

15 THE DEFENDANT: Yes.

16 THE COURT: And I do want to clarify one thing,
17 because you keep saying every day of the week. They said
18 Monday through Friday, that she works Monday through Friday.

19 MR. GONZALEZ: Okay.

20 THE COURT: So I just want to clarify. Because
21 every day of the week is, you know, every day.

22 MR. GONZALEZ: So every day of the work week. Or
23 Monday through Friday, I'll be very specific. All right.
24 Okay.

1 BY MR. GONZALEZ:

2 Q Have you tried to look for other kind of employment?

3 A No.

4 Q Why not?

5 A Because I don't have papers.

6 Q Okay. Are you aware of other people that might be
7 working without papers?

8 MR. WHIPPLE: Objection, relevance, Your Honor.

9 THE COURT: I'm a little confused. Are we talking
10 about -- okay. I thought in the opening it was said that Mom
11 got -- was granted asylum. Is Mom saying --

12 MR. WHIPPLE: (Indiscernible) --

13 THE COURT: -- she's not -- so I'm a little confused
14 what we're talking about when we say papers.

15 MR. GONZALEZ: I'll get into that, Judge. I'll get
16 into that.

17 BY MR. GONZALEZ:

18 Q Agustina, in opening statements, your attorney said
19 that you were granted asylum, right?

20 A Yes, but political asylum was denied.

21 Q Oh, now it's -- when was it denied?

22 A In 2015.

23 Q And were you required to leave the country after
24 your asylum petition was denied?

1 A Yes.

2 Q Do you have a work permit?

3 A I used to, but it was taken away.

4 Q How are you planning to -- how do -- how are you
5 planning to pay bills in the future?

6 THE COURT: I'm sorry. That went out a little bit.
7 How is she planning to pay what?

8 MR. GONZALEZ: Well, I'll strike that. I'll -- I'll
9 -- I'll withdraw that question.

10 THE COURT: Okay.

11 BY MR. GONZALEZ:

12 Q Are you planning to obtain employment -- other kind
13 of employment later on, in the future?

14 A I can't work because I -- I have three discs that
15 were removed, and three screws in my back.

16 Q Okay. Well, throughout this trial, we've seen you
17 get up and sit down, get up and sit down without a cane. Do
18 you -- how -- how is it that you're able to do that if you're
19 disabled?

20 MR. WHIPPLE: Judge, argue -- objection,
21 argumentative.

22 THE COURT: Sustained. You can -- you can rephrase
23 it.

24 BY MR. GONZALEZ:

1 Q If you're disabled, how is it that you're able to
2 get up and sit down without any assistance?

3 A I take pills. I take Norco for -- for pain. At
4 10.3 milligram.

5 Q And did you disclose that prescription? Did you --
6 strike that. That's a bad question. Did you provide that --
7 did you provide that prescription or any medical records
8 showing that you are consuming pain medication to your
9 attorney?

10 MR. WHIPPLE: Judge, I'm going to object.

11 THE COURT: Sustained.

12 MR. WHIPPLE: I don't think there's -- form of the
13 question, nor do I see any documents that requested it.

14 MR. GONZALEZ: Okay.

15 THE COURT: I sustained it because what she gives to
16 her attorney I don't think you can ask. But what she supplied
17 to you, you can ask.

18 MR. WHIPPLE: Thank you, Your Honor.

19 BY MR. GONZALEZ:

20 Q Okay. So let me show you -- can you see this?

21 A Yes.

22 Q Request -- request number 7, please produce any and
23 all records and/or documents which support or refute
24 (indiscernible) support or refute Plaintiff's claims re -- oh,

1 wait, that's the wrong one.

2 THE COURT: And can you tell us what document we're
3 looking at, for the record?

4 MR. GONZALEZ: Plaintiff's request for production.

5 THE COURT: Is there a date on it?

6 MR. GONZALEZ: Yes. It's a (indiscernible) February
7 13th, 2020.

8 THE COURT: Thank you.

9 MR. WHIPPLE: Was there a Bates stamp? Was that a
10 -- was it one of the exhibits?

11 MR. GONZALEZ: No, I'm just using it to -- to
12 impeach her. All right. I'm going to share it again. I'll
13 move on. I'll move on. I'm not going to be able to pull that
14 off.

15 BY MR. GONZALEZ:

16 Q I'm just going to ask a series of questions. Do --
17 have you seen the -- the child interview report in this case,
18 Agustina?

19 A No.

20 Q Are you aware that your children were interviewed?

21 A Yes.

22 Q And would it surprise you to learn that in the
23 report, your children want to continue living -- your minor
24 children want to continue living with Dad?

1 MR. WHIPPLE: Judge, I'm going to object, improper
2 foundation. I -- I believe that document is -- is solely for
3 the use of the Court, and it's best -- the best evidence is
4 that document itself. So objection on three -- three -- three
5 bases.

6 THE COURT: Okay. Sustained.

7 MR. GONZALEZ: On -- on which basis, Judge, so I can
8 know what to do --

9 THE COURT: Well, all three. The foundation, right,
10 the document itself hasn't been admitted, and the form of the
11 question.

12 MR. GONZALEZ: Well, the question was, would you
13 surprised to learn if your -- that your children would rather
14 stay with -- would want to stay with their father.

15 THE COURT: Right. But you're referring to a
16 document that's not in evidence.

17 MR. GONZALEZ: Okay.

18 THE COURT: Okay? So I think that was the
19 objection. One of the objections.

20 MR. GONZALEZ: All right.

21 BY MR. GONZALEZ:

22 Q So then let me ask you this, Agustina. Would it
23 surprise you to learn that -- that Maybel and your --
24 Mellyarive -- Mellyarive want to continue living with their

1 father?

2 MR. WHIPPLE: Judge, again, objection, relevance,
3 foundation.

4 THE COURT: Well, relevance, it is relevant. But
5 the foundation is sustained. It's relevant under one of the
6 factor in the statue.

7 MR. WHIPPLE: Thank you, Your Honor.

8 THE COURT: Thank you.

9 MR. GONZALEZ: The -- the -- the foundation, Judge,
10 is I laid the foundation. She said that she's aware that they
11 were interviewed, and I'm asking her if it would surprise her
12 to learn that that's what her children's preference is. I
13 think it's --

14 MR. WHIPPLE: Same objection, Your Honor. It's also
15 -- the best evidence rule is the document itself speaks for
16 itself. She has not seen it. She cannot testify to something
17 she hasn't seen, and the form of the question is wrong.

18 THE COURT: I have to sustain it.

19 MR. GONZALEZ: Okay. I have no further questions,
20 Judge.

21 THE COURT: Mr. Whipple, are you going to go now, or
22 did you want to wait until your case in chief, or how did you
23 want to handle it?

24 MR. WHIPPLE: I'll go now, Your Honor, with the

1 Court's permission.

2 THE COURT: Okay. Thank you.

3 CROSS EXAMINATION

4 BY MR. WHIPPLE:

5 Q Agustina -- I'm going to refer to you by your first
6 name, is that okay?

7 A Yes.

8 Q And are you married to Jose Oscar Salazar?

9 A Yes.

10 Q And when did you meet -- when did you meet Jose
11 Oscar Salazar?

12 A I met him in 1997.

13 Q And did you become a -- a -- a -- did you develop a
14 relationship with him at some point?

15 A Yes.

16 Q What year was that?

17 A In the same year when I met him, 1997.

18 Q And at some point, did you decide to have children
19 together?

20 A Yes.

21 Q Were those the two individuals that testified today?

22 A Yes.

23 Q Where were they born?

24 A Thaina Salazar was born on January 14th, 2000.

1 Oscar Ivan Salazar was born March 1st, 2001. Mellyarive
2 Salazar was born October 15th, 2004. Maybel Salazar was born
3 June 5th, 2006. And Jormy Yurenn Salazar was born on March
4 15th, 2009.

5 Q Did you at some point buy a home together with your
6 husband, Jose Oscar Salazar?

7 A Yes.

8 Q When was -- when was the first home purchased?

9 MR. GONZALEZ: I will object to that, Judge. The --
10 the objection is -- is mis-characterization of the evidence.
11 Mr. Whipple asked, when did you and your husband buy your
12 first home. They weren't married.

13 THE COURT: Sustained.

14 BY MR. WHIPPLE:

15 Q Did you buy a home together with Jose Oscar Salazar
16 before you were married?

17 A Yes.

18 Q Did you already have two children together at that
19 time?

20 A Yes.

21 Q Were you already living together at that time?

22 MR. GONZALEZ: Again, Judge, I'll -- I'll object as
23 mischaracterizes the evidence. The children were born before
24 -- after the house was purchased.

1 MR. WHIPPLE: Judge, that's an issue of fact.

2 THE COURT: Yeah. Overruled.

3 MR. WHIPPLE: Okay.

4 BY MR. WHIPPLE:

5 Q Give -- give me the address of the first home that
6 you purchased (indiscernible).

7 A 1600 Ardmore Street.

8 Q Is that the home you're living in today?

9 A Yes.

10 Q Now, when you purchased that house on Ardmore
11 Street, did you put money from your personal monies into that
12 house?

13 THE INTERPRETER: I'm sorry, Counselor, you broke
14 up. This is the Interpreter, ask for repetition.

15 BY MR. WHIPPLE:

16 Q When you purchased that first home, did you,
17 Ms. Agustina Cervantes Landa, put money into the purchase of
18 that home?

19 A Yes.

20 Q How much?

21 A I worked, and we saved the money together. He -- he
22 put \$5,000 into it.

23 Q And how much of the money was your money that was
24 put into it?

1 A About \$2,000.

2 Q Were you married to -- to Jose Oscar Salazar?

3 THE COURT: I'm sorry, what was the question? Were
4 -- was she? When?

5 MR. WHIPPLE: Yes. Yeah --

6 THE COURT: The when --

7 MR. WHIPPLE: -- I'll -- I'll ask -- obviously when
8 is a better question, Your Honor.

9 BY MR. WHIPPLE:

10 Q When were you married to Jose Oscar Salazar?

11 A I was married on March 12th, 2001.

12 Q Where were you married?

13 A In Las Vegas, Nevada.

14 Q How many children did you have at the time of your
15 marriage with Mr. Jose Oscar Salazar?

16 A Two, Thaina Salazar and Oscar Salazar.

17 Q In 2001, did you also -- were you deported to
18 Mexico?

19 A Yes.

20 Q Did you take your two oldest children with you?

21 A Yes.

22 Q Were your two older the children, over the next few
23 years -- well, strike that. When did you return from Mexico
24 legally?

1 A In 2012.

2 Q You think -- between 2001 and 2012, did you have
3 three more children with Jose Oscar Salazar?

4 A Yes.

5 Q How is it that over that approximate 10-year period,
6 you continued to have children with Jose Oscar Salazar when
7 you were living in Mexico, and he was living in America?

8 A Because he would go to see me in Mexico.

9 Q How often?

10 A He'd would go every year, and he would stay for
11 about a week.

12 Q Did you plan, the two of you, to have -- continue to
13 have children together?

14 A No. I became pregnant.

15 Q How was it that your children were born in America?

16 A Because I was very concerned about having them in
17 Mexico. So I -- so I would go have them, and come back after
18 two months.

19 Q If he lived in America for 10 years, and you lived
20 in Mexico for 10 years, did he ever discuss divorce during
21 this 10-year period?

22 A We never thought about divorce.

23 Q Now, the name of Pedro has come up on questioning by
24 Mr. Salazar's attorney.

1 A Yes.

2 Q Who was Pedro?

3 A When I went there, I was living with his sister, and
4 then -- then after 12 years, the brother came to live with us
5 until he was killed.

6 Q At some point, did you have a romantic relationship
7 with Pedro?

8 A Yes.

9 Q How long did it last?

10 A One year.

11 Q Did you discuss this with Jose Oscar Salazar, your
12 husband?

13 A Yes. Yes, once he went to see me, and I told him
14 that there was a person who'd been bothering me, and, you
15 know, he got upset, and then he left, and that was it.

16 Q So he was aware of your relationship with Pedro?

17 A Yes, but he didn't know specifically that it was
18 Pedro. I told him a person.

19 Q Now, I'm going to ask you a question --

20 MR. WHIPPLE: And this ties into exhibits, Your
21 Honor, and I -- I might get the numbers wrong. But it's the
22 exhibits regarding the birth certificates.

23 BY MR. WHIPPLE:

24 Q Ms. Agustina Cervantes Landa, what is your religion?

1 A Christian.

2 Q Does that mean Catholic?

3 A No. Christian --

4 Q Christian.

5 A No, Christian.

6 Q Is it important to you for your children to be
7 baptized?

8 A Yes.

9 Q Why is that?

10 A Yes, the -- that's how I learned from my parents.

11 Q Now, the attorney for your husband showed you
12 Exhibits 11 and 12, and these had to do with a certificate of
13 birth. And a birth -- and a -- a certificate of birth here
14 from America, and then a -- well, let's talk about that.

15 MR. WHIPPLE: Strike that, Your Honor. I apologize.

16 BY MR. WHIPPLE:

17 Q I -- I'm going to show you Exhibit Number 11.

18 MR. WHIPPLE: And I'm going to show it personally in
19 hand, as well as put up on the video, Your Honor. And that is
20 Bates stamp David 157.

21 THE COURT: And what exhibit did we say that was,
22 Counsel?

23 MR. WHIPPLE: It should be 11, Your Honor.

24 THE COURT: Okay.

1 MR. WHIPPLE: And I need to compliment my office
2 manager that she was able to learn so quickly.

3 THE COURT: Okay. Good job.

4 UNIDENTIFIED VOICE: Thanks.

5 BY MR. WHIPPLE:

6 Q Okay. I'm showing you, Agustina, Exhibit Number 11.
7 Do you see that document?

8 A Yes.

9 Q Is that the same document that's on the screen?

10 A Yes.

11 Q Has this document ever been utilized in the United
12 States that you -- that you know of?

13 A No.

14 Q Was this document something util -- you utilized in
15 Mexico?

16 A Yes.

17 Q And why did you use this document in Mexico?

18 THE INTERPRETER: I'm sorry. Interpreter needs the
19 repetition. You broke up.

20 BY MR. WHIPPLE:

21 Q Why did you utilize this document in Mexico?

22 A I used it so my children wouldn't be taken away from
23 me.

24 Q I'm going to ask, when you -- was it important to --

1 was this document utilized so that your children could be
2 baptized?

3 A Yes, but in Mexico. In Mexico.

4 Q Okay. So is this a -- is this document false, or --
5 is it a true or false document? This is Exhibit 11.

6 A It's false.

7 Q And you've never utilized it here in the United
8 States?

9 A No.

10 THE COURT: (Indiscernible) I have to ask a
11 question. I hate to jump in, but I'm getting confused, and I
12 don't think you want that. So which child is this for?
13 Maybel?

14 MR. WHIPPLE: Maybel. Yes, Your Honor.

15 THE COURT: Oh, so does she have a real birth
16 certificate?

17 MR. WHIPPLE: Well, I was going to ask her that
18 next, with your permission, Your Honor.

19 THE COURT: Oh, okay. Please do.

20 BY MR. WHIPPLE:

21 Q Do you have a real certificate for Maybel?

22 A Yes.

23 Q Where was that certificate generated, or where was
24 it made?

1 A Oh, the father has it.

2 Q Okay. So this one, that lists Pedro Castelan as the
3 father, is that fake or is that true?

4 A No.

5 Q Is it false or is it true?

6 A False.

7 Q And is there a true one that is held by Jose Oscar
8 Salazar?

9 A Yes.

10 Q How do you know?

11 A Because we had papers together, and we -- we -- we
12 dit it together, and he has them.

13 Q And the correct one has Jose Oscar Salazar as the
14 father?

15 A Yes.

16 Q Now, Mr. Jose Oscar Salazar's attorney used the term
17 held out.

18 THE INTERPRETER: I'm sorry, you -- you broke up,
19 and the Interpreter couldn't hear you.

20 MR. WHIPPLE: You're very patient, Ms. Interpreter.
21 Thank you. It's a difficult question, but okay.

22 BY MR. WHIPPLE:

23 Q During the -- your questions from Mr. Gonzalez, he
24 asked you the words if you held out your children, how you

1 held out your children, and I want to discuss what you mean by
2 held out. Okay?

3 A Yes.

4 Q You have three younger children?

5 A Yes.

6 Q Who was -- who was the father of those three younger
7 children?

8 A Jose Oscar Salazar.

9 Q Have you ever told anybody that any other person
10 other than Jose Oscar Salazar is the father of your three
11 children, three younger children?

12 A Everybody knows that they're the children of Jose
13 Salazar.

14 Q Now, did there come a time when you moved back from
15 Mexico to America?

16 A Yes.

17 Q How did that come about?

18 A Because when Pedro died, I was being extorted, you
19 know, asked for money, and I was afraid. And Oscar brought me
20 the children in the summer. So I went to the consulate, and I
21 turned myself --

22 THE COURT: Oh, can we maybe mute that microphone
23 that Dad has? Because he shouldn't be talking right now.
24 Thank you.

1 BY MR. WHIPPLE:

2 Q Is that something that you planned together with
3 Jose Oscar Salazar?

4 A Yes.

5 Q Was that -- was he excited about you returning from
6 Mexico to America?

7 A Yes.

8 Q Did you move from Mexico back to Las Vegas in 2012?

9 A Yes.

10 Q So even though you were gone for over --
11 approximately 11 years in Mexico, you still came back to share
12 a home together with Jose Oscar Salazar?

13 MR. GONZALEZ: Objection, leading.

14 THE COURT: Sustained as to leading.

15 BY MR. WHIPPLE:

16 Q Why did you come back to America to live with your
17 husband?

18 MR. GONZALEZ: Objection, vague. When?

19 THE COURT: I am sustaining the objection. I just
20 didn't know where to do it, sorry, with the Interpreter.

21 BY MR. WHIPPLE:

22 Q When -- what was the date you came back to America,
23 after the 10, 11 years that you were in Mexico?

24 A On August 22nd, 2012.

1 Q Where did you live on August 23rd, 2012?

2 A I went to the -- the house on Ardmore Street.

3 Q Is that the same home you left 11 years earlier?

4 A Yes.

5 Q Did you share a bedroom with your husband, Jose
6 Oscar Salazar, on August 23rd, 2012?

7 A Yes.

8 Q Did you continue on as husband and wife, living
9 together in the same home that you bought back in 1999?

10 A Yes.

11 Q What was the legal basis for you to return from
12 Mexico to America in 2012?

13 MR. GONZALEZ: Objection, vague, foundation,
14 relevance.

15 THE COURT: Sustained as to foundation.

16 BY MR. WHIPPLE:

17 Q You said you -- you said after Pedro was killed, you
18 went to the consulate. You remember talking about that?

19 THE INTERPRETER: Interpreter needs repetition.

20 MR. WHIPPLE: Yes. I -- I'm sorry.

21 BY MR. WHIPPLE:

22 Q Do you remember after Pedro was killed, you went to
23 the -- you went to the consulate?

24 A To immigration, after they -- they wanted to kill

1 me.

2 Q So you came in 2012 legally into the United States?

3 A Yes.

4 Q How many bedrooms in that home?

5 A You mean the one on Ardmore?

6 Q Yes.

7 A Two bedrooms, one bath.

8 Q How did you squeeze five kids and one husband in two
9 beds and one bathroom?

10 A Well, one of my -- one of my daughters, Thaina,
11 lived with her aunt. And because of that reason, we decided
12 to buy a bigger house so we could be more comfortable.

13 Q During the 11 years while you were living in Mexico,
14 did your husband, Jose Oscar Salazar, support you with
15 financial payments?

16 A Yes. Yes.

17 Q How much would you receive from Jose Oscar Salazar
18 every week while you were living in Mexico?

19 A Yes. He sent me a lot of money so we could live
20 well.

21 Q Did there come a time when you decided to buy a
22 second home with Jose Oscar Salazar?

23 A Yes.

24 Q When was that?

1 A It was in 2014. I don't remember very well.

2 Q Do you know the address of that house?

3 A 3127 Panocha Street, Las Vegas, Nevada 89121.

4 Q What happened to the Ardmore property?

5 A We decided to rent it out.

6 Q How much would you receive a month?

7 A \$600 a month.

8 Q During this time that you were together with Jose
9 Oscar Salazar, did he have a job?

10 A Yes.

11 Q What type of employment did Jose Oscar Salazar have
12 while you were living with him in 2014?

13 A He had his own company, a truck. He drove his own
14 truck.

15 Q So did he work for himself?

16 A Yes.

17 Q So I want to ask you, from 2014 up to January of
18 this year, 2020, I'm going to ask you a question about that
19 six-year period.

20 A He's always driven his truck. He had an accident,
21 and for a -- a while, the truck was lost. But then, you know,
22 he -- he drove a truck with someone else.

23 Q Since -- between 2014 and January of 2020, did he
24 always work for himself?

1 A He worked with a person when his truck was lost, and
2 then he worked on his own, for himself.

3 Q Did you have any employment --

4 THE COURT: (Indiscernible) --

5 BY MR. WHIPPLE:

6 Q -- between 2014 and 2020?

7 THE COURT: Counsel, I apologize. As I stated when
8 we started, I have to take a 10-minute recess. I really --

9 MR. WHIPPLE: Thank you.

10 THE COURT: -- apologize. So we'll be back in 10
11 minutes. Thank you so much.

12 MR. WHIPPLE: Thank you, Judge.

13 (COURT RECESSED AT 2:33:00 AND RESUMED AT 2:46:12)

14 THE COURT: Thank you so much, and I apologize.
15 Mr. Whipple, wherever you left off?

16 MR. WHIPPLE: Thank you, Your Honor.

17 BY MR. WHIPPLE:

18 Q Agustina, we talked about the time period between
19 2014 and 2019. Are you aware that your husband filed a
20 complaint for divorce at some point?

21 THE COURT: We need Dad to mute his microphone
22 again.

23 THE INTERPRETER: Interpreter asks for repetition.
24 Unfortunately, she's getting echo from Ms. Cervantes Landa's

1 phone.

2 THE COURT: Okay. So we just turned off one
3 speaker, and maybe the courtroom speaker we should turn off?
4 That might help. All right. Is that a little better, Madam
5 Interpreter? Do you want to see?

6 THE INTERPRETER: Yes, Your Honor. The -- the --
7 the issue the Interpreter was having was with Mr. Whipple.
8 He's sitting close to his client, and she was getting echo
9 when he asked the question.

10 THE COURT: Oh, okay. Thank you. So has that been
11 handled? Are we okay now?

12 MR. WHIPPLE: I hope.

13 THE COURT: All right. We'll try. That's the best
14 we can do.

15 BY MR. WHIPPLE:

16 Q Agustina, did your husband file a complaint for
17 divorce in August of 2019?

18 A Yes.

19 Q Were both of you living together at the Panocha
20 Street residence at that time?

21 A Yes.

22 Q Did there come a time -- well, did you discuss --
23 did you discuss with him before August of 2019 the possibility
24 of a divorce?

1 A I'm sorry. I didn't understand.

2 Q Before you received the complaint for divorce in
3 August of 2019, had you discussed it at all with Osc -- Jose
4 Oscar Salazar?

5 A No.

6 Q Were you surprised when you were served with a
7 complaint for divorce from your husband?

8 A Yes. He handed it to me in person.

9 Q He hadn't discussed it with you all, prior to that
10 moment?

11 A No.

12 Q Did there come a time when you chose to move out of
13 the Panocha Street residence?

14 A Yes, in May. May 10th.

15 Q May of this year?

16 A Yes.

17 Q So that was almost eight months after you received
18 the complaint for divorce?

19 A Yes.

20 Q What was it that caused you to move out in May of
21 this year?

22 A Well, he -- he stopped, you know, giving money, he
23 stopped paying bills. And then he, you know, he -- he was
24 attacking me a lot mentally, and then he pushed me. And I

1 asked him, are you going to -- do you want to kill me? And he
2 said, maybe I should push you down the stairs, and I became
3 afraid, and I thought it would be better if I moved out.

4 Q Were the police called to your residence at Panocha
5 Street?

6 A Yes, like three times.

7 Q Did you tell them what happened?

8 A Yes, I would tell them what -- what had happened, of
9 course.

10 Q Are you aware that he has been charged with battery
11 and domestic violence here in Clark County, Nevada?

12 A Yes.

13 Q Have you been -- have you been in contact with the
14 District Attorney's Office, who have charged him in case
15 number 20-CR-010470?

16 A Yes.

17 Q Are you aware that he has a warrant, an active
18 warrant on him as we speak?

19 A The detective told me that there was a warrant for
20 him.

21 Q Okay. Now, what did he do in order for him to have
22 a warrant? Were you -- what happened that you told the
23 detectives about?

24 A Well, on May 10th, I went back to the police to tell

1 them again that, you know, I was leaving, and he was
2 threatening to accuse me of abandoning the home, and I told
3 them about the mental abuse, and the threats to push me and
4 that he pushed me already. And I don't know about the
5 physical bit, I don't know -- I -- I didn't know what the
6 charges were.

7 Q But you've been in touch with the detectives that --
8 that -- that met with you regarding this case?

9 A Yes.

10 Q Are you prepared to testify against your husband,
11 Jose Oscar Salazar, at the time of the trial?

12 A Yes.

13 Q Did you abandon your children in May of 2020?

14 THE INTERPRETER: I'm sorry, Counselor. Can you
15 repeat? The -- the Interpreter needs a repetition, please.

16 BY MR. WHIPPLE:

17 Q Did you abandon your children in May of this year?

18 A Yes. I did -- I did not abandon them. I left
19 because I couldn't -- I just couldn't stand any more what was
20 happening.

21 Q Have you tried to continue to have the same
22 relationships with your children that you -- today as you did
23 before May of 2020?

24 A I would say it's better now, you know. They -- they

1 want to come over, they call me, they call and say, Mom, I --
2 I'm always paying attention to them. I ask them, have you
3 eaten? No, Mom. Then I bring them food. You know, they want
4 to come over, and they ask me, call Dad. And I said, well, I
5 called, but he doesn't answer. They say, please, Mom, call
6 him. But he doesn't answer. Please, Mom. And that's why,
7 you know, my -- my daughters want to come. Because he doesn't
8 always answer. And my daughters told me that --

9 MR. GONZALEZ: Judge, I'm going to object to this.

10 THE DEFENDANT: -- (indiscernible) because they said
11 that, you know, I can't, you know, they can't come because --
12 until the, you know, the judge -- the judge tells them that,
13 you know we cannot -- I cannot go pick them up without his
14 permission.

15 THE COURT: Okay. What was your objection?

16 MR. GONZALEZ: All these statements by the daughters
17 back and forth, they're -- they're hearsay, Judge.

18 THE COURT: Okay. Sustained. I know it's -- it's
19 hard. We have a little timing issue with the Interpreter. So
20 we're doing the best we can. And it is sustained as to
21 hearsay. So any hearsay is stricken. Thank you.

22 BY MR. WHIPPLE:

23 Q During the time period between 2012 and 2000 -- I'm
24 sorry, strike that. During the time period between 2012 and

1 2019, who made the money in the house?

2 A Jose Salazar.

3 Q How much, if any, did you make of money during the
4 time period from 2012 to 2019?

5 A I never worked because I was dedicated to my
6 children.

7 Q Did there come a time when you had an accident that
8 caused you great pain?

9 A Yes, on December 29th, 2015, I slipped and fell at a
10 store. And that's when I broke three discs, and they were
11 repaired.

12 Q Are you in pain today?

13 A Right now, no, because I took the pain pill. But
14 when I don't take the pain pill, I feel a lot of pain.

15 Q Does the accident stop you from being a good mother
16 to your children?

17 A No.

18 Q Has it made it difficult for you to work?

19 THE INTERPRETER: The Interpreter asks for a
20 repetition of the answer, and Ms. Cervantes Landa says, I
21 forgot the question. What was it?

22 THE COURT: Okay. And then I also, I want to -- on
23 Dad's microphone, that's back on. And I think that causes a
24 little bit of problems with the -- with the connection. So

1 could we -- all right. It's off now. Thank you. So she
2 needs you to ask the question again.

3 BY MR. WHIPPLE:

4 Q We were talking about the injury, and the question
5 was, does the injury or the pain stop you from -- cause you --
6 stop you from being -- being able to be a mother to your
7 children?

8 A No.

9 Q That -- has it been difficult for you to work since
10 the injury?

11 A At home, yes. But even then, I have always taken
12 care of my children the way I should.

13 Q How do you stay in touch with your children today,
14 since you left the Panocha residence?

15 A Well, usually, they call me, and I pick them up, and
16 I bring them back. You know, sometimes I ask my son, you
17 know, can you go for your little siblings? But usually, I
18 pick them up when they, you know, they call and I pick them
19 up.

20 Q Do you know if your husband Jose -- do you know if
21 your husband, Jose Oscar Salazar, is away overnight while he
22 drives as a trucker?

23 MR. GONZALEZ: Objection, calls for speculation.

24 THE COURT: Overruled.

1 THE DEFENDANT: Yes, he does stay out.

2 BY MR. WHIPPLE:

3 Q Are you asking for primary custody of your three
4 youngest children?

5 A Yes. Yes, because, you know, the -- the girl cooks,
6 and I'm afraid that she could get burned, you know, and I ask
7 her, and she says, oh, Mom, I'm making an egg, and that makes
8 me feel bad.

9 Q Do you think you have the abilities to continue to
10 -- to be the primary custody of your three youngest children?

11 A Yes.

12 Q And why is that?

13 A Well, because I'm always paying attention to the --
14 to them, to their needs. They always come and tell me, Mom, I
15 need, you know -- when they're with their father, they're not
16 going to go and ask him, Dad, I need this, or I need that.
17 Whereas with me, they come and say, Mom, I need this, I need
18 that. It's like they have more trust.

19 MR. GONZALEZ: And that's a hearsay, Judge.

20 THE COURT: Sustained as to what the kids say.

21 BY MR. WHIPPLE:

22 Q Do you have an opinion as to why you feel you would
23 be a better primary custodian of your three youngest children?

24 A Yes, because their dad is always out of the house,

1 and also because their -- their siblings can help care for
2 them. But they're also studying, and that would be a -- a
3 very big responsibility for them.

4 MR. WHIPPLE: Your Honor, nothing further at this
5 time. Thank you.

6 THE COURT: Okay. Mr. Gonzalez, your microphone's
7 on mute, just so you know, Mr. Gonzalez.

8 MR. WHIPPLE: And, Your Honor, if I could at some
9 point just check where we are with regards to the minutes back
10 and forth?

11 THE COURT: Sure. Give the -- the marshal a second.
12 He has to figure that out. All right. Mr. Whipple is at one
13 hour and 50 minutes --

14 MR. WHIPPLE: 15 or 50, Your Honor?

15 THE COURT: 5-0. And I'll tell you in one second.
16 Mr. Gonzalez is at one hour and 45.

17 MR. GONZALEZ: Okay.

18 THE COURT: All right. Thank you. Go ahead,
19 Mr. Gonzalez.

20 REDIRECT EXAMINATION

21 BY MR. GONZALEZ:

22 Q Agustina --

23 THE COURT: Thank you.

24 MR. GONZALEZ: Oh, sorry.

1 THE COURT: I just said thank you to the marshal.

2 Thank you.

3 MR. GONZALEZ: Oh.

4 BY MR. GONZALEZ:

5 Q Agustina, you said that you were in a relationship
6 with Pedro for about a year; is that correct? That's what I
7 heard you say?

8 A Yes.

9 Q Okay. Let me show you -- let's go back to the birth
10 certificate. You see the date on that birth certificate?

11 A No, I can't see it.

12 Q Do you see the date? It's 6/21/2006. It's on the
13 screen, ma'am. Is that -- is that a yes, you can see it?

14 A Yes.

15 Q All right. And you said that you obtained this
16 birth certificate so that you can use it to baptize your
17 children in Mexico; is that correct.

18 A I don't understand the question, okay?

19 MR. GONZALEZ: And, Judge, I would ask that the
20 Court instruct Mr. Whipple not to be handing notes to the
21 Defendant while I'm cross examining her.

22 THE COURT: I'm sure he didn't do that. Did you,
23 Mr. Whipple?

24 MR. WHIPPLE: It was the same exhibit that's on the

1 screen, Your Honor. It's the same one I gave her when I --
2 during my direct examination.

3 THE COURT: Okay. So it wasn't a note, you were
4 just showing her the exhibit?

5 MR. WHIPPLE: Yes, Your Honor.

6 MR. GONZALEZ: Oh, okay.

7 MR. WHIPPLE: My Spanish is -- I have no Spanish
8 skills, so it would be impossible for me to communicate with
9 her directly.

10 BY MR. GONZALEZ:

11 Q Ma'am, if I could have your attention focused on the
12 screen, what I'm showing you? Do you understand that?

13 A Yes.

14 Q You obtained this birth certificate in 2006 to use
15 it to have the children baptized in Mexico; is that correct?

16 A Yes.

17 Q Okay. And then the children were baptized in 2009.
18 Do you agree with that?

19 A Yes.

20 Q Okay. And during this entire time, Pedro was aware
21 that you were doing this, correct?

22 THE INTERPRETER: I'm sorry. Can you repeat the
23 question?

24 BY MR. GONZALEZ:

1 Q During the three years, Pedro was aware that you
2 were doing that?

3 THE COURT: Doing what, exactly? I'm sorry.

4 BY MR. GONZALEZ:

5 Q Oh, I mean using the birth certificate to baptize
6 the children in Mexico, three years later.

7 A Like I said, we had a relationship for one year, but
8 he lived there. You know, we lived with his sister. Let's
9 say for instance, you know, we lived at the house, he lived in
10 the back. But he always came by, you know, and the children
11 even called -- with his sister, and the children even called
12 her aunt.

13 Q Okay. And so when you -- when you obtained the
14 baptism certificate, you had to turn in the birth certificate
15 to authorities with the church to obtain the baptism
16 certificate, correct?

17 A Yes. Yes, that's why, you know, we had to make the
18 -- the young man present himself as if he was their father, so
19 they could be baptized.

20 Q So you told the church that Pedro was the minor
21 children's father, right?

22 A We just presented the -- the certificate, the birth
23 certificates, the paperwork. And when they were baptized, we
24 all showed up.

1 Q Correct. So you told the church that Pedro was the
2 father of the minor children, right? It's a yes or no
3 question, ma'am.

4 A Yes. Yes.

5 MR. GONZALEZ: Judge, I'm trying to --

6 THE DEFENDANT: Yes. I -- I admit that, you know, I
7 made him pretend that he was the children's father. But the
8 real father is Jose Oscar Salazar. I don't know what you want
9 to gain with this.

10 BY MR. GONZALEZ:

11 Q So you knowingly gave a fake document to a church,
12 correct?

13 MR. WHIPPLE: Judge, asked and answered. Objection,
14 asked and answered.

15 THE COURT: Overruled.

16 BY MR. GONZALEZ:

17 Q Ma'am, you knowingly gave a fake document to a
18 church, correct?

19 A Yes.

20 MR. GONZALEZ: She's non-responsive, Judge.

21 THE COURT: Let's make the record --

22 THE DEFENDANT: Yes. And now that he's listening to
23 me, I want to -- to ask Mr. Salazar to forgive me. I did what
24 I did. I cannot undo it. But I ask him to please forgive me

1 for what I did. But please do not separate me from my
2 children.

3 BY MR. GONZALEZ:

4 Q And, ma'am --

5 THE COURT: Your request to strike --

6 MR. GONZALEZ: Oh --

7 THE COURT: -- is granted.

8 MR. GONZALEZ: I'll withdraw that objection.

9 BY MR. GONZALEZ:

10 Q Agustina, you -- you agree then that you could have
11 had Jose, the real father, baptize the children, right?

12 A Of course. But -- yes. It -- it just seemed very
13 difficult because -- for him to be there, because he was
14 always at work. And it just seemed to be easy this way. And
15 I ask him to forgive me.

16 Q You never gave him that choice, though, did you?

17 MR. WHIPPLE: Judge, I'm going to object again.
18 Asked and answered, relevance, foundation, ambiguous,
19 argumentative.

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

21 BY MR. GONZALEZ:

22 Q You never gave him that choice, did you?

23 A No. I did it behind his back.

24 Q And you agree then that Mellyarive, Maybel, and

1 Jormy were born in the United States when you crossed over
2 into the United States, right?

3 A Can you please repeat the question?

4 Q Mellyarive, Maybel, and Jormy were all born in the
5 United States, and you testified that you crossed over to --
6 to -- so that they can be born in the United States, right?

7 A Yes.

8 Q And when you crossed over to the United States, you
9 could have decided to go and live with Jose in Las Vegas at
10 that time, right?

11 A Yes, but we were waiting for the decision because he
12 had filed for papers for me.

13 Q Okay. So you're waiting for papers in -- in Mexico,
14 and you decide to break the law three times while you know
15 you're under immigration review? Is that what you're saying?

16 A Yes. But before, they were not -- betray me, or,
17 you know -- or they had him killed, and I preferred to be with
18 my children than to be dead.

19 Q And you -- you agree the reason why you went back to
20 Mexico was to continue living with Pedro?

21 A I don't understand.

22 Q It's a simple question, ma'am. You said -- I'm
23 asking you, isn't the real reason why you went back to Mexico
24 after your children were born was so that you could continue

1 living with Pedro?

2 A No. No, but -- no, he died in 2010. I had to wait
3 for two years more before I could get my papers.

4 Q I thought you just finished saying that you never
5 got papers, you got asylum. So now you're testifying as to
6 something differently? Okay.

7 A No, I asked for asylum at the border. But he had
8 filed papers for me, and we were waiting for papers. I don't
9 know if at the border or in Juarez.

10 Q All right, ma'am. So now I want to talk to you -- I
11 want to ask you a few questions about the domestic violence
12 allegation. Okay? Do you understand?

13 A Okay.

14 Q You testified that you've been in constant
15 communication with the detective that's in charge of the case,
16 right?

17 MR. WHIPPLE: Objection, frame -- form of the
18 question, includes facts not in evidence. She didn't say she
19 was in constant contact. She said she'd been in contact.

20 THE COURT: Well, I'm not sure that's an objection,
21 or that's something she could answer.

22 MR. WHIPPLE: Yeah. Thank you, Your Honor. Just
23 form of the question.

24 BY MR. GONZALEZ:

1 Q Are you in contact with the detective that's in
2 charge of the case?

3 A What a -- I'm sorry?

4 Q We're -- we're talking about domestic violence,
5 aren't we?

6 A Yes.

7 Q Are you in ct with the detective that's in charge of
8 the domestic violence case?

9 A Yes.

10 Q And it's easily -- you could just tell the detective
11 where Jose is living and where he's at when he's at home,
12 correct?

13 A I have no reason to tell him that, because the
14 detective has not asked me.

15 Q Okay. So you agree that in the last five, six
16 months, Jose hasn't been arrested for any charges related to
17 domestic violence, right?

18 MR. WHIPPLE: Judge, objection, speculation. Best
19 evidence is the actual we take judicial notice of the case.
20 And a victim's not going to know if -- if -- if a defendant's
21 being arrested or not.

22 THE COURT: I'm not sure about (indiscernible)
23 objections, but I was a little unclear on the question. Could
24 you rephrase it?

1 BY MR. GONZALEZ:

2 Q To -- to your knowledge, has Jose been arrested for
3 charges related to domestic violence?

4 A Well, I -- I don't know about it. But I found out
5 about it because I was driving the Yukon, and the police
6 stopped me, and they said, oh, we thought it was Jose Oscar
7 Salazar. And I said, the car is in his name. And they said,
8 well, we're looking for him because of -- because there's a
9 warrant due to domestic violence. And I was surprised, and I
10 told him and little Oscar that, you know, the police are
11 looking for his dad. But they didn't pay attention to me.

12 MR. GONZALEZ: Judge, I'll move to strike as non-
13 responsive and hearsay.

14 THE COURT: Sustained as to hearsay.

15 BY MR. GONZALEZ:

16 Q Did -- what exactly are you claiming that Jose did
17 to you to constitute a sort of domestic violence?

18 A He always hurt me mentally, and he knows why. Then
19 one day, he -- I was going down the stairs, and he pushed me.
20 And I said, look, do you want me -- do -- do you want me to
21 kill myself? And he said, I'd like that. I -- I wish I could
22 kill you. And that's when I became even more afraid of him.

23 Q Okay. And did you call the police immediately after
24 that happened?

1 A No, not right then. No, he -- he was the one who
2 called the police after that. And when they came to talk to
3 me, you know, they said that he claimed that I -- I had been
4 harassing him. And I said, no, just the opposite. And that's
5 when I told them that the -- the pushing. And that's when
6 they issued the warrant in that case for domestic --

7 Q Okay. So how many days or weeks was that after the
8 alleged incident that you -- that Jose called police, and they
9 spoke to you?

10 A I don't remember, but I had a bruise on my arm, and
11 I showed it to the police, and I have proof of that bruise.

12 Q Okay. So you -- so you reported it, you reported
13 the domestic violence sometime after the incident, and now
14 you're claiming that there's a bruise? Is that -- is that
15 what you're saying?

16 A Well, I told them that he had never committed
17 domestic violence against me, because he had never hit me.
18 But I told them he has pushed me, and he had done this. And
19 they said, well, this is domestic violence. They put it on.

20 Q Okay. So you're saying that you got a bruise from a
21 push? Is that -- is that how it happened?

22 A Yes. Besides pushing me, you know, he grabbed me by
23 the arm and -- but he said that he was playing.

24 Q Did -- the --

1 MR. GONZALEZ: The Court's indulgence. I think the
2 Interpreter interpreted wrong. The Interpreter said grabbed,
3 and then she said, swung at me and hit me. So if I could ask
4 the -- the -- the Defendant to specify again, and then have
5 the Interpreter interpret again?

6 THE COURT: Yes, that's fine.

7 BY MR. GONZALEZ:

8 Q You made a gesture that he -- with the -- with the
9 -- did he grab you, or did he punch you?

10 A Both things. First he hit me, and I said, ouch,
11 that hurts. And when I was going down the stairs, he pushed
12 me. And I said, do you want to kill me, and he said, I should
13 do that.

14 Q Okay. So at first you said to the police that he
15 pushed you and you got a bruise. And then when I questioned
16 you about it, now you're saying that he punched you and
17 grabbed you? Is that what you're saying?

18 MR. WHIPPLE: Judge, I'm going to object.
19 Argumentative.

20 THE COURT: Sustained. You can rephrase it.

21 BY MR. GONZALEZ:

22 Q Why are you now saying that Jose grabbed you and
23 punched you, when originally, you said that he just pushed
24 you?

1 MR. WHIPPLE: Objection, form of the questions.
2 Form of the question, evidence not in -- what's the right
3 word, Your Honor? Just form of the question. Facts not in
4 evidence. I'm sorry. Wrong -- wrong --

5 THE COURT: Overruled. Thank you.

6 BY MR. GONZALEZ:

7 Q Ma'am, the question is, why are you now saying that
8 Jose grabbed you and punched you when originally you said that
9 he just pushed you?

10 A Okay. I'm going to explain this better to you.
11 First, he punched me, and I said, Oscar, it hurts. And he
12 said, you know, it's going to hurt. And then when I was going
13 down the stairs, he pushed me. Okay. A few days later is
14 when the police came, and I told the police officer that he
15 pushed me. And he saw my arm, and he asked me. And I told
16 him, you know, he hit me, but he was playing. And he said,
17 well, this is domestic violence. I didn't want to say exactly
18 what had happened because I didn't want to -- to hurt him.

19 Q Okay. Okay. All right. So I want to move on to
20 the last few questions about custody.

21 MR. GONZALEZ: And -- and, Judge, I want to move to
22 admit the child interview report under -- I -- I would like
23 the Court to take judicial notice of the child interview that
24 is authentic, that it is a credible document, so that I can

1 impeach her on it.

2 THE COURT: Mr. Whipple?

3 MR. WHIPPLE: Well, Your Honor, I -- didn't the
4 Court order it? So if the Court ordered it, you certainly
5 have the right to review it. But I -- I don't think there's
6 any merit in allowing Mr. Gonzalez to impeach my client about
7 something he's never -- she's never seen.

8 And -- and I don't think it's relevant, anyway.
9 This is -- was an independent evaluation. If she'd been
10 present during the interview, perhaps there would be some
11 merit for it. But it -- these are all -- I mean, these kids
12 give this information confidentially, and when -- you know,
13 there's a privilege there, as well.

14 So how -- how -- I think there's a due process
15 violation as far as cross examining the mother about something
16 that she wasn't a part of, has never seen, and is unaware of,
17 and was court ordered by the Court.

18 MR. GONZALEZ: Well, that's -- that's the purpose of
19 impeachment, because it's an inconsistent statement as to what
20 you're saying and what else -- somebody else is saying.
21 That's how --

22 THE COURT: No, no. No, actually that's -- no. The
23 kids are not witnesses. That was a confidential report. It's
24 really a hearsay document. It -- it's -- I can't admit it.

1 So that's denied. And as far as impeaching her with what was
2 in the report, she didn't have any part of that report. So I
3 don't understand how you can impeach her. That -- I don't
4 know if I said that very well, sorry. It's late afternoon.
5 But you can't impeach her on someone else's statements, the
6 kids, no.

7 MR. GONZALEZ: All right. And so is the Court
8 allowed to -- well, the Court's allowed to take -- oh, okay.
9 I'll use it in closing then, because the Court can consider
10 that as part of the best interests factors.

11 THE COURT: Okay. What's your next question?

12 MR. GONZALEZ: I'm looking for it, Judge.

13 THE COURT: Okay.

14 BY MR. GONZALEZ:

15 Q Ma'am, you -- Agustina, you said that you married
16 Jose in 19 -- in 2001, right?

17 A Yes.

18 Q And you met him in -- in 1999, right? Okay.

19 A I met him in 1997.

20 Q And when you met him, you agree that you were
21 married to an individual named Rene (ph), right?

22 A Yes.

23 Q And you -- you divorced Rene Melendez (ph) in 2000,
24 correct? Okay.

1 A Yes, I divorced Rene.

2 Q It's yes you've divorced him in 2000?

3 A Yes.

4 MR. GONZALEZ: No further questions, Judge.

5 THE COURT: Okay. Anything else, Mr. Whipple?

6 MR. WHIPPLE: No, Your Honor. Thank you.

7 THE COURT: Who is your next witness?

8 MR. GONZALEZ: The Plaintiff, that'll be my last
9 witness, Judge.

10 THE COURT: All right. Sir, can you raise your
11 right hand? The clerk will swear you in.

12 THE CLERK: Okay. Mr. Salazar, if you can please
13 raise your right hand? You do solemnly swear the testimony
14 you're about to give in this action shall be the truth, the
15 whole truth, and nothing but the truth, so help you, God?

16 THE PLAINTIFF: Yes.

17 THE COURT: Thank you.

18 JOSE OSCAR SALAZAR

19 called as a witness on behalf of the Petitioner, and being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GONZALEZ:

23 Q All right. Jose, let's have you start off with
24 stating your full name for the record, and spell out your

1 first -- your first and middle name.

2 A Jose Oscar Salazar J-o-s-e O-s-c-a-r S-a-l-a-z-a-r.

3 Q All right. And I'm going to refer to you as Jose.

4 That way we make a clear record, and your son will be referred
5 to as Oscar. Okay? You understand that?

6 A Yes, yes.

7 Q Okay. Where do you currently live, Jose?

8 A 3127 Panocha Street, Las Vegas, Nevada 89121.

9 Q And who do you live with?

10 A With my five children.

11 Q Okay. And we already mentioned the five children,
12 so we're not going to go over that. But the Defendant doesn't
13 live with you?

14 A No.

15 Q Why not?

16 A Because she decided to leave on May 10th, on
17 Mother's Day, and then she followed me on Eastern -- or chased
18 me on Eastern. And then she parked the car right in the
19 middle of the street of Eastern. And she crossed over to my
20 vehicle, and started hitting the glass. And actually, there
21 were some police officers on the corner because they had
22 arrested someone, and I honked, and I called their attention.
23 And then they scolded her and told her that she shouldn't be
24 doing that because she -- she wanted me to hit her. And I

1 have the appointment that the police gave me so that she would
2 step away and leave me alone.

3 Q And when you say the -- the -- the -- what did you
4 say, appointment?

5 A I have it right here. It's a paper with a date and
6 --

7 THE COURT: Okay. Sir, please put down your phone.

8 THE PLAINTIFF: Where -- where it states a date, and
9 that she was hitting my -- my windows in the car so that I
10 would hit her with the car.

11 BY MR. GONZALEZ:

12 Q Okay. And -- and so they gave you an event number
13 card; is that correct?

14 A Yes, yes.

15 Q Okay. And were you arrested as a result of that
16 interaction?

17 A No, I was never arrested. She's the one that was
18 scolded, because she's the one that started it.

19 Q And is that what caused her to move out of the
20 Panocha Street home?

21 A Yes.

22 Q Okay. Did you force her out of the Panocha Street
23 home?

24 A No.

1 Q Did you verbally abuse her, causing her to leave the
2 Panocha Street home?

3 A No, she's the one that was following me in the car.

4 Q Okay. Have you ever been arrested for domestic
5 violence? Or for any reason, any kind of domestic violence
6 ever in your life?

7 A Never.

8 Q Have you ever put your hands on Agustina?

9 A Never. She wanted me to hit her so she could get
10 her papers.

11 Q And when you say papers, are you talking about some
12 sort of immigration benefit?

13 A Yes.

14 Q How many times did that happen?

15 A Many times.

16 Q And did the occasion ever come that you actually
17 bruised her, like she claims you did?

18 A I've never even hit my own children.

19 Q Okay. All right. And what is the -- what is the
20 custodial schedule that you're asking the judge to order in
21 this case?

22 A Well, ever since she abandoned the home, she got the
23 children used to a certain way, and I think that that way is
24 working.

1 Q And -- and when you say that way, what do you --
2 what -- what's the schedule that you guys are following right
3 now, if -- if there even is a schedule?

4 A Whenever she can, she'll call them, and then they're
5 with her as many hours as she wants them to stay with her, and
6 then at night, they return home.

7 Q Okay. And do you ever prevent the children from
8 going to visit Agustina?

9 A Never. I would never do that.

10 Q Why not?

11 A Because that's putting them in a situation that
12 would traumatize them.

13 Q How so?

14 A Well, for them to want to see their mother and for
15 me to deny that, that -- that would be an awful thing.

16 Q Okay. And do you encourage them to go see Agustina?

17 A Yes.

18 Q And is it their choice not to go visit Agustina on
19 occasion, or what -- how does that work?

20 A It's whenever she has time, and that's what they
21 say. They say, whenever Mom can, she comes and looks for us.

22 Q Okay. So -- so your children go visit Mom on Mom's
23 terms, and whenever she has availability. Is that your
24 understanding?

1 A Yes.

2 Q Okay. And if Mom is not available, she won't see
3 the children?

4 A Correct.

5 Q All right. So are you asking the Court to apply --
6 to give you primary custody?

7 A Yes.

8 Q And are you asking that the Court allow the minor
9 children, encore -- encore -- including Jormy, teenage
10 discretion to go visit Mom whenever the arrangement is
11 possible?

12 A Yes.

13 Q Okay. And how do you character -- how -- how --
14 let's go with Mellyarive. How would you characterize your
15 relationship with her?

16 A Very good. Excellent.

17 Q Okay. And what are the -- some of the things that
18 you love about her?

19 A She's always playing with me.

20 Q Okay. How so?

21 A Joking around, pinching me, saying things.

22 Q Okay. Is she like the family joker?

23 A Yes.

24 Q Okay. And how would you characterize your -- your

1 relationship with Maybel?

2 A It's good, also very good.

3 Q Okay. And what do you love about -- what do you --

4 A Well, she's more serious.

5 Q Okay. And what do you mean by that?

6 A She's always drawing, doing her homework.

7 Q Okay. And -- and what about Jormy? How would you
8 characterize your relationship with Jormy?

9 A Also loving.

10 Q Okay. What's the one thing that stands out about
11 Jormy in your mind?

12 A He's always apologizing. He's always saying, I'm
13 sorry, I'm sorry. I'm not quite sure how to put that into
14 words. Very well mannered.

15 Q Okay. All right. And what -- why does he feel the
16 need to apologize, do you know?

17 A I believe that's how he was taught in school.

18 Q Okay. All right. And do you scold him for -- for
19 -- to cause him to apologize?

20 A No, no, no. No, no, no. Let me give you an
21 example. See, if he's in the bathroom and you knock, and then
22 it's like (indiscernible) it's like I'm going to take a
23 shower. Oh, I'm sorry, Daddy, I was in the bathroom.

24 Q Okay. Okay. So he just feels the need to apologize

1 for -- for everything.

2 A Yes, for everything, everything.

3 Q Okay. All right. And do you have a good
4 relationship with Thaina and Oscar, also?

5 A Also yes.

6 Q All right. And are there certain things that --
7 that you do with them for fun?

8 A Well, yes. We have four mountain bikes, and we also
9 have jet skis. We've gone to the lake often. We've gone to
10 the snow on Mount Charleston. And we've also gone -- I
11 believe it's Sam's Town to do bowling.

12 Q Okay. And does Agustina -- when -- when do you --
13 do you constantly do that, or is there a certain period that
14 you've done that?

15 A Well, we did it for a while, but then after COVID,
16 well, we had to stop.

17 Q Okay. And when you would do these family
18 activities, would Agustina go with you?

19 A Never.

20 Q How would that make you feel?

21 A It would make me feel better, actually. I felt
22 better just with my children.

23 Q Why is that?

24 A Because of so many problems. It was best if I just

1 enjoyed my children.

2 Q Okay. And when you say problems, what -- what kind
3 of problems did you guys have?

4 A It's just that whenever we were going to go out, she
5 seemed to, I don't know, be bitter so that the trip would be
6 ruined for us.

7 Q Okay. So she would initiate a fight?

8 A Yes.

9 Q All right. You -- and you heard that she's
10 requesting for primary custody. Does that concern you?

11 A I did hear. Yes.

12 Q And -- and -- and why does that concern you?

13 A Because she's never given them that attention.
14 She's a female, but she was -- has never been a mother.

15 Q And what do you mean by female? What -- I don't
16 understand.

17 A She would rather be -- she -- she -- she chose a man
18 over her children, and she sent the children to me. She
19 didn't care what their life was, if they were eating, if they
20 were alive, or what they were doing.

21 Q Okay. And when you say she chose a man, are you --
22 what man are you talking about?

23 A Pedro.

24 Q Okay. And so when was -- let's talk about Thaina.

1 What -- how long have you had --
2 A Thaina.
3 Q -- Thaina in your custody?
4 A Since March of 2004.
5 Q Okay. And since March of 2004, have you been the
6 parent who primarily takes care of Thaina?
7 A Yes.
8 Q And when did Oscar come into your custody?
9 A Oscar and Mellyarive in August of 2010.
10 Q Okay. And when -- when -- were you present at your
11 children's birth for all -- all five?
12 A Only the two older ones.
13 Q Why were you not present for Mellyarive, Maybel, and
14 Jormy?
15 A Because the person that was present was Pedro, and
16 supposedly, there are some false documents showing him as the
17 father.
18 Q Okay. And are you disputing that you are not the
19 father of Mellyarive, Maybel, and Jormy?
20 A No, they look just like me.
21 Q Okay. So -- all right. Were you told about their
22 birth?
23 A Not until a week after they were born.
24 Q Okay. Were you aware that she was pregnant, for all

1 three children?

2 A I would see in in Laredo, Nuevo Laredo, which is
3 Mexico. And she would make arrangements for us to meet there
4 so that I would not be aware of her other relationship. She
5 always hid her address.

6 Q Okay. So did you ever visit her in the town where
7 she was living during that 12-year period that she was in
8 Mexico?

9 A Never. She would hide the addresses, she would tell
10 me about different places.

11 Q Okay. When did you come to find out about Pedro?

12 A I knew him.

13 Q Okay. How?

14 A I knew him from -- well, you see, he lived in
15 Veracruz. She is, and all her family is, from Veracruz.

16 Q Okay. And were you aware that -- that Agustina was
17 claiming that Pedro was Mellyarive's father, Maybel's father,
18 and Jormy's father?

19 A I did not find out until 2011, when all those papers
20 were handed to me.

21 Q And how did that make you feel?

22 A I was destroyed, but I had to focus.

23 Q As best as you know, were your children aware that
24 you were their father and not Pedro?

1 A They were confused.

2 Q Okay. And how did that impact them, as they found
3 out that Pedro was not their father, and you were?

4 A She should tell the truth. What she would say
5 whenever I -- I scolded them, they would say we're going to
6 call Dad. And she would say to them, if you call your dad,
7 he's going to find out he's not the dad, and he's going to
8 kick us out of the house. That's what she would say to them.

9 Q Okay. And kick them out of the house, referring to
10 you?

11 A Yes.

12 Q Okay. And would you ever kick out your children for
13 any reason?

14 A No. That's how she threatened them so that they
15 would always listen to everything she told them.

16 Q Okay. And do you believe that that serves the
17 children's best interests to do that to them?

18 A The kids were traumatized because of that.

19 Q Okay. And do you believe that Agustina has a -- a
20 -- a propensity to be honest and forthcoming?

21 A No.

22 Q All right. Other than the -- and why do you say
23 that? Other than this event, is there other -- are there
24 other reasons that cause you to believe that?

1 MR. WHIPPLE: Objection. Witness can give their
2 opinion, but unless I cross examine on it, the specific
3 instances are not admissible.

4 MR. GONZALEZ: It goes to credibility, Judge.
5 Credibility is always an issue.

6 THE COURT: Yeah. I'm going to sustain it. We can
7 move on.

8 MR. GONZALEZ: Okay. All right.

9 BY MR. GONZALEZ:

10 Q Are you currently employed, Jose?

11 A Yes.

12 Q And how long have you been employed?

13 A I've worked my whole life, ever since I came here.

14 Q Sorry. That was a bad question. Where -- where are
15 you currently employed?

16 A Oh, I'm self employed.

17 Q Okay. And so how -- how long have you been self
18 employed?

19 A Ever since April of 2018.

20 Q Okay. And what do you do for a living?

21 A I drive my own truck, so I'm -- have my own
22 business.

23 Q And when you say truck, are you referring to a
24 tractor trailer?

1 A Yes.

2 Q And do you deliver goods and items, or what is it
3 that you do for -- what's the purpose of the -- of the -- of
4 the driving?

5 A Construction product to different places.

6 Q Okay. And about how much do you earn on a -- on a
7 yearly basis? Or how did you earn in 2018?

8 A In 2018, about 120.

9 Q Okay. And is that before expenses and -- and
10 deductions, or is that gross?

11 A That's gross.

12 Q Okay. And after your deductions and -- and taking
13 into account all your costs, how much are you taking home?

14 A Well, it varies every year. It could be 42, 40, 43.

15 Q Okay. And so let's talk about the deductions that
16 -- that you -- that you file with. So when you file -- when
17 you claim deductions, what exactly are you -- are you claiming
18 that are costs associated with the business?

19 A Repairs, fuel, insurance, my -- my food. Whatever a
20 company has to pay for with, you know, DOT, tires.

21 Q Okay. And you -- do you own just the tractor
22 trailer in front, or also the tractor -- help me understand
23 this. There's two pieces to a tractor trailer, right?

24 A Oh, the front part. The engine.

1 Q Okay. So you -- all right. And then the -- the
2 trailer, do you own the trailer?

3 A I rent it.

4 Q Have you always rented it?

5 A Yes.

6 Q And is there a cost associated with that?

7 A Yes. \$1,000 to rent it.

8 Q Okay. So what I want to show you is -- I'm going to
9 share the screen. These are --

10 MR. GONZALEZ: Mr. Whipple, any objection to me
11 having the IRS 2017 taxes introduced, or do you want me to lay
12 the foundation and go through my questions?

13 THE COURT: Mr. Whipple?

14 MR. GONZALEZ: Mr. Whipple?

15 THE COURT: Oh, you might be on mute.

16 MR. WHIPPLE: I am muted, Your Honor, sorry. I'll
17 stipulate to the tax returns.

18 THE COURT: All right. What exhibit is this,
19 Counsel?

20 MR. GONZALEZ: This is Exhibit Number 2, Judge.

21 THE COURT: All right. 2 is admitted.

22 (Plaintiff's Exhibit 2 admitted)

23 BY MR. GONZALEZ:

24 Q All right. So these are your 2017 taxes. Okay.

1 All right. This reflects that you -- you have a business
2 income of 43,071. Is that accurate?

3 A Yes.

4 Q Okay. And is this the amount that you consistently
5 get every year?

6 A No, it varies.

7 Q Okay. And how much did you get in 2018, do you
8 remember?

9 A I believe around 42.

10 Q And then in 2019?

11 A 43.

12 Q Okay. Here are all the deductions that -- do these
13 numbers look accurate to you, where you reduced about 19, 20
14 (indiscernible)?

15 A Yes.

16 Q And are these deductions pretty consistent every
17 year?

18 A Yes.

19 Q Okay.

20 MR. WHIPPLE: Your Honor, I'll stipulate to '17,
21 '18, and '19.

22 THE COURT: Okay. You mean the years, '17, '18, and
23 '19?

24 MR. WHIPPLE: Yes, the tax returns.

1 THE COURT: So what exhibits are they?

2 MR. WHIPPLE: Or '17 -- '17 and '18. I don't see
3 '19.

4 THE COURT: So, Mr. Gonzalez, what exhibit is '18?
5 The tax return?

6 MR. GONZALEZ: Your Honor, it's Exhibit Number 3,
7 his 2018 tax return.

8 THE COURT: All right. So they're stipulating. Do
9 you want it admitted?

10 MR. GONZALEZ: Yes, Judge.

11 THE COURT: All right. 3 is admitted.

12 (Plaintiff's Exhibit 3 admitted)

13 BY MR. GONZALEZ:

14 Q Okay. Jose, so I just want to point out that for
15 2018, you also made about 43,000; is that right?

16 A Yes.

17 Q Okay. And for 2020, what is your projected gross
18 income that you're -- that you're taking home?

19 A I did not understand that.

20 Q Okay. Are you going to make a profit this year?

21 A No, a loss.

22 Q Why?

23 A I had an accident. My insurance didn't cover
24 anything, and aside from that, I have to pay in Nebraska.

1 Q And when you say accident, what do you mean there
2 was an accident?
3 A My truck caught fire, and burned, completely burned.
4 Q When -- when did that happen?
5 A August 8th.
6 Q Okay. So now let me show you --
7 MR. GONZALEZ: Court's indulgence.
8 THE COURT: Okay.
9 MR. GONZALEZ: Almost there. Sorry. Okay.
10 BY MR. GONZALEZ:
11 Q I'm showing -- do you -- do you recognize this
12 picture?
13 A Yes.
14 Q Okay. And do you recognize this picture?
15 A Yes.
16 Q Do you recognize this picture?
17 A Yes.
18 Q Do you recognize this picture?
19 A Yes.
20 Q Okay. How do you recognize these pictures?
21 A Because that was my truck.
22 Q And who took these pictures?
23 A I did.
24 Q Are these pictures true and correct copy of the

1 originals that you took?

2 A Yes.

3 MR. GONZALEZ: Move to admit, Judge.

4 THE COURT: What number is it?

5 MR. GONZALEZ: This is Exhibit Number 9.

6 THE COURT: 9. Any objection to 9?

7 MR. WHIPPLE: No, Your Honor.

8 THE COURT: 9 is admitted.

9 (Plaintiff's Exhibit 9 admitted)

10 BY MR. GONZALEZ:

11 Q Is this the fire that you were talking about that
12 happened in August?

13 A Yes.

14 Q Okay. And did this cause you financial hardship?

15 A Yes.

16 Q How did this happen? If you know.

17 A I was driving on Interstate 80, and I was going to
18 take exit 59 in Sidney, Nebraska to sleep. And once I came to
19 the stop sign, the -- the truck was already on fire.

20 Q Okay. And were you -- did you have full coverage on
21 that -- on that truck?

22 A No.

23 Q Okay. So were you compensated for the loss that you
24 sustained as a result of this event?

1 A No, not at all.

2 Q Okay. Have you had to borrow money -- or how --
3 wait, strike that. Do you own -- do you happen to have
4 another truck that you drive now?

5 A I asked for a \$40,000 so that I can start up my
6 business again, because I was at zero.

7 Q All right. And are you -- do you -- do you own a
8 new truck, or are you --

9 A Well, yes, I just bought another one.

10 Q Is it under your name, though?

11 A Yes.

12 Q All right. And you bought that with the \$40,000
13 loan?

14 A Yes.

15 Q Okay. And -- and who did you buy that new truck
16 from?

17 A From the young man that looks for my loads. The one
18 that hires me.

19 Q Okay. And have you paid back the loan?

20 A No, I just started up.

21 Q Okay. So you really don't own the trailer there.
22 It's in your name, but you -- you're financing it?

23 A Yes.

24 Q How much have you paid off?

1 A I have not been able to pay anything on it, because
2 I'm just barely starting up.

3 Q Okay. So he's deferred the -- the -- the lien, or
4 the person who you own the loan to has deferred payments?

5 A Yes.

6 Q Okay. Do you still rent out the trailer aspect,
7 too?

8 A Yes.

9 Q All right. How much do you estimate that you're
10 going to lose this year from your business?

11 A Around 80 to 90,000.

12 Q All right. Now, as far as your schedule is
13 concerned, do -- do you have a typical schedule that you work?

14 A No. Because I am self employed, I set my own
15 schedule.

16 Q All right. And what are the usual -- how many hours
17 a week do you usually work right now?

18 A Well, about six or seven hours because -- because of
19 COVID, it's really gotten -- gone down a lot

20 Q Okay. And do you -- do you work by contract, or how
21 do -- how do you obtain shipments?

22 A Well, I have a dispatcher, and I get information.
23 I'm informed there's a load, let's say for example, from here
24 to Tonopah, or to George -- Utah, and then come back. And if

1 there's a load to bring back, I do. If not, I come back
2 empty.

3 Q Okay. And are you aware how long this is -- this
4 six-hour a week schedule is going to take place for you?

5 A One never knows. You just don't know. You know, if
6 COVID gets worse, and we won't be able to work at all.

7 Q Okay. How are you supporting yourself right now?

8 A Well, as I'm working, I'm getting some money, and as
9 a matter of fact, the house that I'm living in, I have
10 (indiscernible).

11 Q And -- and you haven't paid the Panocha Street house
12 in three months?

13 A Yes.

14 Q Okay. Do your kids help you out financially
15 sometimes?

16 A No. I tell them that whatever they earn, it's for
17 them.

18 Q Okay. And there was a mention of a -- or a Chevy
19 Escalade. Do you remember that?

20 A Yes.

21 Q Did you purchase that?

22 A No. It was a gift from them, because they saw the
23 problems that I was in, that I practically have zero --

24 Q Okay.

1 A -- money.

2 Q So do you guys all share the Escalade?

3 A Yeah.

4 Q But you didn't pay for it out of your pocket?

5 A No. My two children did.

6 Q Okay. All right. So you -- you -- we -- we heard
7 testimony about Agustina disappearing throughout the night.
8 Do you know the -- why that was?

9 A They told me that sometimes she just disappear and
10 --

11 MR. WHIPPLE: Judge, objection, hearsay. Hearsay.

12 THE COURT: Sustained. Sustained.

13 BY MR. GONZALEZ:

14 Q Is -- does Agustina have a gambling problem in your
15 -- that you're aware of?

16 A Yes.

17 MR. WHIPPLE: Objection, foundation.

18 THE COURT: Sustained.

19 BY MR. GONZALEZ:

20 Q Have you seen -- have you seen Agustina at the
21 casino, playing -- or gambling?

22 A Yes. I sent you to your email a lot of pictures of
23 Agustina in the casino at 3:00 in the morning.

24 Q Okay. So you've seen her gambling at 3:00 in the

1 morning?

2 A Yes.

3 Q On a weekly basis, how many times have you seen her
4 gambling?

5 A When I would come, and if she wasn't there, then I
6 would go look around at the casino that I new she would hang
7 out at, because I know the car that she drives, and then I
8 would take pictures.

9 Q Okay. You -- you heard Agustina say that she wasn't
10 working. How would she get money to gamble?

11 A I don't know.

12 Q Did she ever use any of the community money to
13 gamble?

14 A When she was with me, yes, she did.

15 Q Okay. About how much?

16 A 5,000 a month.

17 Q And how would she get those 5,000 a month?

18 A She would like to me. She would tell me that it was
19 for Immigration, but it was all a lie.

20 Q And what do you mean, for Immigration?

21 A Well, they told me that I was going on a trip.
22 Supposedly Immigration would come and try to arrest her, and
23 that she had to be paying Immigration \$5,000 a month.

24 Q Okay. And did you ever see her make payments to

1 Immigration?

2 A No, I went to Immigration, and I spoke to Officer
3 Tejera (ph).

4 Q Okay. When -- when you were -- when -- when
5 Agustina was living in Mexico, who would be paying the
6 payments for the -- for the Ardmore house, the 1600 Ardmore
7 house.

8 A Oh, I would.

9 Q Okay. And was Agustina helping you out with any
10 sort of mortgage payments for those 12 years that you guys
11 were separated, or living apart?

12 A I would ask her to work, but she never wanted to
13 work. She was always using the excuse of not having papers.

14 Q Well, I'm talking about during the time when she was
15 in Mexico.

16 A Oh.

17 Q Did she help you with payments?

18 A Oh, no, never. Never.

19 Q Okay. You heard her testify that she gave you 5,000
20 to purchase the Ardmore house. Was that a true statement?

21 MR. WHIPPLE: Judge, objection. Form of the
22 question. They put \$5,000 down together. Part of it was my
23 client's money.

24 THE COURT: You can rephrase it.

1 MR. GONZALEZ: Okay.

2 BY MR. GONZALEZ:

3 Q Did Agustina give you any money to help you with the
4 down payment for the Ardmore house?

5 A Never. No.

6 Q Okay. Was she married to another man when you
7 bought that house?

8 A That's right.

9 Q And were you aware that she was married to another
10 man at that time?

11 A She had told me she was divorced.

12 Q Okay. When -- how did you find out that she was
13 married?

14 A Because the man was looking for her so that he can
15 hand her the divorce papers, and to ask to get paid for child
16 support that she never paid on her son.

17 Q Okay. So she has a son from Rene that she's
18 required to pay child support?

19 A Yes.

20 Q Have you ever met this other child?

21 A I saw in 2000 -- yes, '13. In 2013.

22 Q Does Agustina have a relationship, as far as you
23 know, with this other son?

24 MR. WHIPPLE: Judge, I'm going to object as to

1 relevance. What's the relevance of it --

2 THE COURT: Sustained. Sustained.

3 MR. GONZALEZ: Okay. All right.

4 BY MR. GONZALEZ:

5 Q Do you -- the -- there's a -- a 2012 Malibu in
6 dispute. Who -- who owns that car?

7 A I do.

8 Q Okay. And it's in your name?

9 A All of the cars are in my name.

10 Q All right. And was there an agreement between you
11 and the -- the -- Agustina that she would keep the Yukon, and
12 you would keep the Malibu in this court proceeding that's on
13 the record?

14 A Yes.

15 Q Okay. And so it was Agustina who requested the
16 Yukon, and then you stay with the Malibu, was that your
17 understanding?

18 A Yes.

19 Q All right. And do you still have the -- the Malibu?

20 A Yes.

21 Q Okay. Is it -- does it work?

22 A Yes.

23 MR. GONZALEZ: I got no other questions, Judge.

24 THE COURT: All right. At this point in time, I

1 think we all know we need a different day. Oh, sorry, I had
2 that off. So are you guys available next Monday at 9:00? I
3 had a trial move.

4 MR. GONZALEZ: Monday, November, 2nd?

5 THE COURT: Double check that's next Monday, right?

6 MR. GONZALEZ: I can do the afternoon, Judge. I
7 have to have an evidentiary hearing in the morning. In --

8 THE COURT: Oh, I can't do the afternoon. Let me
9 see here.

10 MR. WHIPPLE: Your Honor, I am actually flying to
11 Reno on the 2nd, and I return on --

12 THE COURT: When do you come back?

13 MR. WHIPPLE: The 5th. The 6th I'm wide open.

14 THE COURT: All right. Let me -- I'm sorry. I just
15 got signed off of Odyssey. Give me a second. I have to get
16 it back up on my -- my -- my pad here. So the only day next
17 week would be the 2nd. And then let me look at the next -- I
18 believe the next --

19 MR. WHIPPLE: I'm open --

20 THE COURT: -- the next day we're going to have
21 available, we're waiting for a stipulation that should be in
22 by tomorrow, is going to be the 16th.

23 MR. GONZALEZ: I was planning to have a good time
24 for my birthday, but I'll move -- I'm willing to do -- to be

1 in court.

2 THE COURT: I was, too, and you know what? On my
3 birthday, I had to work, too.

4 MR. GONZALEZ: Yeah, that works -- that works for
5 me, Judge.

6 THE COURT: So November 16th at 9:00. Does that
7 work for everybody? We'll take the morning only.

8 MR. WHIPPLE: Your Honor?

9 THE COURT: Yes, sir?

10 MR. WHIPPLE: Let -- let's go ahead and set it, but
11 I just -- for the record, I actually have a jury trial set for
12 the 16th. And I don't think it's ever going to go. My
13 client's out of custody. With the COVID, they've only got one
14 courtroom open. I think the likelihood is very remote. But I
15 just have to put that on the record.

16 THE COURT: Do you know when they're going to let
17 you know?

18 MR. WHIPPLE: We're doing status checks as we speak,
19 and I can call -- or I'll even file a motion with the Court
20 ahead of time, to get it moved.

21 THE COURT: You -- you mean with the criminal court?

22 MR. WHIPPLE: Yes.

23 THE COURT: Okay. So are we safe to set it for the
24 16th at 9:00 a.m.?

1 MR. WHIPPLE: Yes. I would say with 95 percent
2 certainty, and if there's an issue, I'll -- I'll notify the
3 Court (indiscernible).

4 THE COURT: Okay. And then I just want to get a
5 final numbers for you guys from the marshal. So, Marshal, can
6 you hear me?

7 THE MARSHAL: Yes, Judge.

8 THE COURT: Oh, the -- the speaker's off in the
9 courtroom. Madam Clerk, can you turn that off? I mean on.

10 THE CLERK: Hello?

11 THE COURT: Thank you. All right. So, Marshal, can
12 you tell us what the numbers are for each attorney?

13 THE MARSHAL: Yes, Your Honor. Mr. Gonzalez
14 finished with three hours. Mr. Whipple's at one hour and 55
15 minutes.

16 THE COURT: All right. And then I think what we had
17 said earlier is we were going to go with three-and-a-half
18 hours. So if you could just keep that in mind? We'll see you
19 all on the next date. And thank you all so much.
20 (Indiscernible).

21 MR. GONZALEZ: Thank you, Judge.

22 MR. WHIPPLE: Thank you, Your Honor.

23 THE COURT: Yes, sir?

24 MR. WHIPPLE: Thank you, Your Honor.

1 THE COURT: Oh, okay. I thought you had a question.
2 All right. Bye.

3 MR. WHIPPLE: Bye.

4 (PROCEEDINGS CONCLUDED AT 4:31:02)

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* * * * *

8 ATTEST: I do hereby certify that I have truly and
9 correctly transcribed the digital proceedings in the
10 above-entitled case to the best of my ability.

11

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/s/ Nita Painter
Nita Painter

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1 **TRANS**

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3
4 **EIGHTH JUDICIAL DISTRICT COURT**
5 **FAMILY DIVISION**
6 **CLARK COUNTY, NEVADA**
7
8

9 JOSE OSCAR SALAZAR,)
10 Plaintiff,) CASE NO. D-19-595434-D
11 vs.) DEPT. U
12 AUGUSTINA C. LANDA,) APPEAL NO. 83111
13 Defendant.)
14 _____)

15
16 BEFORE THE HONORABLE LISA BROWN
17 DISTRICT COURT JUDGE

18 TRANSCRIPT: NON-JURY TRIAL
19

20 MONDAY, OCTOBER 26, 2020
21
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FILED

SEP 29 2021

Alana A. Brown
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4 EIGHTH JUDICIAL DISTRICT COURT
5 FAMILY DIVISION
6 CLARK COUNTY, NEVADA
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9 JOSE OSCAR SALAZAR,)
10 Plaintiff,) CASE NO. D-19-595434-D
11 vs.) DEPT. U
12 AUGUSTINA C. LANDA,) APPEAL NO. 83111
13 Defendant.)
14

15
16 BEFORE THE HONORABLE LISA BROWN
17 DISTRICT COURT JUDGE

18 TRANSCRIPT RE: HEARING FOR DIVORCE
19

20 MONDAY, NOVEMBER 16, 2020
21
22
23
24

1 APPEARANCES:

2 (Participants appear virtually)

3 The Plaintiff: OSCAR SALAZAR
4 For the Plaintiff: RODOLFO GONZALEZ, ESQ.
5 879 N. Eastern Ave.
6 Las Vegas, Nevada 89101
7 (702) 778-3030

8 The Defendant: AUGUSTINA LANDA
9 For the Defendant: BRET WHIPPLE, ESQ.
10 1100 S. Tenth St.
11 Las Vegas, Nevada 89104
12 (702) 731-0000

13 Also Present: IRMA SANCHEZ
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I N D E X O F W I T N E S S E S

<u>PLAINTIFF'S</u> <u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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OSCAR SALAZAR	--	6	49	--
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DEFENDANT'S
WITNESSES:

AUGUSTINA LANDA	58	67	--	--
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I N D E X O F E X H I B I T S

<u>PLAINTIFF'S</u> <u>EXHIBITS:</u>	<u>ADMITTED</u>
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(None presented)

DEFENDANT'S
EXHIBITS:

(None presented)

1 LAS VEGAS, NEVADA

MONDAY, NOVEMBER 16, 2020

2 P R O C E E D I N G S

3 (The following transcript contains multiple
4 indiscernibles due to poor recording quality)

5 (THE PROCEEDINGS BEGAN AT 09:22:52)

6

7 THE COURT: All right. Good morning. This is Judge
8 Brown, and we are on the record. Counsel, could you please
9 state your appearances? We'll start with Plaintiff's side.

10 MR. GONZALEZ: Good morning, Judge. Rodolfo
11 Gonzalez, bar number 12751, appearing on behalf of the
12 Plaintiff, who's present in my office, with the assistance of
13 an interpreter.

14 THE INTERPRETER: Irma Sanchez (ph) (indiscernible)
15 interpreter in Spanish. (Indiscernible) 1459.

16 THE COURT: Thank you.

17 MR. WHIPPLE: Good morning, Your Honor. Bret
18 Whipple, bar number 6168, on behalf of Augustina Landa, who is
19 also present in my office.

20 THE COURT: Thank you.

21 MR. WHIPPLE: Your Honor?

22 THE COURT: Yes, sir?

23 MR. WHIPPLE: Would -- could I waive the jacket rule
24 this morning? It got really hot in my office, and I -- if

1 it's okay --

2 THE COURT: That's all right. Of course. No
3 problem at all.

4 MR. WHIPPLE: Thank you.

5 THE COURT: So where did we leave off?

6 MR. WHIPPLE: I -- I think I need to turn to
7 Mr. Gonzalez, and ask him if he's finished direct examination
8 on his client, Jose Salazar.

9 MR. GONZALEZ: And -- and I was -- I was. I think
10 that -- that there's where we ended, where I had finished my
11 -- my direct. Or -- yeah, my direct.

12 MR. WHIPPLE: Okay. That's what I asked. And then,
13 Your Honor, I just want to confirm how much time I have. I
14 think the Court, and I'm not -- I'm just -- this is my memory
15 only, which is certainly fallible, but I think Mr. Gonzalez
16 has like 30 minutes left, and I think I have like an hour plus
17 available, because of he had his client on direct examination
18 at the last time.

19 THE COURT: Okay. Let me look. My marshal gave me
20 that information when we finished. I just have to find it,
21 sorry. You know what? I'll ask him. I'm going to ask --
22 let's see. Here we go. He just texted me. Thank you. So it
23 says, Mr. Ripple -- Whipple used one and a half hours, and
24 Mr. Gonzalez used three hours. Okay?

1 MR. WHIPPLE: So I have an hour and a half remaining
2 then, Your Honor? Up to?

3 THE COURT: Yeah. And -- and I mean, I'm -- I'll --
4 I try to be flexible. I mean, we have the day. Hopefully, we
5 won't need the whole day. But, you know.

6 MR. WHIPPLE: I don't -- I don't mean to --

7 THE COURT: Yeah. I want to make sure we hear what
8 everybody wants to say.

9 MR. WHIPPLE: Thank you, Your Honor.

10 THE COURT: All right. So with that -- so, sir,
11 you're still under oath.

12 THE PLAINTIFF: Yes.

13 THE COURT: And whenever you're ready, Counsel.

14 MR. WHIPPLE: Thanks, Your Honor.

15 JOSE OSCAR SALAZAR
16 having been called as a witness on his own behalf as the
17 Plaintiff, and being previously sworn, testified as follows
18 on:

19 CROSS EXAMINATION

20 BY MR. WHIPPLE:

21 Q Mr. Salazar, good morning. Can you hear me okay?

22 A Yes.

23 Q Do you remember me asking you questions almost two
24 weeks ago now?

1 A Yes.

2 Q So I have similar kind of questions today, okay?

3 A Yes.

4 Q Now, the last time I spoke to you, I pointed out the
5 fact that you have a active arrest warrant. Do you remember
6 that?

7 A Yes.

8 Q Now, have you taken any efforts in order to get that
9 arrest warrant resolved?

10 A No, because I don't have an arrest warrant.

11 Q Your position is you do not have an arrest warrant?

12 A I do not have an arrest warrant.

13 Q Okay. Are you familiar with case number -- and I'll
14 just put this on the record -- 20-CR-010470?

15 A No.

16 Q Okay.

17 MR. WHIPPLE: Your Honor, I'm going to have my staff
18 -- I'll move forward, but I'm going to come back to this. I
19 believe the Court can take judicial notice of the minutes of
20 this particular case.

21 THE COURT: I'm sorry. What court is it in?

22 MR. WHIPPLE: It's -- it's justice court. I think
23 -- I think it's Clark County --

24 THE COURT: Las Vegas?

1 MR. WHIPPLE: Clark -- Clark County.

2 THE COURT: So it's --

3 MR. WHIPPLE: Clark County.

4 THE COURT: Okay.

5 MR. WHIPPLE: So I -- I will scan it to myself, and
6 I'll -- if you could scan this, so we could bring it in that
7 way. I'll move -- I'll move forward, but you -- we can come
8 back to that.

9 MR. GONZALEZ: Judge, I will object because my
10 client says he has no -- he has no notice, he -- he's unaware.
11 So I'm not sure if he's trying to get it admitted, or --

12 MR. WHIPPLE: Well, I can respond, but I'm sorry.

13 THE COURT: Yeah. Go ahead.

14 MR. WHIPPLE: So, Your Honor, you could --
15 obviously, it's the minutes from the case. The Court can take
16 judicial notice. Obviously, it goes to the -- to several
17 issues with regard to Mr. Salazar. It goes to the actual
18 event itself, which apparently he's contesting, which
19 obviously goes directly to the child custody matter. It also
20 goes to his -- it also goes to his credibility. He's been
21 aware, on notice for two weeks now that it potentially exists.

22 THE COURT: All right. So we're not -- you're --
23 you're asking me to take judicial notice of another court
24 hearing -- another court case, correct?

1 MR. WHIPPLE: Yes.

2 MR. GONZALEZ: Oh, okay.

3 THE COURT: So with that, I -- I can take judicial
4 notice of another case --

5 MR. GONZALEZ: Okay.

6 THE COURT: -- and make sure that Mr. Gonzalez has
7 that information, too, that you put on the screen. Okay?

8 MR. WHIPPLE: Yes, Your Honor. And we're scanning
9 it right now. I didn't -- it was -- so I want to give -- I
10 want to move forward, and we'll come back to that.

11 THE COURT: Okay. Thank you.

12 BY MR. WHIPPLE:

13 Q Mr. Salazar, do you remember filling out what's
14 known as a financial disclosure form?

15 A Yes.

16 Q And I'm going to show you an exhibit that you
17 submitted. This would be Mr. Gonzalez's exhibits, number 09.
18 Okay. So we're -- 9. Mr. Salazar, do you recognize the
19 exhibit at the right hand bottom that says 09? Is that your
20 -- is that your signature?

21 A No, that's not my signature.

22 (COUNSEL CONFER BRIEFLY)

23 BY MR. WHIPPLE:

24 Q Okay. I'm sorry. The -- you see that signature

1 there?

2 A Yeah. That -- that one is.

3 Q Okay. So do you know what the purpose of your
4 signature is on there?

5 A No.

6 Q You -- you don't recall the information right above
7 your signature, the significance of it?

8 A No.

9 Q Okay. Let me read that to you. Okay? See that X?
10 It says under important?

11 A Yes.

12 Q Okay. I'm -- I'm going to read one sentence at a
13 time. I swear or affirm under penalty of perjury that I have
14 read and followed all instructions in completing this
15 financial disclosure form. Do you agree with that? Sir?

16 MR. GONZALEZ: He said yes.

17 BY MR. WHIPPLE:

18 Q Do you agree with that?

19 A Yes.

20 Q Okay. And the next sentence is, I understand that
21 by my signature, I guarantee the truthfulness of the
22 information on this form.

23 A Yes.

24 Q Do you agree to that?

1 A Yes.

2 Q Okay. And then the last sentence is, I also
3 understand that if I knowingly make false statements, I may be
4 subject to punishment, including contempt of court.

5 A Yes.

6 Q And you agree with that?

7 A Yes.

8 Q And that is your signature, correct?

9 A Yes.

10 Q Okay. Let's go now to the assets that you've listed
11 in this particular case. That would be on -- on page 007.
12 Now, let's start at the top. You'll agree with me that you
13 have a residence at 1600 Ardmore Street?

14 A Yes.

15 Q And is it fair to say that the gross value is
16 approximately 143,000?

17 A That's -- that -- that it's worth?

18 Q Yes.

19 A I -- I owe around 90, \$91,000.

20 Q Okay. And where did you get the gross value, what
21 you believed it was worth? Where did you get that number?

22 MR. GONZALEZ: Mister -- sorry. Can you -- can you
23 make the screen bigger, because we can't -- it's blurred in a
24 line.

1 MR. WHIPPLE: So I -- I can scroll up and down. The
2 -- yeah -- is that better?

3 MR. GONZALEZ: A little bit more. Perfect. Thank
4 you.

5 MR. WHIPPLE: Okay. Great.

6 BY MR. WHIPPLE:

7 Q Mr. Salazar, where did you get the approximate value
8 of 1600 Ardmore Street as \$142,951?

9 A Okay. So that that's written right there
10 (indiscernible) down, it must have been the -- the first
11 attorney I had. I don't even have an Audi or a Ford Explorer.

12

13 Q Well, I'm asking you a specific question, on line
14 number 1, 1600 Ardmore Street. Do you see that?

15 A Yes.

16 Q You put a value of \$142,951. Do you see that?

17 A Yes, I do.

18 Q Where did you get that number?

19 A It must have been researched online.

20 Q Did you do that yourself?

21 A No, because my house is in -- worth \$98,000. It --
22 it doesn't have that price.

23 Q So you would agree with me that your wife, Augustina
24 lives -- resides at 1600 Ardmore Street, correct?

1 A Yes.

2 Q Okay. That's a -- that's a residence that you
3 bought while you were married?

4 MR. GONZALEZ: Objection.

5 THE PLAINTIFF: I -- I bought it when I was single.

6 BY MR. WHIPPLE:

7 Q Okay. You bought it after you had children together
8 with your wife, right?

9 A Before that.

10 Q Before any of your children were born?

11 A Yes, before.

12 Q Okay. How -- how many years before you were married
13 did you buy it?

14 A 11 months before she had the first baby.

15 Q Okay. So you were together at that time then,
16 right?

17 A No, when I hear about that house, and I turned in
18 all the paperwork, I was single.

19 Q I understand. And part of the money that was used
20 to pay for it, you got from your wife, Augustina Landa?

21 THE INTERPRETER: Counselor, can you repeat the
22 question for the Interpreter?

23 MR. WHIPPLE: Of course.

24 BY MR. WHIPPLE:

1 Q Regarding 1600 Ardmore Street, when you bought it,
2 the initial down payment, part of it came from your wife,
3 Augustina Landa?
4 A No.
5 Q Okay. Now, you -- you reside at 3127 Panocha
6 Street, correct?
7 A Yes.
8 Q You'll agree with me that you bought that while you
9 were married to Augustina Landa?
10 A Yes.
11 Q Okay. And the value of 27 -- \$277,950, do you know
12 where that came from?
13 A Also online.
14 Q Did you do that research?
15 A Maybe.
16 Q Do you recall doing it? Yes or no.
17 A No.
18 Q Okay. And let me get it confirmed information from
19 you, on the Ardmore Street residence, did you -- do you recall
20 researching the number of \$142,951? Did you -- do -- did you
21 do that yourself?
22 A No.
23 Q All right. Now we're going to go down to line
24 number 3. Okay?

1 A Yes.

2 Q Now, you just told me that that 2007 Audi, you don't
3 even have that, correct?

4 A I've never had an Audi.

5 Q Okay. So that would be incorrect information that
6 you provided for line number 3, correct?

7 A I didn't offer that information, because I don't
8 have an Audi. I can't lie.

9 Q So when you signed it, did you review this document
10 to make a determination if it's correct or not?

11 A No.

12 Q So you just signed a document without reviewing it?

13 A Yes.

14 Q So you don't know whether the information on this
15 document is correct or not?

16 A No, I don't.

17 Q You do recognize that when you signed it you
18 acknowledged that it was correct, right?

19 A Yes.

20 Q Now, how long have you known that line number 3 was
21 not correct?

22 A Since I -- since I came to last court, that I said
23 that I didn't have an Audi.

24 Q Okay. The -- do you know why you did not do an

1 updated financial disclosure form, taking the information that
2 was incorrect off of it?

3 A I didn't it was that.

4 Q But you've known for at least a couple of weeks that
5 that's incorrect, right?

6 A Yes. Last court, I said I didn't have that car.

7 Q Okay. Now let's go through the other lines. Line
8 number 4. 2-0-1-2, 2012 Malibu, is that correct or is that
9 not correct?

10 A Yes.

11 Q So that one is correct?

12 A Yes, that one is.

13 Q And who -- who -- who operates the 2012 Malibu?

14 A My son, Oscar, and me.

15 Q And how did you get the value of \$6,000?

16 A That -- that's it's value.

17 Q How do you know?

18 A That's -- that's market price as a salvage car.

19 Q Okay. And you'll agree you don't owe anything on
20 it, right?

21 A No.

22 Q So this, line number 4, is correct?

23 A Yes.

24 Q Line number 5. Is line number 5 correct?

1 A Yes.

2 Q So you do own a 40 -- 2000 GMC worth \$45,000?

3 A I don't have it anymore because Augustina sold it.

4 Q I'm sorry?

5 A I don't have it anymore because Augustina sold it.

6 Q I can't understand the last word. A Christina --

7 you -- did what sell it?

8 A Augustina sold it.

9 Q Oh, Augustina sold it. When did she sell it?

10 A September.

11 Q What's that?

12 A September.

13 Q Okay. Do you know how much money she got?

14 A She told me she had sold it at 2,000, but I don't

15 know.

16 Q Well, in January of 2000, when you signed this

17 document, what was your understanding with regard to the 2000

18 GMC truck?

19 A That was a car I had.

20 Q And on the far-right column, it says it's under your

21 name. Was it in your name?

22 A It was. Now it's sold.

23 Q Okay. Now, line number 6, the Ford Explorer.

24 THE COURT: Excuse me.

1 BY MR. WHIPPLE:

2 Q Is that correct, or is that not correct?

3 A It wasn't an Explorer, it was an Expedition.

4 Q Okay. Do you have an Expedition?

5 A No. It wasn't mine. They gave it to me to sell it,
6 and the person that entered the information was Augustina.

7 Q Can you -- can you repeat the answer,
8 Ms. Translator? I -- it broke up.

9 A That information was entered by Augustina. It
10 wasn't an Explorer, it was an Expedition.

11 Q Okay. So who's -- who owns -- do you still have the
12 Expedition?

13 A No. They gave it to me so that I would sell it.

14 Q Do you remember your son testifying about driving an
15 Expedition?

16 MR. GONZALEZ: Objection, misstates testimony.

17 THE COURT: Overruled.

18 THE PLAINTIFF: I didn't understand your question.

19 BY MR. WHIPPLE:

20 Q Does your son drive an Expedition?

21 A There's some confusion. It's an Escalade.

22 Q Is that in his name or your name?

23 A Everything's under my name because that's -- it's
24 better for insurance purposes.

1 Q Did you put that vehicle on this list?
2 A They just bought it.
3 Q Okay.
4 A At -- at an auction.
5 Q How long ago?
6 A August.
7 Q Okay. Now, line number 7.
8 A Yes.
9 Q A 2000 -- 2005 truck, I'm sorry, for 32,000.
10 A It was a '98, and they (indiscernible) down.
11 Q Did you get any proceeds from the insurance?
12 A Not even one cent.
13 Q So that's not -- line number 7 is not correct,
14 right?
15 A No.
16 Q And how long have you known that it's not correct?
17 A I noticed it last court date.
18 Q And then line number 8, the trailer. Do you see
19 that?
20 A Yes.
21 Q Is that correct?
22 A The trailer I have, I pay \$1,000 a month for rent.
23 Q Okay. Now, you use the truck and the trailer to
24 make a living, correct?

1 A Yes.

2 Q You're -- you're a long haul -- long haul trucker?

3 A Yes.

4 Q You make approximately \$10,000 a month driving

5 truck?

6 A Yes. It could be 10,000 or 3,000.

7 Q I'm sorry?

8 A It could be 10,000 or 3,000.

9 Q Okay. In fact, in 2017, you made more than \$10,000

10 a month the entire year?

11 THE INTERPRETER: I'm sorry. Can you repeat that,

12 the number, Counselor?

13 BY MR. WHIPPLE:

14 Q In -- in 2017, you made more than \$10,000 a month

15 for the -- every month of -- for that year?

16 A There's not an exact amount. It can be 10,000,

17 5,000, or 20,000. It's not an exact figure.

18 Q So I'm asking you about a specific year that already

19 occurred. Okay?

20 A I don't know. Monthly, I did not make the same

21 amount, so I can't answer that question.

22 Q Okay. We're going to go to page 16 of your

23 disclosures. Do you recognize that document?

24 A Yes.

1 Q And I want you to look -- do you see where it says
2 -- to the left, it says, income, part one, income?

3 A Yes.

4 Q And do you see at the far right side, the total
5 gross income was \$121,970 for 2017?

6 A Yes.

7 Q You'll agree with me then that at in 2017, you
8 averaged a little bit more than \$10,000 a month for the entire
9 year?

10 MR. GONZALEZ: Objection, misstates the document.
11 He's saying you earned, and that's gross. That's not earning.

12 MR. WHIPPLE: I'll clarify.

13 THE COURT: I'm so sorry. I was on mute. I didn't
14 want you to hear my dogs barking. I was overruling the
15 objection. I apologize. I really thought you heard me.

16 MR. WHIPPLE: No problem, Your Honor.

17 BY MR. WHIPPLE:

18 Q So, Mr. Salazar, you'll agree with me that in 2017,
19 your monthly gross income was a bit more than \$10,000?

20 A I don't make the same every month.

21 Q I'm asking you about 2017.

22 A The -- the amount of 121,970 is correct.

23 Q Is correct, right?

24 A Yes.

1 Q So that was 2017. Wouldn't you agree with me that
2 in 2018, you also grossed over \$10,000 a month, on average,
3 for the year 2018?

4 A You -- you -- you talk about monthly, and I don't
5 make the same amount every month.

6 Q No, and I understand that. But I'm asking you, on
7 average, if you take the year, your monthly average amount of
8 gross income is a little bit more than \$10,000.

9 A Yes.

10 Q You'll agree that that's -- exists in 2017, correct?

11 A Yes.

12 Q You'll agree that that existed in 2018?

13 A Yes.

14 Q You'll also agree that that existed in 2019?

15 A Yes.

16 Q Okay. So is there any reason that going forward on
17 any year, you would not be expected to make, on average,
18 \$10,000 per month in gross income?

19 MR. GONZALEZ: Objection, calls for speculation.

20 THE COURT: Can you repeat the question again?

21 MR. WHIPPLE: Yes, Your Honor. Well, I'm going to
22 ask a foundational question just -- just --

23 THE COURT: Okay.

24 MR. WHIPPLE: -- lay a little foundation.

1 BY MR. WHIPPLE:

2 Q Mr. Salazar, you've already agreed that in the years
3 2018 -- '17 and '18, you averaged approximately \$10,000 a
4 month gross income, correct?

5 A Yes.

6 Q You already admitted that in 2019, you averaged
7 approximately \$10,000 a month for gross income?

8 A Yes.

9 Q Is there any reason then, going forward, in any year
10 going forward, that you would -- any reason that you would
11 earn less than \$10,000 a month, going forward?

12 MR. GONZALEZ: Objection, calls for speculation. He
13 can't speculate about the millions of reasons that could
14 occur.

15 MR. WHIPPLE: It's not speculation. We just took
16 three years on average, and if there is a difference, he can
17 explain it.

18 THE COURT: He can answer. Overruled.

19 THE PLAINTIFF: I -- I -- I can't see the future. I
20 -- I can tell you presently, and what I have earned before.
21 But I -- I don't know if I'm going to die tomorrow.

22 BY MR. WHIPPLE:

23 Q I understand that, and we -- we all have the same
24 risk. But in general, other than an unexplained occurrence

1 like your death or something unusual, is there any reason why
2 you wouldn't make \$10,000 a month, on average, going forward?

3 A I -- I don't know. I can't guess. I'm not a robot,
4 I can get sick. I -- I don't know.

5 Q Okay. I understand. All right. So that sounds
6 like a reasonable answer. Now, the values of the home -- I
7 want to go back to line number -- page number 7. Is it
8 possible that those homes are worth more than what you listed?

9 A Well -- well, we would have to see the market value.
10 I can't -- I don't -- I don't -- I don't have a say in that.

11 Q Okay. Would you agree with me -- do you know
12 whether the amount owed is correct or not?

13 A on Ardmore, the amount owed is less.

14 Q How much? Do you know?

15 A Around 92,000.

16 Q Okay. What about Panocha?

17 A That is more or less the price.

18 Q You mean that's more or less what you owe?

19 A Yes.

20 Q Okay. So I'm going to go -- would it assist you if
21 you saw a current market analysis as to the potential value of
22 the -- of the home?

23 THE INTERPRETER: I -- I need you to repeat that
24 question, Counselor. The Interpreter didn't understand the

1 whole question.

2 MR. WHIPPLE: Yes. I -- I apologize.

3 BY MR. WHIPPLE:

4 Q In determining what you believe the proper value
5 would be, would -- would it assist you by looking at a -- a
6 comparable analysis of other homes sold in the community?

7 MR. GONZALEZ: Objection, foundation.

8 THE COURT: Sustained.

9 BY MR. WHIPPLE:

10 Q Are you -- Mr. Salazar, you understand other homes
11 in the community sell?

12 A No.

13 Q You agree with me that other homes in Las Vegas are
14 bought and sold, right?

15 A Yes.

16 Q And would you agree with me that other homes that
17 are in -- in and around your neighborhood have been bought and
18 sold?

19 A Yes.

20 Q If you knew what the average value of those homes
21 that bought and sold, would that have you -- would that allow
22 you to get a better understanding of the value of the house on
23 Panocha?

24 A Yes. We need to see if the ones that were sold or

1 bought were better -- in better conditions, or worse than mine
2 is.

3 Q Okay.

4 MR. WHIPPLE: So I'm going to -- Your Honor, I'm
5 going to just go to my exhibits to get the -- the -- the
6 minutes --

7 (COUNSEL CONFER BRIEFLY)

8 BY MR. WHIPPLE:

9 Q Mr. Salazar, I'm showing you what's been marked as
10 my Exhibit 1. If you --

11 MR. GONZALEZ: Judge, I'm going to object to these
12 exhibits. None of them were disclosed during discovery, or --
13 or prior to the last trial hearing. Counsel was retained the
14 -- the Friday before the last trial date -- or the last
15 evidentiary hearing, and that's the first time that they
16 disclosed any documents. So I would request that the Court
17 exclude any documents that were not produced during discovery.

18 MR. WHIPPLE: May I respond?

19 THE COURT: Yes, please.

20 MR. WHIPPLE: So these -- these documents were
21 disclosed as soon as I got on the case. So that was before
22 the last hearing. But that last hearing was several weeks
23 ago, and I'm not -- I'm not admitting this document for the
24 truth. I'm simply admitting it as a document that I can cross

1 examine Mr. Salazar on to make a determination of whether his
2 understanding of the value of that home is correct or not. We
3 already know that his financial disclosure form has errors in
4 it.

5 THE COURT: So, Mr. Gonzalez, you didn't receive it?

6 MR. GONZALEZ: No. No, Judge. Every -- well, I did
7 the -- on the -- on the eve before the last trial date. But
8 this was not produced during discovery, or a part of 16.2.
9 And what rule is he citing to have it introduced into
10 evidence, or at least show the Court this document?

11 MR. WHIPPLE: To refresh the --

12 THE COURT: What is -- oh, go ahead.

13 MR. WHIPPLE: Refresh the recollection of a
14 particular witness.

15 THE COURT: You're asking --

16 MR. GONZALEZ: Refresh recollection?

17 THE COURT: Did you ask him to do that? I didn't
18 hear that.

19 MR. WHIPPLE: I was -- I was before -- that was
20 going to be coming up next, Your Honor. That's why I was
21 asking him about the value, if -- if the sale -- if the other
22 value of homes sold in the community would give him a -- a
23 pretty good -- a better understanding of the value of a
24 particular residence.

1 THE COURT: Well, if you're --

2 MR. GONZALEZ: So --

3 THE COURT: -- to refresh his recollection, you have
4 to go through a specific, you know, series of questions. So
5 are you planning on doing that?

6 MR. WHIPPLE: I -- yeah, I was -- but I have to show
7 him the exhibit first, and that's why I was going to -- that's
8 -- that's why I've laid the foundation so far, Your Honor.

9 MR. GONZALEZ: It -- Judge, that doesn't make -- how
10 -- how can you refresh somebody's recollection on a document
11 he's never seen?

12 THE COURT: Yeah, that's --

13 MR. WHIPPLE: It's -- it's regarding the information
14 that the document has. I -- I agree with you that he has not
15 seen the document, but we're in a pandemic era. I don't know
16 how to -- it's not like I can show it to him and not the
17 Court, and say does this refresh your recollection regarding
18 values of the homes in your community. I have to show
19 everybody at the same time, unfortunately.

20 THE COURT: I -- I think you're missing a step or
21 two in the refresh recollection in that -- in that scenario.

22 MR. WHIPPLE: Understood, Your Honor.

23 THE COURT: So do you want -- what's your next
24 question?

1 MR. WHIPPLE: I'm going to go to -- back to the
2 judicial notice of justice court case 20 -- one second, Your
3 Honor.

4 (COUNSEL CONFERS BRIEFLY)

5 BY MR. WHIPPLE:

6 Q Mr. Salazar?

7 A Yes?

8 Q Is your full name Jose O. Salazar?

9 A No.

10 Q Your name is not Jose Oscar Salazar?

11 A My name is Jose Oscar Salazar Ruiz.

12 Q Okay. And is your testimony that you do not have a
13 warrant pending from an event this past summer?

14 A I don't have any.

15 Q You didn't know -- after the last hearing, you
16 didn't ask your attorney or ask anybody to address the issue
17 of whether you had a warrant or not?

18 MR. GONZALEZ: Objection, attorney-client privilege.

19 MR. WHIPPLE: I'm not asking what he -- what he
20 discussed. I'm asking if he went to any person to find out if
21 he had a warrant.

22 THE COURT: Well, if you ask it that way, it's fine.

23 THE PLAINTIFF: Well, we reviewed it, and I don't
24 have an arrest --

1 BY MR. WHIPPLE:

2 Q I'm sorry?

3 A We reviewed, and I don't have an arrest warrant.

4 Q You never went to court on a particular case for
5 battery and domestic violence?

6 A I have -- I have never been subpoenaed to court.

7 Q Did you ever go to court on an arrest warrant?

8 A Never.

9 Q And you've never had a detective talk to you about
10 an event that happened between you and Augustina Cervantes
11 Landa, your wife?

12 A No.

13 Q Okay.

14 THE COURT: You know, Counsel, you asked me to take
15 judicial notice of that document --

16 MR. WHIPPLE: Yes.

17 THE COURT: -- but have -- have we established that
18 that's for this particular person?

19 MR. WHIPPLE: We have -- Your Honor, we have the
20 documentation that's on the document itself. I don't have a
21 date of birth that normally would assist me. I can find that,
22 I can get a date of birth on it.

23 THE COURT: Well, I -- I guess -- let's just make
24 this simple. Mr. Gonzalez, are you denying that that's an

1 accurate representation of a court case against your client?

2 MR. GONZALEZ: Based off of --

3 THE COURT: Or --

4 MR. GONZALEZ: Based off of what we just heard,
5 Judge, based on the testimony that he gave, yes.

6 THE COURT: Well, I guess as an officer of the
7 Court, do you know if that's his case or not?

8 MR. GONZALEZ: And that I don't know, Judge. I
9 haven't followed up with the DA. I haven't -- no, I don't
10 know. As an officer of the Court, I -- I can tell the Court
11 with certainty that I don't know. I mean, I have no reason to
12 doubt my client.

13 THE COURT: Okay. So, Mr. Whipple, this is a unique
14 situation. I haven't heard anyone, you know, say that it's
15 not theirs.

16 MR. WHIPPLE: I'm -- I'm -- as we speak, I'll do
17 some additional research, Your Honor, and I'll continue on,
18 and we'll come back to it.

19 THE COURT: Okay. Thank you.

20 MR. WHIPPLE: Thank you, Your Honor.

21 THE COURT: I just wanted to also give you a heads
22 up, in about five minutes or so, I'm probably going to need to
23 take a five minute break. I'll just let you know. Okay?
24 Thank you.

1 MR. WHIPPLE: Thank you, Your Honor.

2 BY MR. WHIPPLE:

3 Q Mr. Salazar, how long have you been a long haul
4 trucker?

5 A Since 2004.

6 Q So that would be 16 years?

7 A Yes.

8 Q How did you get into the business?

9 A Filling out applications in companies, and working.

10 Q Did there come a time when you stopped working for
11 other companies, and started working for yourself?

12 A Yes.

13 Q When was that?

14 A 2006.

15 Q So for 14 years, you've worked for yourself?

16 A No, I -- I have made bad decisions, and I lost jobs.
17 So I have worked for other companies during that time. So I
18 don't have 16 years working only for myself.

19 Q Let's -- why do you -- is there an advantage of
20 working for yourself versus working for other people?

21 A Well, yes, if I -- I do have, working for myself,
22 more expenses, but I have more benefits, too.

23 Q Do you prefer to work for yourself, or do you prefer
24 to work for other people?

1 A I prefer working for myself, but if something
2 happens, I would have to consider if I -- if I have to work
3 for somebody else.

4 Q If you worked for somebody else, how much money do
5 you normally make?

6 A 800 a week.

7 Q So approximately \$3,200 a month?

8 A Yes.

9 Q So now, back in 2006, when you first went out on
10 your own, did you have to buy a tractor in order to have your
11 own equipment so you could drive?

12 A Yes.

13 Q Were you married at that time?

14 A Yes.

15 Q How did you come up with the money to buy that first
16 tractor?

17 A I refinanced our house so that I could buy it.

18 Q That was the house that you said you'd bought before
19 you were married?

20 A Yes.

21 Q So how much money did you borrow -- or when you
22 refinanced the house on Ardmore, how much did you take out so
23 that you could buy a tractor?

24 A \$90,000.

1 Q I'm sorry?

2 A \$90,000.

3 Q How long did you use that first tractor?

4 THE INTERPRETER: Can you -- can you repeat,

5 Counselor, for the Interpreter?

6 MR. WHIPPLE: Sure.

7 BY MR. WHIPPLE:

8 Q How long did you use that first tractor?

9 A One year.

10 Q What happened after one year?

11 A I didn't do good business, because I wasn't familiar

12 with it.

13 Q I'm sorry?

14 A I didn't do good business, because I wasn't

15 familiar.

16 Q Did you eventually buy a second tractor?

17 A I -- I was driving for a friend.

18 Q How many tractors have you personally owned or

19 leased?

20 A Three.

21 Q Now, today, do you own or lease?

22 A I'm -- I'm paying for it.

23 Q You're leasing?

24 A Yes.

1 Q And how much is your monthly lease on a tractor
2 today?

3 A The person who loaned me the money wants me to pay
4 it off completely, because otherwise they won't be able to see
5 their money.

6 Q How much were you loaned to buy a tractor?

7 A \$40,000.

8 Q So you're busy day -- every day now, long hauling,
9 correct?

10 A No.

11 Q How many days a week on average do you drive?

12 A I'm working locally now.

13 Q I'm sorry?

14 A I'm working local now.

15 Q You drive five days a week?

16 A Yes.

17 Q Are any of them requiring you to spend overnight at
18 a -- at a -- any location but your home?

19 A No, I sleep in my house.

20 THE COURT: Counsel?

21 MR. WHIPPLE: Yes?

22 THE COURT: I apologize for interrupting. I do need
23 to take a five minute recess.

24 MR. WHIPPLE: Yes, Your Honor.

1 THE COURT: Thank you all very much.

2 (COURT RECESSED AT 10:15:13 AND RESUMED AT 10:24:45)

3 THE CLERK: We are back on the record, Your Honor.

4 THE COURT: Okay. Thank you. All right.

5 Mr. Whipple, whenever you're ready.

6 MR. WHIPPLE: Thanks, Your Honor.

7 BY MR. WHIPPLE:

8 Q Mr. Salazar, when we -- just before the break, I was
9 asking you questions about truck driving. And you pointed out
10 to me that you're a short hauler now?

11 A Yes.

12 Q And what's the difference between short haul and
13 long haul?

14 A The price.

15 Q Is it also how long you're in the truck, or the
16 amount of time you're in the truck?

17 A I'm working eight hours, no.

18 Q So short hauling is eight hours a day?

19 A Yes. Inside the city.

20 Q And long hauling, where's that at?

21 A When you go out to Utah. It could be Arizona,
22 California.

23 Q Is this the first year you've been short hauling?

24 A Yes.

1 Q So of your 16 year career, 15 years of it was long
2 hauling?

3 A No. I also worked here for Mission, a local.

4 Q I'm sorry?

5 A I also work here for Mission. It's local.

6 Q Is that a trucking company?

7 A It's -- it's linen. Mission Linen.

8 Q Oh, okay. What -- what years did you work for
9 Mission Linen?

10 THE INTERPRETER: I -- I'm sorry?

11 BY MR. WHIPPLE:

12 Q What years did you work for Mission Linen?

13 A The end of 2004 to the middle of 2005.

14 Q Okay. And so from 2005 to 2019, you were a long --
15 long haul trucker?

16 A No. I also work here for a local business, Master
17 Underground.

18 Q When was that?

19 A 2007.

20 Q Would it be fair to say from 2010 to 2019, you were
21 a long haul trucker?

22 A No. On 2000 -- from 2007 to 2010, I worked for a --
23 a friend, and it was for California and Arizona.

24 Q How about from 2010 to 2019? What was your career

1 at that time?

2 A From 2010 to 2015, I was the owner.

3 Q The what?

4 A I was the owner.

5 Q And you long hauled only, or did you do short haul
6 during that time?

7 A Yes.

8 Q And so for the most part, from 2010 through 2019,
9 you've been a long haul trucker, correct?

10 MR. GONZALEZ: Can you hear us? Hello?

11 MR. WHIPPLE: Was there an answer?

12 THE COURT: I'm so sorry. I keep muting. I keep
13 muting and forgetting. I apologize again.

14 THE PLAINTIFF: Okay. No, sometimes I've been --
15 when there's no work, I have to stay here, making short --
16 work for a friend, just going to Cali, or Arizona, or Utah.
17 BY MR. WHIPPLE:

18 Q Okay. So there's been different times in your
19 career when you've been a short haul trucker like you were
20 last year, right? Or this year?

21 A Yes.

22 Q But you've always driven truck?

23 A Yes.

24 Q So when you're a long haul, what -- what average

1 amount of nights do you stay on the road?

2 A When I was married, I would go out and work for 10
3 or 12 days, or one week, whatever time was necessary.

4 Q Would you make more money when you were doing that,
5 as a long haul trucker?

6 A When -- when -- when the loads -- when you get paid
7 for the loads, then it -- then you make money. However,
8 sometimes, you just have to park and wait. So then you lose
9 money.

10 Q Do you enjoy personally trucking long hauls to --
11 when you're a week, 10 days out of -- out of town?

12 A No, I -- not -- not anymore. I like being short
13 haul because then I'm here in my house every day.

14 Q Okay. Now, it was while you were on a long haul
15 that your wife, Augustina Cervantes Landa had an accident,
16 right?

17 THE INTERPRETER: Can you repeat that, Counselor,
18 please?

19 MR. WHIPPLE: Yeah.

20 BY MR. WHIPPLE:

21 Q Would -- Mr. Salazar, would you agree with me that
22 my client, Augustina Landa, has a disability due to an
23 accident that she had?

24 A Yes.

1 Q And tell me what you know about that accident.
2 A She fell down in a -- in a store.
3 Q What year was that?
4 A I think it was December, 2015, and she injured her
5 discs.
6 Q Did you notice a difference in her after that
7 accident?
8 A No.
9 Q You knew she was disabled, but you didn't notice any
10 difference?
11 A She's not disabled. She can work.
12 Q I'm sorry?
13 A She is not disabled. She can work.
14 Q Okay. That happened in 2018, while you were on the
15 -- on the -- on the road, right?
16 A 2015.
17 Q 2015. I'm sorry. 2015. What -- and you were on
18 the -- when the accident happened, were you on the road?
19 A That day, I was here.
20 Q Okay. Were -- do you -- you remember she went to
21 the hospital?
22 A Yes. UNC.
23 Q And you remember she had x-rays to her back?
24 A I don't remember.

1 Q Do you remember talking to the doctors after this
2 accident to -- to Augustina Landa?

3 A No.

4 Q You never went to the hospital?

5 A My children and I went to the hospital to look for
6 her, but we -- I never spoke to any doctors.

7 Q Okay. How long was she in the hospital?

8 A Like two hours.

9 Q Okay. And then after that date, would it be fair to
10 say she had to go back and see doctors at different times?

11 A Yes, because she hired an attorney because of the
12 accident.

13 Q Has she gotten any money from the accident, do you
14 know?

15 A She was waiting for a million dollar award. I don't
16 know if she got it or not.

17 Q Okay. Now, what year did you buy the Panocha Street
18 residence?

19 A November, 2013.

20 Q You broke up, I'm sorry. November, 2013?

21 A Yes.

22 Q Was that after you refinanced the Ardmore Street in
23 order to buy a tractor?

24 A Yes.

1 Q And when you moved into Panocha Street, Augustina
2 and -- Landa, your wife at the time, you moved into the same
3 bedroom, right?

4 A Yes.

5 Q And you two stayed in that same house, in the same
6 bedroom, up until what date?

7 A We had an agreement that we were going to stay
8 together so that -- or be together so that the children could
9 see us, but there was no more marriage in itself. So we
10 didn't fight or anything.

11 Q What year was that that you had this agreement?

12 A When she came back in 2012, and I found out that she
13 was Pedro's wife.

14 Q So you moved into the same house and the same
15 bedroom, but you did it because you wanted to appear to be
16 husband and wife to your children?

17 A Yes, since they were small, so they wouldn't suffer
18 that -- that situation.

19 Q How many years did you do that, when -- when -- when
20 Augustina Landa was in your bedroom at Panocha Street. How
21 many years did that last?

22 A Well, she -- since she came back from Mexico. But
23 since I work out on the road, I would rather stay out on the
24 road instead of coming back home.

1 Q And that's -- that's when she would take care of the
2 kids, right?

3 THE INTERPRETER: I'm sorry, Counselor.

4 MR. WHIPPLE: Yeah.

5 BY MR. WHIPPLE:

6 Q That when he's on those long hauls is when Augustina
7 would be home taking care of the children?

8 A No, she never took care of the children. It was
9 another lady that took care of them.

10 Q She just stayed in your bedroom in the house where
11 the children were, right?

12 THE INTERPRETER: Can you repeat it, Counselor?

13 MR. WHIPPLE: Yes. Yeah.

14 BY MR. WHIPPLE:

15 Q She was -- while he was gone for weeks at a time,
16 she was home in the bedroom where the children were in the
17 same house?

18 A The children were at home, and she was out in the
19 casinos, or out on the street.

20 Q Okay. And she would sleep in your bed at night?

21 A She was never at night at home.

22 Q Now, how long did she live in your bedroom at
23 Panocha Street?

24 A Since 2012, she's been living at that house.

1 Q Did there come a time that she left? Can you hear
2 me?

3 THE INTERPRETER: Yes.

4 BY MR. WHIPPLE:

5 Q Did there come a time that she left the Panocha
6 Street residence?

7 A Yes. May 10th, 2020.

8 Q May 10th of this year?

9 A Yes.

10 Q So eight years, she lived together in the same --
11 strike that. From 2012 until May 10th of 2020, Ms. Augustina
12 Landa lived at 3127 Panocha Street, correct?

13 A Yes.

14 Q And since -- since 2012, you have continued to live
15 at 3127 Panocha Street?

16 A Yes.

17 Q But then approximately five months ago, something
18 happened, correct?

19 A Yes.

20 Q Now, from 2012 until today's date, who had charge of
21 the finances of the house?

22 A I did.

23 Q I'm sorry?

24 A I am.

1 Q Would you say you're in 100 percent control of the
2 finances?

3 A Yeah, well, they're in my name. I have to pay
4 everything.

5 Q Okay. How much -- how much rent were you making
6 from the Ardmore Street?

7 THE INTERPRETER: Can -- can you repeat the
8 question, Counselor?

9 MR. WHIPPLE: Yes.

10 BY MR. WHIPPLE:

11 Q What was the monthly rent that you charged for the
12 person that lived at the Ardmore Street residence?

13 A \$700.

14 Q And then in May of this year, Ms. Augustina Landa
15 moved over to the Ardmore Street, correct?

16 A Yes.

17 Q Now, is your birth date January 16th, 1977?

18 A Yes.

19 Q Do you know of any other Jose Oscar Salazar with a
20 birth date of January 16th, 1977?

21 A Me.

22 Q Have you ever met anybody else with your name with
23 your same birth date?

24 A There's a lot of people with that same name, but I

1 don't know their birth date.

2 Q Okay. I'm going to show you something in a minute
3 regarding this warrant. Okay? We have to re-scan it,
4 apparently.

5 MR. WHIPPLE: We're going to have to take one
6 second, Your Honor, and scan this, and this will pretty much
7 complete my direct exam -- or my cross examination.

8 THE COURT: Okay. Thank you.

9 BY MR. WHIPPLE:

10 Q You have -- Mr. Salazar, I'm going to ask you, do
11 you see this document that's in front of you, says State of
12 Nevada versus Sal -- Jose --

13 MR. GONZALEZ: And -- and, Judge, I'll -- I'll
14 object as to foundation and authenticity. I don't know what
15 data was inserted, I don't know who inserted the data. So
16 they haven't laid the foundation or relayed authenticity.

17 MR. WHIPPLE: Well, Your Honor, you can take
18 judicial notice. We've already taken judicial notice of the
19 minutes, and I just wanted to tie that into the document
20 regarding the person that they're referring to when they talk
21 to Jose Salazar. That's the issue, and I -- that's what that
22 can be done with more additional information, which is
23 Mr. Salazar's birth date, which, with the Court's permission,
24 I'll show you the Jose O. Salazar, and what birth date that

1 person has, regarding this warrant.

2 THE COURT: Okay. So where did you get this,
3 Counsel?

4 MR. WHIPPLE: This -- this is the -- this is off the
5 -- the -- the Clark County Justice Court records, Your Honor.
6 This is --

7 THE COURT: Okay. All right. So as an officer of
8 the Court, Mr. Whipple's telling me that he got this from the
9 -- the official website, correct?

10 MR. WHIPPLE: That would be -- Your Honor, so I
11 personally did not do it, but my -- my paralegal did it at my
12 direction, and brought it to me. And I know that she did,
13 because that's where we go -- the only place we can get them,
14 and it's obviously referring to that on the top page -- top of
15 the page.

16 THE COURT: Okay.

17 MR. GONZALEZ: It -- it -- we still have the same
18 issue, Judge, foundation and authenticity. I mean, is he
19 going to put his client on the stand and lay the foundation?
20 Not his client, his -- his assistant?

21 MR. WHIPPLE: It's --

22 THE COURT: What I can do --

23 MR. WHIPPLE: -- judicial notice, Your Honor.

24 THE COURT: -- I mean, I -- I guess the simple

1 answer is are you able to pull it up on the -- on the
2 internet?

3 MR. WHIPPLE: Yes, Your Honor. We just did within
4 the last 30 minutes.

5 THE COURT: No, I'm say -- no, I'm saying to
6 Mr. Gonzalez.

7 MR. WHIPPLE: So with the Court's permission, I'll
8 finish up, Your Honor.

9 THE COURT: Go ahead.

10 MR. WHIPPLE: Thank you.

11 BY MR. WHIPPLE:

12 Q Mr. Salazar, do you see the information here that
13 you're looking at, says party information, Jose Salazar? Is
14 that your first and your last name?

15 A No, I would like to know who wrote this, because I
16 have never had domestic violence, and I don't want anybody to
17 get citizenship because of violence in this country because of
18 me.

19 Q Okay. Is your date of birth January 16th, 1977? I
20 just asked you that question, right?

21 A Yes. It's my birthday, but I don't accept this --
22 these charges.

23 Q Okay. Understood.

24 MR. WHIPPLE: Your Honor, that will conclude my

1 cross examination. I appreciate your patience. And I'll --
2 I'll move to admit -- present for judicial notice, this would
3 be Defendant's A and B, Your Honor.

4 THE COURT: Well, I've taken judicial notice of it.
5 I'm not sure I'm admitting it. Mr. Gonzalez?

6 MR. GONZALEZ: Judge, for the same -- yeah, we can
7 note that there is a case out there, but to accept it as -- as
8 authentic? I mean, Mr. Whipple has not laid that foundation
9 as to -- he hasn't laid the foundation, and he hasn't provided
10 sufficient evidence to support that it's authentic, either.
11 So yeah, you can take judicial notice -- I mean, we could --
12 we could note that there's something out there. I'm fine with
13 that.

14 MR. WHIPPLE: That's fine, Your Honor. I'll tie it
15 up with my client.

16 THE COURT: Okay. Great. Thank you. Mr. Gonzalez,
17 do you have --

18 MR. GONZALEZ: I have a few questions.

19 THE COURT: Okay.

20 REDIRECT EXAMINATION

21 BY MR. GONZALEZ:

22 Q Okay. Jose, have you ever been arrested for
23 domestic violence in the entirety of your life?

24 A No.

1 Q Have you ever been accused by a police officer that
2 you committed domestic violence?

3 A Never.

4 Q Ever in your life?

5 A Never.

6 Q Have you spoken with a detective in Las Vegas, or
7 anywhere in the world, regarding an accusation regarding
8 domestic violence?

9 A Never.

10 Q Have you ever received a letter to your home
11 accusing you of domestic violence?

12 A No.

13 Q Have you ever set foot in a courtroom in Las Vegas
14 to face charges for domestic violence?

15 A Never.

16 Q Have you seen a judge in Las Vegas, or anywhere in
17 the world, for accusations regarding domestic violence?

18 A Never.

19 Q Have you ever committed domestic violence against
20 Augustina?

21 A Never.

22 Q Okay. Now, as far as the -- the -- this disc injury
23 that Augustina's claiming, do you -- do you have any personal
24 knowledge, like -- strike that. Have you seen medical records

1 indicating that she has some sort of disc injury?

2 A She had a disc injury, yes.

3 Q Okay. But my question is, have you seen medical
4 records that confirm that?

5 A No.

6 Q Okay. And you -- your belief that she had a disc
7 injury is based on what?

8 A Because she said so, but she had surgery. Maybe
9 from the discs or not, I don't know.

10 Q Okay. And as far as what you've seen, is she able
11 to walk without any issues to her back?

12 A She walks and she dances.

13 Q Okay. And the -- does she -- can -- have you seen
14 her jog? Have you seen her jog? Exercise, jog.

15 A Yes.

16 Q Have you seen her perform any kind of tasks that
17 require her to bend over?

18 A Yes, installing block, and carrying things.

19 Q Okay. And when you say installing block, how heavy
20 is the block?

21 A She's moving blocks from one side to the other, one
22 place to another, bricks.

23 Q When did you see that?

24 A When she was at Ardmore, she was doing that.

1 Q Was that after 2015?

2 A Yes.

3 Q On how many occasions did you see her moving blocks?

4 A Many times, because she would say the children were
5 not helping her.

6 Q And did she appear injured when she was bending
7 over, picking up the blocks, and moving them?

8 A No.

9 Q Okay. And when you say that she's -- there's a
10 million dollars involved, is that something that she's
11 wanting, or is that something that was given to her, or is
12 going to be given to her?

13 A The attorney told her that (indiscernible) a million
14 dollars.

15 Q Okay. And is that something that she told you that
16 her attorney told you -- told her?

17 A Yes, the attorney said it in front of me.

18 Q Okay. So you heard this attorney say that this case
19 is millions?

20 A No, I meant a million. He was asking for 5,000,000.

21 Q Okay. Now, do you know if that is certainly true,
22 or if that's just the attorney's belief?

23 A Well, I don't know. That's what the attorney
24 thinks.

1 Q Okay. And -- and you don't know what the attorney's
2 basing that off of, do you?

3 A Fracture, that's what he would say.

4 Q Okay. But -- all right. So you don't know if this
5 attorney's just fluffing up the case or if he's honest, right?

6 A That's what I'm saying. I don't know if it's true
7 or if it's a lie.

8 Q Okay. All right. So now, you were asked about your
9 taxes and your gross -- your gross -- your gross yearly and
10 monthly earnings between 2017 and 2019. Remember that?

11 A Yes.

12 Q Okay. And -- and your taxes show that you earned
13 about 120 -- there -- there's a gross of 120,000 between 2017
14 -- or 2017, 2018, 2019, right?

15 A Yes.

16 Q Okay. That includes the expenses that you have for
17 running a -- a trucking business?

18 A That is gross, without discounting the expenses.

19 Q Okay. Now, how much do you earn, gross?

20 A More or less that amount.

21 Q Oh, sorry, sorry, sorry. Bad -- bad question. How
22 much do you -- do you recall how much you -- you -- how much
23 income you earned after expenses?

24 A After everything's deducted, I would -- I would be

1 able to keep like, 40, 45, depends.

2 Q Okay. And is that reflected on your taxes?

3 A Yes.

4 Q Okay.

5 MR. GONZALEZ: And I'm going to pull it up here.

6 Sorry, Judge.

7 THE COURT: That's okay.

8 MR. GONZALEZ: I'm really bad at internet. I'll --

9 I'll ask while this is loading. I'll ask other questions.

10 BY MR. GONZALEZ:

11 Q Okay. So and what -- and you -- what kind of
12 expenses do you have as part of your business?

13 A I have to fix -- I have to service the truck,
14 insurance, parking, and -- and permits from the government,
15 like the DOT.

16 Q Okay. You pay your own gas?

17 A Yes.

18 Q Do you have to pay a mechanic to fix the truck?

19 A Yes, yes.

20 Q Do you pay for the parts that need to be replaced on
21 the truck?

22 A Yes. I have to pay the mechanic labor plus parts.

23 Q Okay. And on top of -- on top of all your expenses
24 that are associated with your -- with your business, you also

1 have to pay taxes on the gross amount, right?

2 A Yes.

3 Q Okay. So at the end of the day, you're earning
4 about 3,500 a month?

5 A More or less.

6 Q All right. For some reason, my internet's not
7 wanting to work right now, so. All right. You were asked
8 about an Audi. Have you ever owned an Audi?

9 A No.

10 Q And do you know why that would -- that auto was
11 included in the FDF?

12 A Maybe it was a confusion.

13 Q What -- what kind of confusion?

14 A Maybe the secretary here from this office, who gave
15 me the papers, I didn't pay attention on the -- on the cars.
16 But I -- no, I don't have those cars.

17 Q Okay. And -- and the Escalade, did -- there's an
18 Escalade that we've already established -- did you pay a penny
19 for that Escalade?

20 A My two sons bought them.

21 Q Okay. And they bought the Escalade, and they put it
22 in your name?

23 A Yes.

24 Q And -- and they did that because of insurance

1 purposes?

2 A Yes.

3 Q Okay. But is it -- is it -- in reality, I mean,
4 legally, it's yours, but who -- who -- who really drives and
5 -- and owns the -- the Escalade?

6 A Oscar, my son.

7 Q Okay.

8 MR. GONZALEZ: I have no further questions, Judge.

9 THE COURT: Okay. Anything else for -- for this
10 witness?

11 MR. WHIPPLE: No, Your Honor.

12 THE COURT: Who's the next witness?

13 MR. WHIPPLE: Your Honor, I think it's now my -- oh,
14 I'm sorry. I apologize.

15 THE COURT: Okay. Mr. Gonzalez?

16 MR. GONZALEZ: No, I have no further questions -- no
17 further witnesses.

18 THE COURT: Are you resting?

19 MR. GONZALEZ: Oh, yes. Yes. Sorry. Yeah.

20 THE COURT: Okay. Thank you.

21 MR. WHIPPLE: Your Honor, I have just one witness,
22 and that will be my client. Would it be possible to take a
23 five minute break? I need to use the bathroom --

24 THE COURT: Absolutely.

1 MR. WHIPPLE: -- and I need to prep her, and --
2 THE COURT: Sure.
3 MR. WHIPPLE: -- so it would be very -- maybe --
4 maybe 10 minutes, then?
5 THE COURT: Yeah. Let's --
6 MR. WHIPPLE: I'm not going to need very long.
7 THE COURT: Sounds good. 10 minutes. Thank you
8 all.
9 MR. WHIPPLE: Thank you.
10 (COURT RECESSED AT 11:01:53 AND RESUMED AT 11:21:03)
11 THE CLERK: We are on the record, Your Honor.
12 THE COURT: Were you ready, Mr. Gonzalez?
13 MR. GONZALEZ: Yes, but my client's not -- it's
14 going to be off -- he's going to be off camera for about five
15 minutes, but he's still in the room. I -- I can show you he's
16 right there.
17 THE COURT: Okay. All right, then. So are we
18 ready? Are you ready to go, or do you want to wait until he's
19 on camera?
20 MR. GONZALEZ: No, we're -- I'm ready.
21 THE COURT: Okay. All right. So, Mr. Whipple,
22 whenever you're ready.
23 MR. WHIPPLE: Thank you, Your Honor, and thank you
24 for your patience on the break.

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AUGUSTINA CERVANTES LANDA

called as a witness on behalf of the Defendant, having been
previously sworn, did testify upon her oath as follows on:

DIRECT EXAMINATION

BY MR. WHIPPLE:

Q Ms. Landa, is it okay to call you Augustina?

A Yes.

Q I want to take you back -- I want to take you back
to 2012, when you moved into 3127 Panocha Street.

A Yes.

Q Was that a happy time?

A Very happy.

Q And why is that?

THE INTERPRETER: I'm sorry, Counsel. Could you
please repeat that question?

MR. WHIPPLE: Yeah.

BY MR. WHIPPLE:

Q Why was that? Why were -- why was that a happy
time?

A Well, because I never had any problems with my
husband. He would go to work, I would call him, ask him what
he wanted me to cook, always attending to him, and attending
to the children. I was 100 percent dedicated to my home.

Q How many children lived with you at that time?

1 A The five children that he and I have.

2 MR. WHIPPLE: Mr. Gonzalez, would you please mute
3 your --

4 MR. GONZALEZ: Oh, sorry. Sorry.

5 BY MR. WHIPPLE:

6 Q You heard Mr. Salazar testify that during that --
7 some of that time period, he was a long haul trucker, and
8 would be gone weeks at a time?

9 A Yes.

10 Q Who would care for the children while he was gone
11 out of the home for weeks at a time?

12 A I did.

13 Q Was there any other woman in that house that were
14 helping you with the children?

15 A Yes.

16 Q Who was that?

17 A When I was deported, I met her mom, and they gave
18 her to me at about seven years old, and I brought her here
19 with me.

20 Q Well, would it be fair to say that you were the
21 primary caretaker of your five children from 2012 to 2020?

22 A Yes.

23 Q But you also added some people to the family at
24 different times, to help them, as well?

1 A Yes.

2 Q How would you describe your family, from the point
3 of 2012 until January of 2020?

4 A Well, from 2012 to 2019, it was a very excellent
5 marriage. We were a very beautiful family. But then from
6 2019 to now, to 2020, that wasn't the case anymore, because my
7 husband went to the court to file divorce behind my back.

8 Q Now, before we get to 2019, I want to ask you about
9 an incident in 2015.

10 THE INTERPRETER: I'm so sorry, Counsel. Could you
11 repeat the question?

12 MR. WHIPPLE: Yes.

13 BY MR. WHIPPLE:

14 Q Before we get to 2019, I wanted to ask you about an
15 incident in 2015.

16 A Okay.

17 Q Do you remember Mr. Salazar talked about an accident
18 that you have -- that happened to you in December of 2015. Do
19 you remember that?

20 A Yes.

21 Q Tell the Court what happened.

22 MR. GONZALEZ: Objection, calls for a narrative.

23 THE COURT: No -- all right. Let's see how it goes.

24 But I -- I note your objection. Thank you. Go ahead.

1 THE DEFENDANT: Okay. Yes. So in 2015, I took my
2 kids to the movies, but first, beforehand, one of my girls
3 asked if we could go buy a gift for her boyfriend. I said
4 yes. We went to the store to do so, and then when we were
5 there, I was looking for her to give her the money to pay.
6 And I didn't realize how, but I slipped and fell, and then I
7 didn't really know any more about me until I came to, and the
8 paramedics had arrived.

9 BY MR. WHIPPLE:

10 Q Did you go to the hospital?

11 A Yes.

12 Q Did you eventually have a surgery to -- to someplace
13 on your body?

14 A Yes. So then I was hospitalized for four days at
15 Summerland Hospital, and my husband, well, he could not be
16 with me during the time of the surgery because he had to work.
17 So the girl that I took in was who took care of me during the
18 surgery, and after.

19 Q From 2012 through 2015, did you ever work and make
20 money yourself?

21 A No, I never worked because I knew that if I worked,
22 we'd have to pay -- or I'd have to pay more in babysitting.
23 So I preferred to stay home and take care of the children.

24 Q After the accident, did it affect your health on a

1 day to day basis?

2 A Yes. Yes, it did, because only I know what I'm
3 feeling, and the pain that I have. I have pain. Also, I have
4 to take pills called Norco that I take 10.23 milligrams of for
5 the pain, and that's what helps me and keeps me a little bit
6 better when I take the pills. But for example, by night time,
7 I'm so tired for the same reason, due to all of the pain.

8 Q Now, in May of this year, did you move out of the
9 residence at 3127 Panocha?

10 A Yes.

11 Q Why?

12 A Because Oscar Salazar was really damaging me, and
13 affecting me psychologically. He would constantly drank --
14 drink with the girl that I took in every weekend. He'd play
15 the music so loud. I would tell him, turn it down. It's time
16 for us to go to bed, and he would respond, saying, this is my
17 house, and I do what I want. So that really started to damage
18 me so much. One day also, he hit me in my right arm, and
19 pushed me from the stairs. I said, Oscar, you know, listen,
20 what -- what are you trying to do? You trying to kill me?
21 And he said, yes, that's what I should have done, I should
22 have killed you. So then I started to be afraid of him
23 because he -- he was hurting me psychologically. He also has
24 a weapon, so, you know, it hurt me very much, because I left

1 my kids behind, but I left so that I wouldn't have to continue
2 having that fear and trauma.

3 Q Have you ever discussed that event with police
4 officers?

5 A Yes.

6 Q When did that happen?

7 A On May 10th, when I left the house.

8 Q Did you show them pictures?

9 A No. The police saw the bruise on my arm, and asked
10 me what had happened. So I said what happened, and that was
11 it.

12 Q Did they take pictures of it?

13 A Yes. There's pictures of the bruise.

14 Q Do you know if Mr. Salazar has a warrant?

15 A Yes. Because I drove the GMC. He said that was the
16 only thing that he was going to give me, so I was driving the
17 vehicle, and the cop -- the cops pulled me over. You know, I
18 said, what -- what happened? You know, what's going on? I
19 pulled over. The officer said, oh, is this Jose Salazar's
20 truck? I said yes, and he said, sorry, you know, I thought it
21 was him driving, and he has a warrant, a warrant for his
22 arrest. So I called my son and told him, Oscar, tell your dad
23 that he has a warrant. And my son told me that he let him
24 know, but that he disrespected --

1 MR. GONZALEZ: Object --

2 THE DEFENDANT: -- oh, that woman is crazy.

3 MR. GONZALEZ: Objection, hearsay, move to strike.

4 THE COURT: Well, the -- the hearsay that I heard
5 was from the officer. So that's stricken, and from the son.
6 So they're both stricken.

7 MR. WHIPPLE: Thank you, Your Honor. That's fine.

8 BY MR. WHIPPLE:

9 Q Now, at some point did you go into court, and the
10 Court tell you that you were going to get money from Oscar on
11 a monthly basis?

12 MR. GONZALEZ: Objection, vague, and --

13 THE INTERPRETER: Counsel, could you please repeat
14 the question?

15 MR. WHIPPLE: Yes.

16 THE COURT: Well, yes. Sustained as to that
17 question. You might want to rephrase it.

18 MR. WHIPPLE: Sure.

19 BY MR. WHIPPLE:

20 Q Has the Court ordered Oscar to give you money?

21 A Yes. They ordered him to pay \$250, and it's been
22 four months now that he gives me nothing.

23 Q Did you have an opportunity to look at his financial
24 disclosure form regarding the vehicles?

1 A Well, from what I know when I was with him, that's
2 how I know what he has. But I know that he bought a Chevy,
3 another Chevy, and the Escalade. One of the Chevys he had
4 hidden at the house of the girl that I took in. He has a
5 Malibu hidden at his Mom's, and I know that he has another
6 three at home.

7 Q Did there come a time that you were required to sell
8 the vehicle that you were driving, because you had no money?

9 MR. GONZALEZ: Objection, leading.

10 THE COURT: Sustained.

11 BY MR. WHIPPLE:

12 Q Did you sell a vehicle?

13 MR. GONZALEZ: Objection, vague.

14 THE COURT: Overruled. Go ahead.

15 THE DEFENDANT: Yes. I got the GMC that was from
16 2000, and I sold it because it was eight cylinders, so it
17 would waste too much gas. And since I worked sometimes, and
18 sometimes I did not, once I knew about his truck burning, I
19 said, Oscar, can I sell the Yukon? And he said yes. I sold
20 it for \$2,000, and so when I did, I called him and told him,
21 come for the money. He went. I gave him the \$2,000, and he
22 gave me \$500 for me.

23 BY MR. WHIPPLE:

24 Q Now, are you working for money in the last couple of

1 months?

2 A Every now and then, yes, I do work.

3 Q Is your disability cause a hard -- is it -- does the
4 disability make it hard for you to work?

5 A Yes.

6 Q Explain that, please?

7 A Because I've looked for work, or when I look for
8 jobs, it's usually work -- work that I can't do because
9 they're required to lift up things, so they'll tell me now,
10 you know, they need people that can lift 40 pounds or 10
11 pounds, or things that I can't do. So what I do, is I clean
12 houses, and whenever they call me, I go with another girl.
13 She'll do more of the heavy stuff. I do the lighter work,
14 even though I do get less money than her.

15 Q How much would you make on an average week over the
16 last five months?

17 A Well, during the week, sometimes what I make is
18 \$160, approximately, and the most I've made is about 170,
19 maximum.

20 Q On the chart that showed Mr. Salazar's vehicles, it
21 also showed a trailer. Do -- do -- do you remember seeing the
22 trailer?

23 THE INTERPRETER: Counselor, I'm sorry. Could you
24 repeat the question?

1 MR. WHIPPLE: Yes. My apologies.

2 BY MR. WHIPPLE:

3 Q On Exhibit Bates stamped 7, on Mr. Salazar's
4 financial disclosure form, page 6 of 8, there was a reference
5 to a trailer.

6 A Yes. I do know of that.

7 Q Who owns the trailer?

8 A Jose Salazar, Edgar Gutierrez (ph), they call him
9 Edgar Valle (ph), who sold him the trailer for \$30,000, and he
10 finished paying it already.

11 MR. WHIPPLE: Your Honor, that concludes my direct
12 examination.

13 THE COURT: Okay. Thank you. Mr. Gonzalez?

14 MR. GONZALEZ: Sure, Judge.

15 CROSS EXAMINATION

16 BY MR. GONZALEZ:

17 Q Augustina, you -- you said that between 2012 and
18 2019, you had a beautiful family, right?

19 A Yes.

20 Q Okay. So I want to try to get an understanding of
21 what in your mind means beautiful family. So let me ask you
22 this, you heard your -- your children testify that -- that --
23 that you were not around at night, because you were out
24 gambling, or doing whatever. You remember them testifying to

1 that?

2 MR. WHIPPLE: Judge, objection.

3 THE COURT: Overruled.

4 THE INTERPRETER: I'm sorry, Your Honor. Did you
5 want me to finish interpreting for her to respond?

6 THE COURT: Yes, please. I'm sorry, I said
7 overruled. If you didn't hear me, I'm sorry.

8 THE INTERPRETER: Oh, okay. Thank you, Your Honor.
9 One moment.

10 THE DEFENDANT: I never heard my children say that.
11 Simply -- simply, what I feel or what I feel is that the kids
12 didn't come with me because I'm a woman who's never worked or
13 had anything, and their Dad gave them everything. So it's
14 kind of obvious that how were they going to come with me when
15 their dad gave them everything, and their mom had nothing to
16 live off of.

17 BY MR. GONZALEZ:

18 Q Okay. But my question was very specific. At the
19 last court hearing, you -- your children, or the children -- I
20 mean, the adult children testified that you were not at home,
21 you were out and about at night, correct?

22 A They never said that I was never home. They said
23 that sometimes, and that sometimes would be when Oscar would
24 tell me, honey, here's \$100, go to the casino. And he would

1 go dancing with Carmen (ph), which is the girl that lived with
2 me.

3 Q Okay. So your husband is going to dance with
4 another woman while you're gambling. Is that your
5 understanding of a beautiful family?

6 A Well, yes, since we were in agreement, it was never
7 taken as a bad thing. I would go play, and I knew that he
8 would go dancing, so I wouldn't say that we weren't a
9 beautiful family. We never argued or fought. I was in
10 agreement for him to be able to go dancing, and he would agree
11 that I can go to the casino.

12 Q Okay. And do you remember your children testifying
13 that the adult children would have to take the children, the
14 minor children to school and pick them up, because you were
15 unavailable. Do you remember them testifying to that?

16 A Yes. I recall that, but it was not an everyday
17 thing. For example, there were some times when I couldn't.
18 So obviously, who else was I going to call, or who would I
19 call? I would call my children, and tell them please pick up
20 your siblings because I can't. Sometimes I'd be with a
21 doctor, sometimes I would be with a friend. But I would call
22 them so that they would be -- pick them up, and I never left
23 them stranded.

24 Q Do you also remember your children testifying that

1 they don't trust you, and that you have a habit of lying?

2 A Yes, I do recall that. Of course, no one is perfect
3 in this life, and everyone lies sometimes, not just me. I
4 don't know why they said that. But the love I have for them,
5 nothing -- nothing is ever going to change that. And nothing
6 will ever change that, even if they say that I'm a liar, or if
7 I'm a liar, but I will always be their mom.

8 Q So you're acknowledging here today that you do lie?

9 MR. WHIPPLE: Judge, argumentative.

10 THE COURT: Sustained.

11 BY MR. GONZALEZ:

12 Q Okay. Do you also recall that your adult children
13 testified that they would not feel secure with you having the
14 minor children in your custody?

15 A I do not recall.

16 Q Okay. Well, you were here the last time in court,
17 and heard their testimony, right?

18 MR. WHIPPLE: Argumentative again, Your Honor. She
19 asked and answered.

20 THE COURT: Sustained as to asked and answered.

21 BY MR. GONZALEZ:

22 Q Okay. Now, when you take the totality of -- of --
23 of the circumstances that we just discussed, do you consider
24 that a beautiful family?

1 THE INTERPRETER: I'm sorry. Interpreter requests
2 quick clarification. Thank you.

3 THE DEFENDANT: Could you please repeat the
4 question?

5 BY MR. GONZALEZ:

6 Q Sure. Given the totality of the facts that we just
7 discussed, do you consider that to be a beautiful family?

8 MR. WHIPPLE: Judge, objection, argumentative,
9 speculation.

10 THE COURT: Sustained.

11 BY MR. GONZALEZ:

12 Q All right. So you're -- you're -- you're testifying
13 that you have a -- a -- help me understand this, a three level
14 fusion in your discs; is that correct?

15 A Yes. I'm not well when it comes to the discs. I
16 have proof from the doctor, and pictures that were provided.
17 I was operated on, three of my discs, and I have six screws in
18 my back.

19 Q And would you agree that -- that you've been sitting
20 roughly for about an hour and a half, for two sessions, now
21 for a totality of three hours, and you have not requested one
22 time to go on a break, as a result of pain?

23 A No, because I am here because I am answering before
24 the judge the questions that I'm being asked. And of course I

1 can tolerate and take it. As I said as well, I take a pill
2 that helps me with my pain.

3 Q All right.

4 MR. GONZALEZ: I'm going to ask like two -- two or
5 three more questions, Judge, then I can be over with this.

6 BY MR. GONZALEZ:

7 Q You said that -- that -- that the Plaintiff, Jose,
8 hid a vehicle at his mom's house, and then another vehicle at
9 some girl's house, right?

10 A Yes.

11 Q And the fact that you know that these vehicles are
12 at his mom's house and at this girl's house indicates that
13 they're not hidden, right?

14 A Well, I say hidden because at his house, there is
15 lots of space for him to be able to keep them there. He
16 doesn't have them there, and there's no need to take them to
17 any other house. If they're his, he can have them there, and
18 no one's going to take them away from him.

19 Q Okay. So then that means that you do know where the
20 vehicle's at, and the only reason you use the word hidden was
21 to make him look bad to the judge, would you agree with that?

22 MR. WHIPPLE: I'm going to object. Argumentative,
23 Your Honor.

24 THE COURT: Overruled.

1 THE DEFENDANT: No. Simply that when it comes to
2 me, that I am his wife, he was always fighting with me over
3 cars. He'd have me on foot, and didn't care if I went to
4 church walking, and why with others, that's not the case.
5 With his mom, you know, I understand. But as far as other
6 people, I don't. And I'm not saying it for him to -- to look
7 bad. I just don't know what it is that we're fighting so much
8 about. You know? If what -- we're going to get what he's
9 going to get is a divorce. So I just want what belongs to me.
10 I don't -- I don't know why so many questions.

11 BY MR. GONZALEZ:

12 Q All right. Help -- help me understand this, because
13 minutes ago, you said that you had a beautiful family and you
14 never fought. And now you're saying that you guys were always
15 fighting over a car, and he's sending you to church on foot.
16 Help me understand that.

17 MR. WHIPPLE: Judge, objection, argumentative, form
18 of the question, compound question.

19 THE COURT: Sustained.

20 BY MR. GONZALEZ:

21 Q Why are you now saying that you guys always fought
22 over cars, and he sends you on foot, when earlier, you said
23 that you guys never fought and you had a beautiful family?

24 THE INTERPRETER: Thank you so much. The

1 Interpreter required a brief clarification, but got that
2 clear. The response is yes. I don't know if you remember,
3 from 20 -- I said from 2012 to 2019, we were a beautiful
4 family. After that, once he filed for divorce, he made my
5 life completely miserable. He started taking off to go
6 dancing with that girl, and then he asked me for a divorce,
7 said, I don't love you anymore. And I can accept that,
8 because I'm not going to keep someone with me against their
9 will, if they don't want to be with me.

10 BY MR. GONZALEZ:

11 Q All right. Last question. Earlier you testified
12 that you earned about 800 a month, and now you're testifying
13 that you're earning about 600 a month? Is that your
14 testimony?

15 MR. WHIPPLE: Form of the question, Your Honor. I
16 -- I don't ever remember the 800. Just argumentative, form of
17 the question.

18 THE COURT: Yeah. Sustained.

19 BY MR. GONZALEZ:

20 Q Do you recall testifying that you made \$800 a month
21 at the last hearing?

22 A Yes, yes, I remember that. That's what I -- what I
23 said, and that's approximately \$160 a week. Do the math. I
24 don't lie.

1 MR. GONZALEZ: I have no further questions, Judge.

2 THE COURT: Anything else, Mr. Whipple?

3 MR. WHIPPLE: No, Your Honor. Thank you, and we
4 rest.

5 THE COURT: All right. So everyone's presented all
6 of their -- their evidence, and both sides have rested. Do
7 you want to take five minutes before closing?

8 MR. WHIPPLE: I'm ready, Your Honor.

9 MR. GONZALEZ: I'm ready.

10 THE COURT: You're ready? Okay.

11 MR. GONZALEZ: All right. So, Judge, what we've got
12 here is a -- a divorce that it -- I mean, sorry, a marriage
13 that started back in 2000, and the issue before the Court is
14 custody, child support, two properties, which is real
15 properties, one on Panocha Street, one on Ardmore, and then we
16 have a -- a GMC -- sorry, that was sold. We have a Malibu
17 that is in dispute, and I'm assuming that they're claiming
18 that they have an interest in the Escalade. The Audi, I'll --
19 I'll address it, too, but my client has testified it is
20 nonexistent. So I'm going to address the Court based off of
21 those -- oh, and then spousal support. I'm going to address
22 each -- each issue to give the Court (indiscernible) what the
23 evidence showed. Now, it -- a lot of this -- this court
24 hearing, Judge, had to do with -- with credibility. That --

1 that -- there was minimum documentation or -- a few documents,
2 but the majority of the testimony is based off of the parties'
3 credibility. And at the beginning of the case, I -- in
4 opening statements, I've mentioned that credibility was going
5 to be a big issues, and I think we've demonstrated that.
6 About 10 minutes ago, she -- she admits, yeah, I'm a liar.
7 She said that. And -- and -- and there's also examples of her
8 lying. She lied to people in Texas at the hospital about who
9 the real father is. She lied to the Department of Vital
10 Records as to who the real father is, when she got the birth
11 certificate. When she got that birth certificate, then she
12 took it to Mexico and lied to church officials to get a
13 baptism certificate, knowing that -- that Pedro was not the
14 father. On top of all that, Judge, the biggest harm here is
15 that she told her kids that Pedro was the father. One lie
16 after another lie after another lie. And now she's here today
17 telling you, yeah, I lie. So with that as a backdrop as to
18 what's going on here, Judge, I want to get into the issues
19 now, as far as custody, Judge, there's no dispute that the
20 minor children have lived with -- with -- with Dad since --
21 since May, since she moved out. And the children, the adult
22 children testified that it -- it -- it was -- that they're
23 happy there, that Dad provides for them, that he's been the --
24 a -- a -- a swell dad, for lack of a better word, and he's

1 provided for every need that they've had. Now, as far as the
2 -- the minor children, Judge, this Court ordered the minor
3 children to conduct a child interview. Under 16.215, which
4 I'm going to put up on the screen right now, I'm not sure if
5 the Court can see it --

6 THE COURT: I can't.

7 MR. GONZALEZ: I'm having really slow internet
8 problems, but I'll just mention the statutes. 16.215, it --
9 it says that the Court must use procedures and considerations
10 in child custody proceedings when the determining the scope of
11 a child's participation in custody proceedings, the Court
12 should find a balance between protecting the child, the
13 statutory duty consider the wishes of the child, and the
14 probative value of the child's input, while insuring to all
15 parties their due process rights to challenge evidence relied
16 upon by the Court in making custody decisions. So this
17 statute -- or this rule, Judge, permits the Court to view the
18 child witness interview and take it into consideration when
19 making a -- a child custody determination. And the Court
20 ordered the children to be interviewed, and -- and the child
21 interview, what the children said, particularly in the time
22 share with Mom, they said -- Maybel and -- and Mellyarive
23 acknowledged that they reside primarily with their father and
24 siblings, and that their mother calls to see if they want to

1 come over. But the girls acknowledged that if they decide to
2 go to their mother's home, it's with their older brother.
3 Which gives credibility to what the older brother is saying,
4 that he does all the transportation. The -- the -- the
5 interview also says that Oscar drops them off and picks them
6 up. Mom sometimes picks them up, too, but the majority of the
7 -- of the lifting is by the children.

8 Now, under the home section in the child interview,
9 paragraph number 2, the middle of it says, the girls reported
10 that they enjoy a variety of activities with their father, and
11 that prior to Covid, they all went to lakes, hiking, and
12 watched movies. Both -- both of the minor children testified
13 that -- that they have household rules in -- in Dad's house,
14 but there's really no rules at Mom's house.

15 The most important part -- the most important part
16 of -- of the child interview is under the family relationship,
17 where the children rate their relationship with their mother
18 between a six or a seven, and they rate the relationship with
19 Dad nine to 10. And they both testified that when Mom lived
20 with the minor children, Mom wouldn't really be in the house.
21 That's the minor children's testimony, and it -- it's -- it's
22 corroborated by the adult children's testimony, and by my
23 client's testimony. The only one that we have here that's
24 saying that that's not true is the person who's admitted to

1 lying. She's the only one.

2 And the children also in the report acknowledged
3 that Mom has lying problems. So -- so that -- that's --
4 that's what we have here as far as -- as custody, Judge. And
5 we're going request that the Court implement what's been going
6 on as a -- as the status quo. There hasn't been any issues.
7 The children are doing well in school. The family is
8 functioning. There's no reason to alternate that. We haven't
9 heard any evidence from Mom saying that the children would be
10 better off living with her. No testimony at all. No
11 witnesses that would support a finding of -- of joint physical
12 custody because we have a history where Mom has been an absent
13 Mother.

14 Now, they're going to try to say that -- that --
15 that Jose, my client, is some sort of violent person, that
16 he's always hitting -- or that he hit Augustina sometime in --
17 in May of this year. Well, my client testified that he's
18 never been arrested, he's never been to court, he's never
19 touched Augustina. But what did we hear from Augustina when I
20 was cross examining her? She said, oh, well, he pushed me.
21 And then when I pressed her more, she escalated the domestic
22 violence issue to a punch. That -- that -- that -- she
23 figured out that it wasn't severe enough, and then she made
24 that up, that he punched me. And we don't have any evidence

1 at all that my client actually committed some sort of domestic
2 violence, other than her word. And again, it goes back to
3 credibility. And even if -- even if she told the police that
4 -- that he committed some sort of domestic violence, it
5 doesn't mean he did it. It doesn't mean that -- that the
6 Court already determined he's -- he's guilty of domestic
7 violence. He's innocent until proven guilty, and what we're
8 relying here is the credibility of a person who's admitted on
9 the record that she lies.

10 Now, the alternative motive for her to tell this to
11 a police officer is to gain a new visa. We heard her say that
12 the asylum petition was already denied. She said that. She
13 said that. So what alternatives does she have? Oh, well, let
14 me go invent this incident of domestic violence to see if that
15 works. She's been trying to gain some sort of status in the
16 country for several years now, and she's trying different
17 alternatives. This is just one alternative, and she doesn't
18 care about bringing down Jose. It doesn't matter. It's her
19 survival. It doesn't matter whether he goes to jail or
20 whether he loses his business. It doesn't matter whether he
21 loses his kids. That does not matter to her. And that's --
22 that pretty telling, when you're putting your selfish interest
23 before your children's, Judge. And so that's -- for -- for
24 those reasons, we're requesting that the Court award Jose

1 primary custody.

2 Now, as far as spousal support, Judge, she claims
3 that -- that -- that she's -- she's injured. But we didn't
4 hear any -- we didn't see any documentation about a three
5 level fusion. We didn't get any reports of a slip and fall.
6 We didn't get any witnesses that came to court. All we have
7 is her word. That's all we have.

8 And a three level fusion is pretty serious. So we
9 would see that -- that she would be requesting for some sort
10 of break, she'd be stretching out, she'd be shifting her body.
11 Even if she's on medication, we have -- we're talking about
12 three levels, three discs, that have been surgically fused or
13 -- or some procedure happened. But nothing. She wasn't
14 stretching out, she wasn't taking a break.

15 She's been sitting there peacefully, answering
16 question after question, and she's also admitted that -- that
17 she's -- she's worked, that she -- she's been able to sustain
18 herself, and that her monthly expenses are about \$800. This
19 is what she testified to. Now, we have no -- no -- no reason
20 to believe that she's not able to do further work, other than
21 -- than what she's testifying about her back. But if -- if --
22 if she's working, doing some sort of cleaning homes, then that
23 means that -- that she could put in more hours, and -- and --
24 and really sustain herself.

1 And alternatively, Judge, if she is injured, if --
2 let's just say she is, she -- there's testimony that -- that
3 -- that there's millions of millions of dollars in this
4 recovery, and that leads to the conclusion that she doesn't
5 need spousal support. So however we look at it, she does not
6 need spousal support. One, because she can work, and if she
7 can't work, then she's going to get a lot of money, however
8 she wants to look at it, however they want to argue it.

9 So we're requesting that the Court not award spousal
10 support in this case. As for the -- the Ardmore home, I think
11 that it -- it's been established that the -- the home was
12 purchased before the marriage. There is the there is dispute
13 about -- about they were married and there was kids, but she
14 -- she told Your Honor that she was married to another
15 individual before they started dating. So when Jose purchased
16 the -- the -- the first Ardmore home, the Defendant,
17 Augustina, she was married to another man.

18 And there is no proof that she gave 5,000 or 3,000.
19 There's no evidence of that, other than her word. And even if
20 that's the case, the moment she handed over that money, it's
21 considered a gift. So however they want to argue that, too,
22 it's still not -- does not convert into a community property
23 asset. And immediately following the -- the -- the marriage,
24 she got deported, Judge. She went to Mexico, she spent from

1 2000 to 2012 in Mexico, while my client was here, paying for
2 -- for the Ardmore home, and she was married to another man.

3 The Court heard testimony from my client that she
4 was married to another man. And now she's asking the Court to
5 benefit from -- from having this double life. While Jose's
6 over here working, and -- and -- and contributing to the
7 Ardmore home, now she wants a piece of it, 20 years later.
8 And I would request that the Court order that the Ardmore home
9 be my client's -- or Jose's sole and separate property, based
10 off of the -- the -- the facts that -- that we've proven
11 today.

12 Now, the Panocha home, that's the -- that was --
13 there's no dispute. That was purchased during the marriage.
14 And there -- there is issues as to what the -- the value is,
15 but my client will submit that the FDF has the -- the -- the
16 -- an estimate as to what the true market value is of the
17 home. And if the Court is inclined to give her a part of the
18 Panocha Street, then alternatively, what we can do, and my
19 client would propose this, is that he be awarded the Panocha
20 Street as his sole and separate property while she would get
21 the Ardmore as her sole and separate property. That the
22 alternative that -- that my client would propose, and that she
23 would be required to refinance the home and put it in her
24 name, and make payments.

1 Now, as far as the Escalade, there's no evidence to
2 suggest that this was purchased from community funds. This
3 was from the children's funds, and they gifted it to Dad.
4 They didn't gift it to -- to the community. It's not a gift
5 where the intent was to give it to Augustina. The intent was
6 to give it to Dad, for the purpose of insurance, to save money
7 on insurance. Not so that Dad could own it and drive it, or
8 that Mom could own it and drive it. This is separate
9 property, Judge, and we're asking the Court -- that the Court
10 hold -- issue an order with that.

11 Now, as far as the Malibu, there -- there is a
12 Malibu. It's 6,000. That could be divided. There's no
13 dispute about that. There were no -- no -- no Audi, Judge,
14 and -- and I'm going to fall on the sword here, and I'll let
15 the Court know that if the Court compares the Defendant's FDF
16 with the Plaintiff's, the Defendant's was submitted before the
17 Plaintiff's. And what happened there is that it -- that it's
18 -- oh, I'm going to -- like I said, I'm going to fall on the
19 sword. But my office copied and paste what the information
20 was from the -- the Defendant's.

21 But the fact of the matter is, it holds true that
22 there is no Audi. There is no Audi and there was never was.
23 That was a mistake. And that's a mistake that I'm going to
24 have to deal with in my -- my -- my office. But there is no

1 Audi. That's what my client testified to, that's where the
2 errors come from.

3 The -- as far as the trailer, my client also
4 testified that he doesn't own the trailer, that he pays for
5 it. That -- that the trailer, which is the back part, not the
6 actual front part where -- where you drive, there's two parts
7 to a trailer. He -- he did admit that he owns the -- the --
8 the driving part on the trailer, but that was burned. He said
9 that he didn't get a penny because the insure -- he didn't
10 have insure -- he didn't have full coverage. What he had was
11 liability only. And the reason why he didn't get a penny is
12 because the -- the debt was greater than the value of the
13 trailer, and so that is now a -- a non issue. It's -- it's --
14 it's actually a debt that he owes, versus an asset. So my
15 client would assume any debt that's associated with -- with
16 that vehicle.

17 Oh, and the last thing I want to mention about his
18 employment, Judge, with the 120,000, we're asking the Court to
19 look at the tax records. He's been honest. He earns about
20 43,000. Mr. Whipple tried to make it seem that he earns about
21 10,000 a month, and -- and that he's doing great. But that is
22 certainly not the case. He earns about 4,300. That's after
23 all his expenses, which include gas, maintenance, materials.
24 It also includes insurance, fees, government fees. So at the

1 end of the day, about \$3,500 a month.

2 And that -- when you -- when you take that into
3 account, that is not enough to sustain two households, I
4 guess, or -- or to provide -- allow him to give to Augustina
5 spousal support. And in this particular year, Judge, his
6 finances have been difficult. We have Covid, which he
7 testified that dropped his earnings. And then we have this --
8 this incident that dropped his -- his -- his -- we had this
9 incident with the fire that dropped his -- his earnings
10 further.

11 So this is going to be a very bad year, and it's
12 going to be months, maybe even years, before he recovers from
13 having to pay the debt for the new trailer, for having to
14 recover from what he's lost during Covid. So that's another
15 basis for -- for denying any request for spousal support. And
16 I believe that that covers all the issues, Judge. Thank you.

17 THE COURT: Thank you. Mr. Whipple?

18 MR. WHIPPLE: Your Honor, thank you. First of all,
19 I appreciate the opportunity to present this through video. I
20 appreciate the Court's patience in giving me ample opportunity
21 to present what I believe to be all the evidence in this case.
22 Your Honor, I believe this is actually a very simple case. I
23 think -- I didn't want to object during some of the argument
24 because you can argue -- argue reasonable inferences, but I

1 think there's a lot of really extreme argument with regard to
2 the actual facts of this case. I think the irony is probably
3 the most honest thing that was ever stated was stated by my
4 client, when she said nobody's perfect, and everybody lies at
5 some point.

6 And I just think back this morning, when I was
7 walking out the front door and my wife asked me how much I'm
8 weighing now. I told her a hundred to 235 pounds. I know for
9 a fact it's 245, right? But I don't want to admit that to
10 myself, that I'm overweight, and I don't want to have to put
11 -- her put me on another diet, so I'm not getting a full meal
12 anymore. You know? So we've all got our motives, we all --
13 you know, just because somebody may misstate the truth, or may
14 -- or not state the 100 percent truth doesn't mean they're a
15 liar. It means we're all human, and we're all imperfect.

16 And I think her statements and her credibility
17 showed through. I'm not going to sit here and argue
18 credibility about somebody who I think was extraordinarily
19 credible. The case has a -- there's a -- a number of issues.
20 The child custody, Nevada law is making this whole case very
21 simple for us, the presumption is joint custody. I -- I think
22 there's some suggestion that she tried to abandon the
23 children. We know different from that now.

24 She spent her entire life taking care of this

1 family. Part of it was in Mexico, and her husband would bring
2 -- would send her money, and when she produced children down
3 there, and bring them back. But they -- they were always
4 together. Last thing I remember, last point I remember, this
5 is a no fault state, right? A lot of allegations going back
6 and forth, but -- but again, Nevada law makes it simple.

7 It was -- it was a -- it was a marriage. They
8 raised their children together. The presumption is that two
9 parents are better than one. The presumption is best
10 interests of the child, and the Nevada Legislature says, you
11 know what? We have -- we need two children -- two parents for
12 our children. And that -- there's nothing here to dissuade
13 from that. It's very simple. Joint custody, best interests
14 of the child, very simple.

15 Assets, community property. All their assets are
16 community property. They were married the entire time.
17 There's an argument regarding Ardmore, because apparently he
18 bought that 11 months before their first child, or a year or
19 two before they were married, whether she paid money or not
20 doesn't really matter. You know why? Because he refinanced
21 it, and bought joint community property. The trailer, and the
22 truck that they used as a joint community.

23 So even if one can argue, well, you know, back in --
24 when they first bought it, it was separate property, once he

1 refinanced it, and -- and financed joint community property,
2 it all became community property. There's not an asset that
3 you've -- that the Court has heard of that's not community
4 property in this case. It's all community property. It was
5 all purchased during the marriage. Or perhaps the one
6 residence that was converted. All community, all joint.

7 So I -- I -- I just -- I -- I look at this case, and
8 it seems very straightforward and very simple to me. I think
9 the only issue really it comes down to is child support.
10 Money's obviously very important to Mr. Gonzalez's client,
11 right? The vast majority of my argument is based on his
12 testimony, not my client's.

13 He told you, and he told me that he controls the
14 money. He makes the money. The money is his, 100 percent.
15 And so I don't think you need to look any further than the
16 fact that he refused to pay her for the last four months for
17 whatever reason, that he is going to do exactly -- and get
18 whatever he wants, through the use of money.

19 He controls people, because he controls money. He
20 controls the kids because he controls the money. He controls
21 the things that the kids get. He could make -- he could send
22 them wherever they want, and they'll thank Dad, but they don't
23 thank Mom, because he has the money. So any suggestion, if my
24 client is a seven instead of a nine, that is -- that's not to

1 suggest that -- that he gets primary custody. That suggests
2 that oh, by the way, I recognize that Dad has the money and
3 takes care of the kids, and gives them what they want. They
4 still love their mother, they still want to be with their
5 mother. Doesn't change the fact that they -- they should have
6 joint custody.

7 But look at where the money and who controls it, and
8 who insists on controlling it. Mr. Salazar is a controlling
9 person. He tried to control his wife, he tried to -- he
10 controls the money, but he can't control the law. Because the
11 law in this state says when you do it together, it's community
12 property. The law in this state says, when you -- when you
13 have two parents, the children should stay with two parents.
14 It's a really simple case.

15 And the law also says, you know what? When a person
16 spends 20 years building up an enterprise, and their wife
17 stays home for that entire time, taking care of the kids, and
18 has very little earning capacity, whether it be because of
19 earnings, or because of disability, that alimony is in order.
20 That's what the law says. Mr. Salazar can't control the law
21 or the legislature.

22 The law and the legislature makes it very clear. He
23 spent his entire life building up his own practice to where he
24 can work for himself and make 40, \$45,000 every year pretty

1 easily. And what does my client make? Well, through the pain
2 pills, and when somebody calls her to clean a house, she may
3 make between 150 to 160 in a week, at best.

4 It's joint custody, it's community property, and
5 this young lady still has the rest of her life to look forward
6 to, should get \$1,000 a month for the next 10 years. I thank
7 you.

8 THE COURT: Thank you. Anything else, Mr. Gonzalez?

9 MR. GONZALEZ: Yeah, quick rebut -- quick rebuttal.
10 I -- I -- I -- Mr. Whipple, I know he's trying to -- to do his
11 best to defend his client's intentional lying, but the example
12 he gave with, oh, I told my wife 235 versus -- then later on I
13 found out 245 is inapplicable, and it's just misplaced.
14 There's one thing about mistaken belief about your weight, and
15 knowing -- knowing that you're taking a government document
16 that you obtained through fraud and presenting it to a church
17 as a legitimate document. There's a big difference. We all
18 believe that we weigh something that is pretty close, but it's
19 a belief. It's -- it's -- it's a belief that -- that we just
20 have developed, based off of everyday living.

21 But there's a big difference when you know what
22 you're doing, you know the truth of the matter, you know the
23 facts, and you don't care. You simply do not care about the
24 -- the -- the -- the administration, the system that's in

1 place to obtain a -- a baptism. You don't care about
2 anything. It's me, myself, and I, and I'm going to get what I
3 want.

4 Now, Mr. Whipple says that -- that my client is
5 controlling. Well -- he controls her with money. It -- let's
6 think about that. He test -- Augustina testified that four
7 months ago, he stopped giving her 250. Well, what happened
8 four months ago? His truck burned down. He was unable to
9 work. He couldn't afford it. He has kids to feed, she's
10 working. It's not that he's trying to control her. There's
11 no evidence of control. It -- it -- there's -- there's
12 methodical, there's reasonable explanation for my client's
13 conduct.

14 He's never hurt her. He's never tried to put her
15 down. He's never done anything to damage her. But quite the
16 contrary, she lived with another man, and lied about it for 12
17 years. She never let him know where she lived and who she
18 lived with. The -- this is intentional conduct, and she knew
19 what she was doing. And at the end of the day, we can't
20 believe anything that she said that comes out of her mouth.
21 It's -- it's -- it's sad. It's sad, to say the least.

22 But this is not even remotely close as to whether
23 it's a mistake or an intentional lie or -- or it was -- it's
24 just -- it's sad. That's all I can say about that now. As

1 far as the child's best interests, yeah, it's -- it's -- it --
2 it's the policy of this -- of this state to have joint legal
3 and joint physical custody. But that's -- that's a -- that's
4 a preference that we've overcame, Judge, and -- and when one
5 parent doesn't care, one parent goes out gambling, one parent
6 is non-existent, rather be with friends -- she testified, oh,
7 yeah, I'm with my friends, go pick up the kids.

8 When you've demonstrated a pattern of indifference,
9 then that's when we determine, yeah, it's not in the
10 children's best interests to leave them in your custody when
11 your own children don't trust you. When your own adult
12 children say, you know what? I'm scared or -- or I don't -- I
13 don't want my siblings to be with Mom because we don't trust
14 her, that's when it's time to realize, oh, it's not in the
15 children's best interests to do some sort of joint physical
16 and joint custody.

17 She brought this upon herself, Judge. It -- it's
18 nothing that my client did to her. This is not -- not -- this
19 isn't anything that my client forced her to live through.
20 This is something that she brought upon herself.

21 And what does she want to do now? Make him look
22 like the monster, make him look like the guy who was never
23 there. Make him look like -- like doesn't deserve -- well,
24 I'll just leave it that, Judge. I think we've -- we've -- I

1 -- I've proven my case. And this is not a -- a -- a
2 preponderance or a clear and convincing. I think we've met a
3 higher burden, demonstrating that she's -- she's not -- she's
4 simply not credible, Judge, and -- and I'll leave it at that.
5 Thank you.

6 THE COURT: Okay. Thank you. What I'd like to do
7 is take it under advisement, and I'd like you each to submit
8 proposed orders with the findings that you want the Court to
9 make. And if you could do that in the Word format, that would
10 be helpful, so that we're able to use it.

11 MR. GONZALEZ: Okay.

12 THE COURT: Is two weeks enough time for you to do
13 that?

14 MR. WHIPPLE: Two weeks? Sure, Your Honor.

15 THE COURT: Two weeks, is that fine?

16 MR. WHIPPLE: Yes, Your Honor.

17 MR. GONZALEZ: Yes.

18 THE COURT: All right. So, Madam Clerk, two weeks
19 from today is the 30th, correct? All right. If you could
20 submit those by the 30th?

21 THE CLERK: Yes, Your Honor. I'm sorry.

22 THE COURT: I want to thank you all so much, and I
23 thank you for your patience. I know it's not easy to do a
24 trial this way, but we did get through it. Although the clerk

1 does need one document,
2 Mr. Whipple, the document that you asked me to take judicial
3 notice of.
4 MR. WHIPPLE: Yes, Your Honor.
5 THE COURT: You -- she'd like a copy of that. And
6 make sure --
7 MR. WHIPPLE: Yes, Your Honor.
8 THE COURT: -- that Mr. Gonzalez --
9 MR. WHIPPLE: Can I get the -- can I get a separate
10 email or -- I'll email her right now, Your Honor.
11 THE COURT: Madam Clerk, where do you want him to
12 email it?
13 THE CLERK: He can email it to avenas@clark -- I'm
14 sorry -- @clarkcountycourts.us, please?
15 THE COURT: Thank you. And again, Counsel, thank
16 you so much. You made this a -- a good experience for all of
17 us, even though we had some glitches. And I appreciate your
18 time and your attention to this matter, and I hope you all
19 have a good day. Thank you so much.
20 MR. WHIPPLE: Thank you, Your Honor.
21 MR. GONZALEZ: Thank you.
22 (PROCEEDINGS CONCLUDED AT 12:39:27)
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ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the
above-entitled case to the best of my ability.

/s/ Nita Painter
Nita Painter

1 TRANS

COPY

FILED

SEP 29 2021

Sharon A. Griffin
CLERK OF COURT

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4 EIGHTH JUDICIAL DISTRICT COURT
5 FAMILY DIVISION
6 CLARK COUNTY, NEVADA
7
8

9 JOSE OSCAR SALAZAR,)
10 Plaintiff,) CASE NO. D-19-595434-D
11 vs.) DEPT. U
12 AUGUSTINA C. LANDA,) APPEAL NO. 83111
13 Defendant.)
14 _____)

15
16 BEFORE THE HONORABLE DAWN THRONE
17 DISTRICT COURT JUDGE

18 TRANSCRIPT RE: ALL PENDING MOTIONS

19
20 WEDNESDAY, MARCH 31, 2021
21
22
23
24

1 APPEARANCES:

2 The Plaintiff:
3 For the Plaintiff:

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879 N. Eastern Ave.
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(702) 778-3030

5 The Defendant:
6 For the Defendant:

AUGUSTINA LANDA
BRET WHIPPLE, ESQ.
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1100 S. Tenth St.
Las Vegas, Nevada 89104
(702) 731-0000

9 Also Present:

CRISTINA RANUSCHIO
Court Interpreter

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ALICIA HERRERA
Court Interpreter

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 09:06:37)

4
5 THE COURT: Good morning. This is the time set for
6 case D-19-595434-D. If we could have Counsel make their
7 appearances, starting with Counsel for Plaintiff, please?

8 MR. GONZALEZ: Good morning, Judge. Rodolfo
9 Gonzalez, Bar number 12751, appearing on behalf of Plaintiff,
10 who's present in my office.

11 THE COURT: Yeah, can you turn him up? Thanks.

12 MR. WHIPPLE: Good morning, Your Honor. Bret
13 Whipple, Bar number 6168, on behalf of Augustina Landa, who's
14 present in my cust -- or my office, as well as a certified
15 interpreter, Your Honor.

16 THE COURT: Perfect. All right. Can we have the
17 Interpreter put their name on the record, and their number?

18 THE INTERPRETER: Yes. Cristina Ranuschio R-a-n-u-
19 s-c-h-i-o, LVFC 536.

20 THE COURT: Perfect. All right --

21 THE INTERPRETER: This is -- Alicia Herrera, and my
22 certification number MPHA 502.

23 THE COURT: Okay. So we have -- have Interpreters
24 for both parties. Perfect. I have read everything. We're

1 here on Plaintiff motion to reconsider and Defendant's
2 opposition. I'll start with you, Mr. Gonzalez. Do you have
3 anything to add, because I see you didn't file a reply, so I
4 want to hear from you first.

5 MR. GONZALEZ: Sure, Judge. (Indiscernible) two
6 concerns here, spousal support, and then -- and the -- the --
7 the distribution of the marital assets. So on spousal
8 support, Judge, it -- one of the things that -- that the Court
9 decided on Dad's gross monthly income was from 2018. Didn't
10 -- it doesn't seem from the reading of the decree that the
11 Court took into account Dad's financial status in 2020, when
12 he didn't work for most of the year, and he had -- he didn't
13 have an ability, and he still doesn't have the ability to pay
14 the spousal support because his expenses exceed his income.
15 He's been primarily living off of his savings.

16 So we think that if there is a spousal support
17 claim, it should be set at \$1, with the right to then modify
18 it at some time in the future, when Dad is able to pay spousal
19 support in the future. But given the circumstances when the
20 case was presented to the Court, there was an inability to pay
21 spousal support. It's also important to note -- and this is
22 very important, because what the Court didn't do is -- is say
23 that Mom has an inability to work, Mom is disabled. The Court
24 never made those findings.

1 What the Court did is -- is saying in the decree,
2 Defendant alleges -- and that's on page 7, line 10 -- and
3 then, Defendant asserted, page 9, line 8, that her injuries as
4 a result of a car crash may impact her ability to work. And
5 then on page 6, line 3, Defendant argued, right? So -- so the
6 -- the Court never made findings that Mom is disabled, or she
7 has an inability to work. So if Mom in fact does work, that
8 would give her more income.

9 And those are important factors that the Court did
10 not really make findings or consider in its ruling. As far as
11 the -- the distribution of the -- the value of the homes, what
12 the Court did is take the Zillow value of each home, and then
13 subtracted the -- the -- one -- one value from the other, and
14 then distributed or divided that in half. That's what the
15 Court did. But instead, what the Court should have done with
16 the -- the -- the mathematical formula based off of equity,
17 not the value. The equity of the home.

18 And so it's our position that there was an equity
19 value of 122,950 for one home (indiscernible) equity value of
20 44,957 in the other home, for a difference of \$77,933. And
21 then what the Court didn't do is subtract a \$10,000 debt from
22 the tractor trailer, which would then reduce the total assets
23 of the parties -- this is the combined assets, would be 67,993
24 after we subtract the equity from the larger home to the

1 smaller home, and we also subtract the \$10,000. So a fair
2 distribution -- I think I explained it a lot better in my --
3 in my moving papers. Mom should be entitled to \$33,996.50,
4 not 60,000 as the Court ordered off of the Zillow value of the
5 home, not the equity value of the homes.

6 And so those are the -- those are the -- the two
7 things that we're asking the Court to reconsider. I think
8 that there's a legitimate basis for it. The decree of divorce
9 did not (indiscernible) compelling reasons. I -- I read the
10 decree, and there's no compelling reasons for this unequal
11 distribution of -- of assets, Judge, and so on that, we'll
12 submit.

13 THE COURT: All right. Mr. Whipple? As I stated,
14 I've read everything. I do have a couple of questions for
15 you, and then I'll let you provide anything else you want me
16 to consider.

17 MR. WHIPPLE: Yes.

18 THE COURT: Is your client living in the Ardmore
19 house?

20 MR. WHIPPLE: Yes, Your Honor.

21 THE COURT: Okay. And is she on the title to either
22 house?

23 MR. WHIPPLE: Your Honor, I don't have that
24 information in front of me, but her -- she's representing that

1 she doesn't -- I don't know. I don't know, Your Honor. I --
2 I can't represent one way or another.

3 THE COURT: Mr. Gonzalez, your client's on --

4 MR. GONZALEZ: I can answer --

5 THE COURT: -- is the only one on the title and the
6 mortgage on both houses, right?

7 MR. GONZALEZ: Correct, Judge.

8 THE COURT: Okay. All right. Mr. Whipple, is there
9 anything else that you want me to consider?

10 MR. WHIPPLE: Your Honor, we believe our opposition
11 addressed the issues that were raised by Plaintiff. There was
12 no compelling, substantive issues that were not covered in the
13 decree. Every one of the issues that -- that has been raised
14 by Counsel -- opposing Counsel is -- is addressed in this --
15 in the -- in the decree. With regard to the issue of the
16 income, that's on page 8 of -- of the 15 page decree, talking
17 about how much he makes in gross income, and how much expenses
18 he has.

19 She -- this -- this was a hearing that took more
20 than one hearing. We had -- it ran over to a second date.
21 There was substantial testimony that was elicited from all of
22 the parties. They're trying to unwind something in a five or
23 10 minute deal, which we literally took hours and hours to get
24 through, and -- and to -- and, you know, to find the