

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA CALDERON F/K/A
CHIRSTINA CALDERON STIPP,

Appellant,

vs.

MITCHELL DAVID STIPP,

Respondent.

Supreme Court No. 81888
Electronically Filed
Sep 20 2021 06:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME X

AARON D GRIGSBY
GRIGSBY LAW GROUP
A Professional Corporation
Nevada Bar No. 9043
2880 W. Sahara Ave.
Las Vegas, Nevada 89102
Phone: (702) 202-5235
aaron@grigsbylawgroup.com
Counsel for Appellant

RADFORD J. SMITH
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Counsel for Respondent

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

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

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

Award of Attorney's Fees

I AA000161-230

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

pursuant to NRCP 16.205(i)

I AA000231-232

Ex Parte Application for an Order

Shortening Time

I AA000233-244

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

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

II AA000245-272

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

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

Children to exercise Teenage Discretion II AA000273-366

Order to Show Cause II AA000367-368

Notice of Entry of Order II AA000369-372

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

Timeshare II AA000373-389

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

Timeshare II AA000390-406

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

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

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

Notice of Hearing II AA000420

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

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

and Award of Attorney's Fees

II AA000421-427

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

in Support of Objection

II AA000228-481

Response to Plaintiff's Objection

Filed on August 30, 2019

II AA000482-485

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

III AA000286-497

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

Children to Exercise Teenage Discretion

III AA000498-517

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

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

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

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

and Attorney's Fees III AA000578-600

Notice of Hearing III AA000601

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

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

Motion for Primary Physical Custody III AA000608-612

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

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

Order Setting Case Management Conference III AA000635-637

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

Temporary Primary Physical Custody and Request for Writ of Attachment Order

and Attorney's Fees III AA000638-643

Opposition to Plaintiff's Emergency Motion for Temporary Primary Physical

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

Countermotion for Primary Physical Custody

and Related Relief III AA000644-666

Order Shortening Time III AA000667-668

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Notice of Change of Address	III	AA000676
Order Setting Evidentiary Hearing	III	AA000677-681
Subpoena for Gerardo Hernandez for Deposition	III	AA000682-686
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Notice of Telephonic EDCR 5.602(d) Conference	III	AA000688-690
Plaintiff's Production of Documents and List of Witnesses Pursuant to NRCP 16.2	III	AA000691-700
Certificate of Mailing	III	AA000701
Plaintiff's Motion to Compel Discovery Responses, Including Answers to Interrogatories and Responses to Requests for Production of Documents; Failure to Make NRCP 16.2 Disclosures and Productions; and For an Award of Attorney's Fees and Costs	III	AA000702-722
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Plaintiff's Exhibits in Support of Plaintiff's		
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Motion to Compel and Related Relief	IV	AA000813-931
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Supplement to Opposition to Motion to		
Compel: Countermotion in Limine	IV	AA000936-944
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DOCUMENT	VOLUME NUMBER	BATE NO(S)
Exhibits in Support of Defendant's Supplement:		
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Supplement to Opposition to Motion to Compel		
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Exhibits in Support of Defendant's Supplement:		
Countermotion in Limine	V	AA1025-1049
Notice of Entry of Order	V	AA1050-1053
Defendant's Pretrial Memorandum	V	AA001054-1099
Receipt of Copy	V	AA001100
Witness List	V	AA001101-1104
Receipt of Copy	V	AA001105
Witness List	V	AA001106-1109
Receipt of Copy	V	AA001110
Plaintiff's List of Witness for Evidentiary Hearing	V	AA001111-1118

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

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

Plaintiff's Memorandum of Attorney's Fees and

Costs

VII AA001323-1335

Ex Parte Application for Order Shortening Time on

Defendant's Motion to Compel

VII AA001336-1497

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

Commissioner

VII AA001498-1500

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

and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001501-1517

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

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

Counter-Motion for Attorney's Fees

VII AA001518-1540

Notice of Hearing

VII AA001541

Opposition to Plaintiff's Request for Attorney's

Fees and Costs

VIII AA001542-1700

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

Countermotion for Attorney's Fees and Costs

VIII AA001701-1760

Notice of Hearing

VIII AA001761

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

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

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

CERTIFICATE OF SERVICE

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

BY ELECTRONIC FILING TO

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

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

1 TRANS

2 COPY

FILED

JUN 29 2021

Sharon A. Hoffman
CLERK OF COURT

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

9 IN THE MATTER OF THE JOINT)
10 PETITION FOR DIVORCE OF:) CASE NO. D-08-389203-Z
11 CHRISTINA CALDERON STIPP) DEPT. H
12 Plaintiff,) APPEAL NO. 57327
13 and) 57876
14 MITCHELL DAVID STIPP,) 62299
15 Defendant.) 81888
(SEALED)

16
17 BEFORE THE HONORABLE ARTHUR T. RITCHIE JR.
18 DISTRICT COURT JUDGE

19 TRANSCRIPT RE: EVIDENTIARY HEARING

20 THURSDAY, JANUARY 23, 2020

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APPEARANCES:

The Plaintiff:
For the Plaintiff:

CHRISTINA CALDERON STIPP
VALARIE FUJII, ESQ.
704 S. 6th Street
Las Vegas, Nevada 89101

AARON D. GRIGSBY, ESQ.
2880 W. Sahara Avenue
Las Vegas, Nevada 89102
(702) 202-5235

The Defendant:
For the Defendant:

MITCHELL D. STIPP
RADFORD J. SMITH, ESQ.
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
(702) 583-6867

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VOIR DIRE DIRECT CROSS

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1 LAS VEGAS, NEVADA

THURSDAY, JANUARY 23, 2020

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 9:17 A.M.)

4 (THE FOLLOWING TRANSCRIPT CONTAINS MULTIPLE
5 INDISCERNIBLES DUE TO POOR RECORDING QUALITY)

6
7 THE COURT: As soon as you're ready, would you
8 confirm your appearance for the video record.

9 MR. GRIGSBY: Good morning, Your Honor. Aaron
10 Grigsby, bar number 9043, standing in for Gregory Mills on
11 behalf of Plaintiff, who is also present.

12 MS. FUJII: Val Fujii, bar number 5955, on behalf of
13 the Plaintiff.

14 MR. SMITH: Radford Smith, 2791, on behalf of Mr.
15 Stipp, the -- he is standing to my left and present today,
16 Your Honor.

17 THE DEFENDANT: Co-counsel, 7531.

18 THE COURT: Okay. All right. Just take a breath.
19 I intended to get started a few minutes ago, but we needed to
20 get everybody ready. In preparation for today, just like you,
21 I reviewed all the papers that have been filed, at least since
22 I've been responsible for the case beginning August 26th,
23 2019. I've looked at the hearings, specifically reviewed the
24 hearing on November 12th, which talks about why we're here

1 today, how we got here today, and what we hope to accomplish
2 today.

3 And, you know, that's in the context of also trying
4 to deal with a lot of the drama and the nonsense that's been
5 going with you guys in the last couple days about the
6 exchanges (indiscernible - audio break) of information and the
7 witness lists and such, okay?

8 We specifically discussed -- and I can't believe
9 that hearing was that long, but it was more than 30 minutes.
10 I logged about the balance of what we were trying to
11 accomplish. We had a joint custody order; we'd been working
12 through what to do about the fact that it wasn't being
13 followed; we'd gone through attempts for supervised exchanges;
14 we went through a child interview; we went through a
15 discussion about the remedial resources, counseling, to try to
16 work it out, and I posed the question to you, Mr. Grigsby,
17 your client's the aggrieved party, the one who is being
18 prejudiced by the delay, when do you want a hearing? You said
19 immediately. Right?

20 MR. GRIGSBY: Yes.

21 THE COURT: And so I said, Well, you know, that
22 probably won't work out based on the walking through of the
23 counseling sessions, but we said we're going to start with a
24 hearing as soon as we can. And we talked about this notion

1 that we're balancing these concepts. Okay? I could have
2 given you a trial next January 2021 and I could have given you
3 12 months of discovery, you guys could have done your
4 depositions, your motions to compel, your requests for
5 production and all that nonsense. Okay? But that would not
6 be in the best interest of your children.

7 And so we said we're going to balance that. So what
8 did I tell you to do? Make your voluntaries as quickly as you
9 can. Everything that you think you can -- you're going to
10 need in the form of designating witnesses, documents, et
11 cetera, with the understanding that two months from the time
12 we had our hearing on November 12th and today was not near
13 enough time to do all of the traditional things you might do
14 if you were gearing up to do a custody trial. Okay?

15 And we said that we're going to have a problem.
16 This was at 10:34 of that hearing. If we have basically a
17 production dump on the last day of discovery or right before
18 the evidentiary hearing because the whole notion of due
19 process in litigation is that you know sort of what you're
20 going to be dealing with so that you can plan your arguments
21 and your lines of questioning and everything else. Okay?

22 One other things that was not a mystery to either
23 party was that we had motions filed by both parties, in a
24 general sense. We had a motion to resolve parent-child issues

1 and -- that have evolved in basically Mom's request to modify
2 the joint physical arrangement and Dad's request to modify the
3 joint physical arrangement, and the Court determined that
4 there was adequate cause to have some proceeding or some
5 hearing to address the merits of those requests.

6 And the compelling offer of proof was this notion
7 that the children were exerting some sort of preference or
8 influencing the custodial position. Right? And the child
9 interview report, which is secondhand and is not admissible
10 without stipulation, we discussed the fact that the
11 Plaintiff's position is to assert her rights to confront that
12 evidence if the Court's going to give it any weight.

13 And so we talked about the fact that between
14 November and now we -- the parties would be discussing how
15 we'd proceed. But we will proceed today. We will receive one
16 or both of the children's testimony today. Also since they
17 are -- they have a counseling resource, I suppose it's
18 foreseeable that, you know, Nic Ponzo would testify, but I'm
19 not even sure that that is necessary.

20 And, by the way, the Court in managing a post-
21 judgment evidentiary proceeding, a proceeding that is not
22 mandated but is essentially -- needs to be justified by the
23 Court, says that the Court under NRS 48.035 can exclude even
24 relevant evidence because it's needless or it's cumulative or

1 it doesn't serve the interests of the parties or the children.

2 And so this is not like a relitigation. It's not a
3 rehash where we go through the (indiscernible) with Sullivan
4 and then to the Supreme Court or with Potter and to the
5 Supreme Court, and presumably the findings and orders here and
6 to the Supreme Court. We are going to do what's necessary to
7 try to come to a place that's best for your children.

8 Now, looking at the case and reviewing the filings,
9 especially the most recent filings, the Court necessarily had
10 to say, look, we expect the parties to testify. The setting
11 was for this -- for the children basically to offer
12 information -- and with an understanding, the Court
13 specifically told you this, is that finding adequate cause and
14 weighing in on a hearing does not mean that we have to have it
15 completely finished during the course of these type of
16 proceedings, six, seven, eight weeks after we tried to manage
17 this with -- in that hearing in November.

18 So you had a right, and the Court expected you to do
19 what you could in the two months. It looks like you've done a
20 lot, to be honest. There was written discovery propounded,
21 there were responses to written discovery, there's a pending
22 dispute as to whether that's, you know, whether there's any
23 validity to that dispute, but that's neither here nor there
24 for that.

1 There was also a deadline for the exchange of
2 information and the witness list. And the reason why that is
3 is because I'd rather you guys fight over this on the 13th of
4 January than on the 21st of January, but that didn't work.

5 If you identified witnesses, even relatives and
6 people who are related to folks that are in your life that
7 were not disclosed prior to the 13th or the 21st or whatever,
8 they're not going to -- they're not going to testify in this
9 hearing because of the prejudice of the parties.

10 Now, if the offers for proof are such that the Court
11 should be -- the Court would agree with whoever advances this
12 argument that that testimony is really essential to -- before
13 we decide this case, there's a way that I deal with that, and
14 that is to adjourn the matter, let the discovery dispute work
15 itself out and have another session in which those parties
16 could testify. More likely, you know, so-and-so's mom and so-
17 and-so's uncle, and so-and-so's this and that that are not
18 related to the essential elements here might be determined to
19 have relevant information but not necessary for me. Okay?
20 And whether we get into that today or not, I don't know.

21 But both of you filed witness lists on the 21st,
22 both of you objected to the fact that on the 13th, which was
23 the cutoff for this particular hearing, you guys got a bunch
24 of stuff that gives you pause or concern.

1 One of the things that was not a surprise was that
2 the children would testify by alternate means and that we
3 might have some argument and issues related to the -- how the
4 kids were managing through counseling or whatever. Plus I
5 expected a report from the parties at the very least about
6 where they've been. I asked them in October, I asked them in
7 November. Haven't seen you since November. And that's what
8 I'm kind of expecting. Are you -- if you were satisfied with
9 your custodial time or this matter was resolved, we wouldn't
10 be here, right? So we have a beef that we've got to take care
11 of.

12 Also, as frustrating as it might be, I got this
13 case, started reviewing the filings in August, I never heard
14 any evidence in this case. None. It's time to hear proof,
15 something that I can at least, you know, honestly tell the
16 parties, look, this is why the order is and this is what the
17 basis is and -- and you'll have an opportunity to kind of tell
18 me where you see this going. It's going to be resolved one
19 way or another either by a finding saying that we have
20 reviewed all the papers and received sufficient proof and it's
21 closed or there's going to be an explanation that we have
22 further work to do.

23 The only way that this works, to basically say we
24 have a motion, we have a process, we have a determination of

1 adequate cause and we set a hearing in four, five, six, seven,
2 eight weeks, is if we have a cooperative process, you guys
3 working very diligently to try to get to a point where we're
4 ready to go without any concerns that you have about your due
5 process rights. Okay?

6 And, frankly, I think you guys have worked pretty
7 hard to try to do that. But the filings that we got this past
8 week show that you're not -- you're not -- you at least
9 preserved arguments saying that there's been some -- there
10 could be some prejudice based on either the failure to fully
11 respond to discovery or the designation of folks or the
12 production of records that were not disclosed until the date
13 of the cutoff. Okay? So I do understand you have a dilemma
14 that way. Before we finish here today, you'll tell me what
15 you think I should do about it. All right?

16 But what we -- what we talked about specifically,
17 and the dialogue was all about what to do about the child
18 interview report, the fact that the court order wasn't being
19 followed, we have an agreement, that agreement wasn't being
20 followed. The principal reason for the not following the
21 agreement was that the children objected, right? Everybody
22 agrees to that point.

23 MR. SMITH: Right.

24 THE COURT: Everybody agrees to that point.

1 MR. SMITH: That's correct.

2 THE COURT: So, you know, if the Court is going to
3 say that the agreement is different or that the child custody
4 order is different and tell Mom you're not going to get your
5 week-to-week timeshare or it's going to be some semblance of a
6 different timeshare, then she has a right for the Court to
7 review the evidence with her and explain what the
8 justification was. That's why it seems like it's a blink of
9 an eye in court time, but it's been six months since the first
10 filing reopening this case. Okay?

11 Now, we have the Nevada Revised Statutes, we have
12 the Nevada Supreme Court rules amending the local rules of
13 practice, and we have the Rules of Civil Procedure to rely on
14 to help us determine -- but what all of these things say is
15 that as it relates to children, the Court is always supposed
16 to look at the probative value of the information, make sure
17 it outweighs the prejudice. Believe me, if the Court
18 concluded that the probative value is outweighed by the
19 prejudice in this case or it wasn't centered directly on -- on
20 issues related to the children's sentiments, then the Court
21 might exclude their testimony. But I have a lot of discretion
22 in how that would work.

23 Thankfully both of you have counsel. And one of the
24 things I told you already was that if they testify, we'll be

1 using alternate means, excluding the parents, and that it will
2 be on the record. If you object to having the treatment for
3 the 15 year old because it doesn't come under the chapter,
4 then state the objection, I'm going to overrule it, and I'm
5 going to tell you that I'm going to tell you that I'm going to
6 do it the same way for both kids. Okay?

7 The -- as far as the -- so that's really what the
8 theme is today. Now, I did set the day aside because it's
9 possible that all these things that we were looking at in
10 November were going to take more than three hours. Okay? And
11 that -- and that's a better situation than if you're coming
12 back for half days two, three different times. You guys are
13 busy, I'm busy, and coordinating those type of schedules is
14 problematic. But we could accomplish, at least the purposes
15 that I just laid out, in the morning and then see where we
16 are.

17 If you have -- I think Dad was just limited to
18 parties, kids, and maybe Ponzo, right?

19 MR. SMITH: Parties, kids, and parties would include
20 his wife. I think the Court has treated that (indiscernible)
21 --

22 THE COURT: Okay. I didn't -- I didn't know -- but
23 anyway, Mom expanded the list a little bit, a lot of fact
24 witnesses. I certainly understand that, you know, you want to

1 err on the side of designating witnesses because -- you might
2 not call all of them, but if you don't designate them more
3 likely they're not going to be able to testify. She elicited
4 a lot of related folks talking about relationship issues, you
5 know, mothers, fathers, and other folks. She also listed her
6 therapist, which I don't understand why that would be
7 relevant.

8 But if the Court closes the hearing and doesn't have
9 any additional evidence, then I want you to make a record on
10 each one of the witnesses you would call and get a specific
11 reason why we're not allowing them. But more than likely
12 we're not going to be done with the hearing this morning.
13 Okay? But the children are here, correct?

14 THE DEFENDANT: They are here, Your Honor.

15 THE COURT: So we don't want them sitting around all
16 day.

17 THE DEFENDANT: No, not at all.

18 THE COURT: They're going to have priority. Your
19 counsel are experts, you've examined children before. You
20 know it's different than examining other folks. I will try to
21 -- you know, I'll probably lead the exam at the beginning just
22 to try and make them feel more comfortable. They've never
23 testified in court before, right?

24 THE DEFENDANT: That's correct.

1 MR. SMITH: They have not.

2 THE COURT: And then you'll do your job, and we'll
3 try to get them in and get them out of here as quickly as we
4 can.

5 Now, for the parents, you guys are lawyers. I don't
6 know if you've dealt with this or whether you've examined
7 kids, but you would never examine your kids off the record and
8 we want you to have an opportunity to see their testimony so
9 you can comment on it or work on -- or evaluate, you know, how
10 you thought the examination went and what the content was and
11 what you thought about it. So that might be even reason
12 enough if they were the only witnesses in this case to have a
13 period of time between the time that they testify and the time
14 that they -- you know, a decision is made. Okay?

15 Now, you guys have been communicating it looks like
16 frequently over the last week or two, right, Counsel?

17 MR. SMITH: Yes.

18 THE COURT: Are there any stipulations or any other
19 matters that you want to bring to the Court's attention?

20 MR. SMITH: WE have a couple of housekeeping
21 matters.

22 THE COURT: Okay.

23 MR. SMITH: So the first would be the priority of
24 who proceeds first.

1 THE COURT: Well, that's interesting because, you
2 know, it took me two pages just to write down the filings that
3 occurred since August. He filed a request for child interview
4 and for teenage discretion and a mediation referral. She
5 opposed that request. We didn't evolve until a change of
6 custody motion until she was denied her time. In her mind, it
7 had a case for change of custody.

8 MR. SMITH: Yes.

9 THE COURT: He's first in time filer. He filed his
10 own change of custody motion; she filed her own change of
11 custody motion. The Court didn't change the custody order, so
12 I -- I don't care. If you care, then tell me who you think
13 should proceed.

14 MR. SMITH: Oh, we believe that, particularly with
15 the children, we should go first, Your Honor. Our notion
16 would simply be to -- exactly what the Court said -- is to
17 limit the amount of time they're on the stand, to ask them
18 questions pertinent to repairing the relationship between the
19 children and Ms. --

20 THE COURT: Well, let me just comment on it this
21 way, because the way I look at it you guys are in the exact
22 same place. You have a custody agreement, a stipulated
23 judgment, in which you have joint legal and joint physical
24 custody. Both of you are on record today with your most

1 recent filings to say that you want to modify the joint
2 physical custody schedule. Both of you have the same burden
3 to persuade the Court by a preponderance of the evidence that
4 whatever custody change you're advancing is in the best
5 interest of the children. So this is not a situation in which
6 one parent has a higher burden than the other or that they're
7 seeking to do something different than what the other person
8 is doing.

9 MR. SMITH: The only reason I mentioned the
10 children, Your Honor, is because in conversations within the
11 deposition context there is -- Ms. Calderon denied the
12 statements that were made by the children in the interview.
13 So I think their notions are more under analysis of --

14 THE COURT: Well, that's a -- all right. Look.

15 MR. SMITH: -- cross-examination.

16 THE COURT: Well, and that's why we have that right.
17 Okay?

18 MR. SMITH: That's right.

19 THE COURT: Because if the Court is going to give
20 weight to that information, their testimony, and if there is
21 contradiction --

22 MR. SMITH: Yes.

23 THE COURT: -- by any other witness, then the Court
24 is going to be weighing the credibility of the evidence, et

1 cetera. So that's -- that's -- so when you deposed her, you
2 probably asked her about anecdotes that had come up either
3 through your client's discussion with the kids or their
4 written report, right?

5 MR. SMITH: The written report, yes.

6 THE COURT: All right. So --

7 MR. SMITH: And both. You're right. That's
8 correct.

9 THE COURT: Not a big deal.

10 MR. SMITH: So --

11 THE COURT: Now you can -- I assume that we're going
12 to hear from the parents. You're not going to be just
13 publishing depositions, are you?

14 MR. SMITH: No, no. That's right.

15 THE COURT: Okay.

16 MR. SMITH: No. We're going to hear from the
17 parents. But, you know, unlike other depositions, depositions
18 of the parties are used for any purpose --

19 THE COURT: Any purpose, yeah.

20 MR. SMITH: -- that's why you -- okay. So, Your
21 Honor, in regard to that, the reason I didn't suggest at all
22 and I wasn't trying to suggest that they don't have the right
23 to examine the children. I'm just suggesting that their
24 apparent goal is to demonstrate that the information that was

1 provided to the interviewer in part was inaccurate --

2 THE COURT: Well, let me just -- let me just --

3 MR. SMITH: And so I think that puts us in different
4 roles. I'll only present basically what they said
5 (indiscernible) --

6 THE COURT: Well, maybe. Except that -- except
7 that --

8 MR. SMITH: -- basically what they said --

9 THE COURT: -- this is the way I would deal with it.
10 Since you guys are making the same case, I would probably make
11 the record saying that neither one of you are limited by the
12 scope of the examination of the other as long as it's a
13 relevant inquiry. Because you might have a different view of
14 what you want to emphasize in your case --

15 MR. SMITH: All right.

16 THE COURT: -- than they do. All right?

17 MR. SMITH: All right. As long as we know that
18 going up front, I appreciate that, Your Honor.

19 THE COURT: Yeah. So do you see it the same way?

20 MR. GRIGSBY: Mostly. Although I do want to make a
21 few corrections. I believe our motion for -- to change
22 custody was just for a temporary change of custody.

23 THE COURT: Well, you're -- you -- let me tell you
24 why I concluded the way I did. Mom filed a show cause of

1 return of the child and compensatory time. That was on August
2 29th. Then Mom filed certain objections and other motions.
3 Then Mom filed an emergency motion for temporary primary
4 custody, and then Mom filed a motion for primary physical
5 custody. And let me just -- let's see. Let me make sure that
6 I'm accurate on this.

7 The October 10th filing, 2019, and the October 21st
8 filing is his filing where he says that he wants to file a
9 counter-motion for primary custody. So if your client's
10 request on October 9th was not for a change in the joint
11 physical custody order but only intended to be a temporary
12 custody order, I'll make a note of that. But I assume that
13 the theme of her case was that Dad was denying her custody
14 time and alienated the children from her.

15 MR. GRIGSBY: It is. But I believe the remedy we
16 had asked for at the November hearing was that it would be a
17 temporary change of custody, makeup time, and that temporary
18 change of custody be used to see -- see if we could --

19 THE COURT: Okay.

20 MR. GRIGSBY: -- cure the alienation (indiscernible)
21 --

22 THE COURT: Do you think that there's a -- there's
23 any material difference?

24 MR. GRIGSBY: I think there's a difference in the

1 overall burden since we're only asking for -- we're only
2 asking for a temporary change of custody and makeup time so --

3 THE COURT: The overall burden is this notion of
4 best interest.

5 MR. GRIGSBY: Yes.

6 THE COURT: I can pretty much -- the Court can
7 pretty much hang its hat on any remedy in this case if it can
8 tie it to a best interest consideration, okay, whether that's
9 a change in visitation or a change of custody.

10 MR. GRIGSBY: Yes.

11 THE COURT: In fact, the Nevada Supreme Court pretty
12 much obliterated the distinction between those two things.
13 Okay? So, yeah, I -- you have a case to make concerning
14 what's happened since they stopped filing -- or following the
15 weekly timeshare.

16 MR. GRIGSBY: Yes.

17 THE COURT: Right. Do you -- does it matter to you
18 whether or not you follow their case?

19 MR. GRIGSBY: It doesn't matter at all.

20 THE COURT: Yeah. I mean, they -- first in time is
21 the cleanest way to approach it, I think. What else?

22 MR. SMITH: The other procedural issue is the
23 provision -- one of the issues that was raised in pleadings,
24 which the Court suggests that it has read, that is the issue

1 of Mr. Ponzo. As you recall, both in the order that the
2 parties entered in -- in 2014 --

3 THE COURT: Yeah, we've got a privilege problem.
4 But I'm not going to deal with him until he's about ready to
5 come, unless you have a stipulation. The fact of the matter
6 is that I don't -- I want him to be a resource for the kids.
7 2014 we had a stipulation that said he was a resource for the
8 kids. And I haven't determined that he should be coming in
9 here giving me opinions about anything. All I -- all I was
10 looking for was maybe some factual information.

11 MR. SMITH: Yeah. So, Judge, we have -- we have
12 included on the witness list, because as we pointed out in our
13 pleading, the -- Ms. Calderon and her counsel have seen fit to
14 include in the exhibits that -- information that would
15 otherwise be, we believe, privileged both under the order and
16 the --

17 THE COURT: Again --

18 MR. SMITH: -- the law.

19 THE COURT: -- I have not looked at the exhibits
20 until they're admitted. I -- you have alluded to them. He
21 filed a memo, so I know generally sort of what he's -- what
22 you're alluding to.

23 MR. SMITH: Okay. So the question then becomes for
24 the purpose of the testimony of both the children and the

1 parties, until the issue of the confidentiality of the
2 statements by Mr. Ponzo are -- is ruled upon, we don't have a
3 scope upon which they would be limited in terms of reviewing
4 that information.

5 THE COURT: Well, what is the -- what is the point
6 though? Because we have a contract, a stipulation and order.

7 MR. SMITH: Agreed.

8 THE COURT: And in that stipulation and order, the
9 parties were protecting themselves, their children, and they
10 wanted that process to be confidential.

11 MR. SMITH: Yes.

12 THE COURT: But in the context of this case, if the
13 Court finds that that information is material to the interest
14 of the children, that agreement could -- we could make an
15 exception to that agreement. I just don't know whether that's
16 appropriate or not.

17 MR. SMITH: I don't know -- I -- our point is just
18 this. Your Honor, we -- we have cooperated under the
19 assumption that the law and the agreement were clear and that
20 Mr. Ponzo would not be able to testify as to any
21 conversations, communications to anyone, not just this Court
22 but to any third party. That's how the order reads.

23 But recently they've not only filed these motions,
24 but they've actually had through their counsel a conversation

1 with Mr. Ponzo two days ago in which they actually asked him
2 questions specifically about the communications within the
3 family therapy and under the guise that Ms. Fujii was under an
4 order that allowed her to do so. I find both that deception
5 of Mr. Ponzo and the questions of Mr. Ponzo as to confidential
6 matters to be, one, undermining the very process that was
7 described in both --

8 THE COURT: Well then let's save --

9 MS. FUJII: Number one --

10 THE COURT: Let's save that argument for when it
11 matters.

12 MS. FUJII: Your Honor, and I -- just let me, if I
13 can, make a clarification because I take serious offense to
14 impugning.

15 Your Honor, I've submitted two orders from this
16 court, the first one from October 1st that Mr. Smith was
17 required to file -- I sent -- I sent him a letter immediately
18 after that hearing. After seven days I told him I would
19 submit the order if he didn't. He didn't. I subsequently
20 submitted that order. The order from the November -- October
21 22nd hearing I prepared. I -- that is in his office. He has
22 not signed off on that however.

23 The minutes that the Court has reviewed that hearing
24 from the same, that was not prepared into a final order,

1 specifically states, and I'll quote: The parties to meet and
2 confer whether or not the child interview should be given to
3 Dr. Ponzo -- or Mr. Ponzo and whether or not it should be
4 provided to the Court and if he thinks it should be helpful.

5 Also we were to discuss with Mr. Ponzo whether or
6 not the children had a need to testify by alternative means,
7 meaning if he felt they would be under any type of duress or
8 any of the enumerated items under NRS 50 --

9 THE COURT: Yeah. I don't want to -- I really don't
10 want to argue --

11 MS. FUJII: So --

12 THE COURT: I don't want to cut you off and argue --

13 MS. FUJII: -- that was done. That was done.

14 THE COURT: All right. Look. Look. What's in the
15 journal entry is not the order. What is important is what the
16 heck we talked about and came out of my mouth and
17 Mr. Grigsby's mouth and his mouth during that hearing, and it
18 did not come out of the mouth.

19 In fact, we had a ten-minute discussion and
20 Mr. Grigsby said we would like to reserve on whether or not
21 that report is done. And we had a long discussion about the
22 Court saying I don't want to have any influence or anything to
23 do with what Ponzo wants or doesn't want.

24 MS. FUJII: And we did not discuss it --

1 THE COURT: But if the two of you decide to do it,
2 not unilateral, if the two of you decide to do it then that is
3 a judgment that the parents can make as an agreement that is
4 in the best interest of the child. I don't want to hear this
5 nonsense. When, if Ponzo testifies, then you can make your
6 argument. This is an argument for after the evidence is done
7 or in anticipation of the Court making a ruling as to whether
8 this evidence comes in or not.

9 The concern I have is this. I would like to know,
10 whether I get it from the parties or whether I get it from the
11 therapist, what is -- what is going on with the kids as it
12 relates to the factual details of the counseling, the
13 mechanism, how many appointments that occurred, who has
14 participated, maybe even an opinion as to whether or not we're
15 making progress on it. But I did not, specifically did not,
16 authorize anyone to do some sort of evaluation to give me
17 opinions. Because that's my job. And I don't need any help
18 at this point.

19 And I don't want to mess with the function of
20 Dr. Ponzo, who, by the way, has been acceptable to the parties
21 going back five, almost six years. The litigation process,
22 putting him in that position where he's got to try to figure
23 out and navigate the trust that has been documented by the
24 parties, the trust of confidentiality and not taking sides in

1 this litigation and being a resource for the kids is something
2 the Court is gravely concerned about. Because one of the
3 benefits in this case was having somebody you knew who was not
4 tainted in this process who could continue to work with the
5 kids to try to solve this problem.

6 So I haven't made up my mind as to whether Dr. Ponzo
7 would testify. I certainly understand why both parties would
8 say this is a fact witness who knows something about what's
9 going on with the kids and is certainly qualified to talk
10 about motivation and, you know, the sort of mental health of
11 the kids or whatever. But, frankly, you know, I'm -- I just
12 don't -- I want to squash this dialogue about your jobs as
13 lawyers in trying to get -- navigate this process. Okay?

14 I expected somebody like Dr. Ponzo would come in,
15 who is charged with authority under specific agreement and
16 order, may even have agreements with you for the purpose of
17 treating the kids, and say, "Judge, I'm not going to say a
18 damn thing about this case unless you tell me I have to," or
19 the parties have waived a privilege probably.

20 So we'll -- we'll cross that bridge when we get
21 there. Okay?

22 MR. GRIGSBY: Okay.

23 MR. SMITH: The only reason I raised it, Your Honor,
24 is that say, for example, the children say, "Well, I told my

1 mom through therapy that," what happens then?

2 THE COURT: Well, it --

3 MR. SMITH: Can I ask that question?

4 THE COURT: Well, no.

5 MR. SMITH: Can I follow up on that question?

6 THE COURT: No. No, because we take it at face
7 value. And once that testimony is over, then if that becomes
8 a material issue and either party says, well, you know, I
9 don't think that that account is credible, then maybe that
10 factual issue would be necessary for the Court.

11 But, you know, we're talking about whether it's
12 material and whether the Court would need to go there. It may
13 be that that particular fact might be relevant but not
14 material to what I'm dealing with. I don't know.

15 MR. SMITH: Again, so -- so in regard to the
16 questions, they are -- that I will ask are designed to lead to
17 confirmation of what they've indicated in the interview and
18 what can be done to fix the situation.

19 But I anticipate if the children talk about the
20 interview, there's going to be an objection, or if they talk
21 about family therapy there's going to be an objection.

22 THE COURT: Well, okay. And --

23 MR. SMITH: I think that'll bog us down.

24 THE COURT: -- and then the Court will probably try

1 in a calm way to say, you know, sustained or overruled, and
2 then we'll be done. Next question.

3 MR. SMITH: All right. All right.

4 THE COURT: All right.

5 MR. SMITH: I just want to know what the scope is.
6 That's all.

7 THE COURT: Well --

8 MR. SMITH: We don't think that Dr. -- the doctor is
9 -- or, excuse me, that Mr. Ponzio should testify. I don't
10 think that he should be made an expert. I don't think people
11 should be analyzing him in violation of the Court's order. I
12 just don't think that should happen. But I'm concerned now --

13 THE COURT: Well, let me -- let me just say -- let
14 me just say this, is that if your client saw it a different
15 way or if Mom saw it a different way, the Court owes it to
16 both parties to hear the reasons why you think it should be
17 done or not be done, and then the Court makes a ruling so we
18 have a good record about it.

19 I don't want to put words in your mouth. You're
20 going to make a decision to either call this witness or object
21 to him being called, and we'll have a discussion and then
22 there will be a ruling about it. Okay?

23 Now, mechanisms. The -- you talked about
24 housekeeping issues, but we've been bogged down with only one.

1 Are there any other housekeeping issues or stipulations we
2 need to deal with?

3 (Counsel confer)

4 MR. GRIGSBY: I don't believe -- I believe the only
5 other issues -- the only other issue out there is the
6 alternative methods of testifying issue, because I don't --

7 THE COURT: Okay. What do you -- you've walked
8 through the rule and the statute. What are your concerns?
9 We're going to -- we're going to be on the record. You're
10 going to be here and I suppose Ms. Fujii will be here and Mr.
11 Smith will be here. The parties will be excused during their
12 testimony, and the child will be brought in, I'll introduce
13 myself, they'll -- we'll establish that they're competent and
14 understand what an oath is and we'll start the exam, get them
15 in and out of here.

16 MR. GRIGSBY: I have no objections as to Ethan
17 testifying by alternative means, if it's under the rule and
18 are within the statute.

19 THE COURT: Got it.

20 MR. GRIGSBY: However, I would have an objection to
21 Mia testifying by alternative means --

22 THE COURT: Okay. Well, let's talk about -- then
23 the reason -- I mean, the Court's going to do it the same way.

24 MR. GRIGSBY: Yeah, I understand.

1 THE COURT: The difference between the kids is that
2 one is over the age that's in the statute and one's not.
3 Nevada Supreme Court has entered an order recently amending
4 the Nevada Rules of Civil Procedure. They allude to the
5 statute of alternate means, but they also expand exponentially
6 the discretion the Court has in order to determine what's in
7 the best interest of the child.

8 If anything, based on what I understand from the
9 offers of proof, the interview and the allegations that have
10 been made, I've got a heightened consideration for her than I
11 do from him as far as alternate means. Under NRCP 16.215, the
12 alternative methods says that as a rule the method is to find
13 by NRS 50.520. It's in my humble opinion that the Court has
14 discretion, otherwise they would have said the only alternate
15 method is NRS 50.2. So, as used in this rule, it's defined as
16 that.

17 And obviously we have child witnesses. We have
18 witnesses who are under the age of 18. And the Court already
19 dealt with the notice issue. We talked about that on
20 November 12th. That's not an issue here. And it says that if
21 the Court determines under NRS 50.580 -- and I'm reading from
22 subsection (D) -- that an alternate method is necessary, the
23 Court must consider the following alternate methods: In
24 addition to any and other alternate methods the Court

1 considers appropriate under the uniform act. If all the
2 parties are represented by counsel, the child can be outside
3 the presence of the parties. We talked about the last time,
4 even if the parties are counsel we exclude them because, you
5 know, it makes it more comfortable for the children to testify
6 without their parents present. Allow the parties' counsel to
7 question the child witness in the presence of the Court
8 without the parties present, and have the child witness
9 interviewed by a third party (indiscernible) provider.

10 The Court is not admitting the child interview
11 report because you object.

12 MR. GRIGSBY: Yes.

13 THE COURT: It is an out-of-court statement. You
14 were not there, you had no opportunity to examine the child,
15 and it's hearsay. And so we need testimony. So where will it
16 be taken? We're going to close the courtroom to the public
17 under subsection (2)(a). We're going to say that the parties
18 present will be my staff and counsel, and we're going to
19 protect the child and take as much care as we can by reminding
20 you of your duties as counsel to ask questions differently
21 than you might Dad or Mom. And we're going to give you a full
22 right to participate.

23 Now, I do recognize, and I'm willing to give you the
24 most direct record that you can have, that even though the

1 child is older than the age that's in the Uniform Act, the
2 Court believes it has discretion to use alternate means, even
3 for 15-year-old kids. And so the objection would be noted,
4 and the Court is going to treat the children the same and
5 they're going to be testifying under the same criteria. Okay?

6 MR. GRIGSBY: Yes.

7 THE COURT: Yeah?

8 MR. GRIGSBY: And, like I say, I'm not disputing; I
9 believe the Court does have discretion to make that ruling. I
10 guess just for the record my objection from me it would just
11 be mostly due to the setup of this courtroom in particular,
12 they don't have the anti-rooms. Normally the --

13 THE COURT: Well, we have one. Tim just doesn't let
14 me use it very often. There is one over there.

15 MR. GRIGSBY: Yes. Because normally the parents
16 would be able to view the testimony during --

17 THE COURT: Yeah, we don't -- we didn't -- that's a
18 good point. Yeah.

19 MR. GRIGSBY: Yeah, that's kind of my objection,
20 just I didn't know if that was possible due to the setup of
21 the --

22 THE COURT: It's not real time. It's not real time.
23 That's been a problem. I've wanted to do that. And we don't
24 have that setup for today, so your clients would be denied a

1 real time review.

2 MR. GRIGSBY: And so, yeah, so, I mean, I guess --

3 THE COURT: That's even more reason to say, okay, we
4 get that testimony in the can, we get the kids out of here,
5 and then we talk about whether that's sufficient proof to
6 resolve this issue or whether we need to give them an
7 opportunity to review and -- the interviews.

8 MR. GRIGSBY: And, yes, that was going to be my next
9 question --

10 THE COURT: Yeah.

11 MR. GRIGSBY: -- was whether they were going to have
12 an opportunity after reviewing it with our clients the
13 testimony to, if necessary, recall the children to follow up
14 with --

15 THE COURT: Well, you know, you're not -- you're
16 going to have a hard time with that with me --

17 MR. GRIGSBY: I understand.

18 THE COURT: -- but I can't say I would never
19 consider it. You know, we -- there's always the potential
20 that this process could be harmful to the kids. You may be
21 told by your client, you know, you didn't ask all the
22 questions I wanted you to ask and I would like the child to be
23 recalled. We would be walking through the same dialogue about
24 probative value and possible prejudice or undue prejudice. So

1 I'm not telling you that I would never consider recalling,
2 but, you know, we're -- you'd have to justify it.

3 MR. GRIGSBY: Yes. And so that's the basis of my
4 objection from me, and that's why I wanted to make a record of
5 that.

6 THE COURT: Well, I mean, to your credit, I mean, I
7 -- look. It's a tough situation. This is a very common
8 thing. Most of the time this isn't even argued because the
9 parents together realize, kind of an axiom of truth, which is
10 it's easier for your kids to testify without you being here.
11 But, you know, it's also not lost on the Court that if the
12 Court is going to give a lot of weight to this testimony,
13 which it could, then it should stand up just like it would in
14 any court. You know? So we're balancing those
15 considerations, and that balance has been explained.

16 Now, are any of the witnesses -- I mean, you may
17 have expected that you would be doing them later, but are any
18 of these witnesses that you listed subpoenaed other than the
19 kids? Other than the kids.

20 MS. FUJII: For today, no.

21 MR. GRIGSBY: For today, no.

22 THE COURT: Okay.

23 MR. GRIGSBY: I believe our understanding was today
24 was just for the kids to testify.

1 MS. FUJII: Correct.

2 THE COURT: All right. That's fine.

3 MR. GRIGSBY: (Indiscernible) we do have the whole
4 day for --

5 THE COURT: We -- it's a little ambiguous to me
6 because I did say that that was the focus, and that was the
7 explanation of the balance with the timing of the hearing
8 and --

9 MR. SMITH: Your Honor, Mr. Ponzo is here.

10 THE COURT: Yeah.

11 MR. SMITH: If he's not anticipated to testify at
12 all, I would ask that he be --

13 THE COURT: Can we hear the testimony of the kids
14 first?

15 MR. SMITH: No, I -- I was going to say that do you
16 want me to continue to put him under subpoena out in your hall
17 or do we want to --

18 THE COURT: Well, what I might do after I hear the
19 testimony of the kids is I might release him from the
20 subpoena.

21 MR. SMITH: Okay. Very good.

22 THE COURT: But if these kids walk in here and they
23 testify in a way where I might want to hear from the therapist
24 then --

1 MR. SMITH: Very good.

2 THE COURT: -- maybe that will color my decision.

3 Okay?

4 MR. SMITH: Right. Thank you.

5 THE COURT: The -- okay. Let's talk -- Randy, is

6 the anti-room available, William's courtroom?

7 THE DEPUTY: I don't believe so. I can check.

8 THE COURT: Who has the key to it?

9 THE DEPUTY: Well, all the departments.

10 THE COURT: Okay. Well, I mean, is he in court this

11 morning?

12 THE DEPUTY: I believe so. Yeah, because I've seen

13 people going in and out, so I know they've got cases going.

14 THE COURT: All right. Well, you don't have to do

15 it right this minute, but if we had to -- if we had that

16 conference room available it would be helpful for either the

17 -- one of the parties to sit in or the -- we're only doing one

18 child at a time. Who's with the children?

19 MR. SMITH: Amy.

20 THE DEFENDANT: My wife is and Christina's relatives

21 are out as well.

22 THE COURT: All right. So the children are

23 supervised by one of --

24 THE DEFENDANT: Yeah.

1 THE COURT: Who are you thinking about calling
2 first?

3 MR. SMITH: The kids.

4 THE COURT: Which one?

5 MR. SMITH: You ordered --

6 THE COURT: Which one?

7 MR. SMITH: Oh, Mia.

8 THE COURT: Okay. Now, after Mia testifies, the
9 Court will ask, okay, do we need both kids to testify? You
10 say yes then I get your input and we determine whether that
11 testimony is necessary. The Court understands that, you know,
12 all this testimony is relevant. The issue is whether it's
13 needed. And so we will start with Mia and then get Ethan.

14 Okay. Documentary proof. You guys have organized a
15 lot of stuff. Any stipulations on the proof?

16 MR. SMITH: A lot of it is just pleadings and so
17 forth, Your Honor. I think both parties did that for -- just
18 for --

19 THE COURT: That's fine. Are you going to be
20 showing documents to any of the kids?

21 MR. SMITH: Unlikely.

22 THE COURT: All right.

23 MR. SMITH: No.

24 THE COURT: Randy, they can't hide behind these

1 volumes of books over here and things.

2 All right. Now, look. Let's take a breath. This
3 isn't fun for me or Counsel. We've got a job to do. We need
4 to get information from the kids. We're going to try to make
5 them feel as comfortable as possible, but get to the point
6 with your questions. What I'm going to do after introducing
7 myself is I may introduce you -- certainly I will before you
8 examine them.

9 MR. SMITH: Okay.

10 THE COURT: Have you met the kids, either one of
11 you? Any of you?

12 MR. GRIGSBY: No, Your Honor.

13 MR. SMITH: Yes.

14 THE COURT: Okay.

15 MR. SMITH: The answer is yes.

16 THE COURT: Okay.

17 MR. SMITH: They were actually at my home six, seven
18 years ago swimming.

19 THE COURT: That's fine. I mean, it might come up.
20 You might want to just handle that at the beginning of your
21 testimony or whatever.

22 MR. SMITH: I'm not sure I had any conversations
23 with them though.

24 THE COURT: I mean, obviously we're talking about --

1 THE DEFENDANT: They don't even remember.
2 MR. SMITH: They don't even remember.
3 THE COURT: I mean if I introduce you --
4 THE DEFENDANT: They know who --
5 THE COURT: -- I mean, if you know them. I mean, it
6 doesn't matter.
7 MR. SMITH: And I think the Court knows that Mr.
8 Stipp used to work in my office for a period of time.
9 THE COURT: Didn't. But don't -- doesn't matter.
10 MR. SMITH: So I assume that they know who I am.
11 THE COURT: It's, you know, just -- just one piece
12 of it. I'm --
13 MR. SMITH: Okay.
14 THE COURT: The dialogue with a child witness is
15 more casual and familiar than with -- I mean, I wouldn't even
16 examine a regular witness like I'm going to examine your kids.
17 Okay?
18 MR. SMITH: I think you'll find that our questions
19 are very different than we would normally ask.
20 THE COURT: All right. That's fine. Any questions
21 before we begin? All right.
22 So, Mom, Dad, we'll see you in a little bit.
23 THE DEPUTY: Mia first?
24 THE COURT: Mia.

1 (Witness summoned)

2 THE COURT: Good morning. Come on up.

3 THE SUBJECT MINOR: Good morning.

4 THE COURT: How are you?

5 THE SUBJECT MINOR: Good. How are you?

6 THE COURT: Good. Come on up. Be careful stepping
7 in there.

8 THE SUBJECT MINOR: Okay.

9 THE DEPUTY: Pull that gate open hard at this end.
10 Right there. Yeah. Watch your step.

11 THE SUBJECT MINOR: Thank you.

12 THE COURT: All right. Try to take a breath and
13 just relax and I'll -- we'll visit for a few minutes. Okay?

14 THE SUBJECT MINOR: Okay.

15 THE COURT: First of all, my name is Art Ritchie.

16 THE SUBJECT MINOR: Okay.

17 THE COURT: I'm a judge here in Nevada. I'm
18 responsible for a case involving your parents. Okay? Have
19 you ever been in a courtroom before?

20 THE SUBJECT MINOR: Not like this.

21 THE COURT: Okay. But you've seen them on TV,
22 though, right?

23 THE SUBJECT MINOR: Uh-huh (affirmative).

24 THE COURT: But you've never been to the Regional

1 Justice Center?

2 THE SUBJECT MINOR: I think I went here for like a
3 field trip once.

4 THE COURT: Okay. Did you go to like the jury rooms
5 and things like that?

6 THE SUBJECT MINOR: I think so.

7 THE COURT: All right. Well, you're here to answer
8 some questions. I don't expect that you've testified in court
9 before, right?

10 THE SUBJECT MINOR: Yeah.

11 THE COURT: All right. Well, we're in a small
12 courtroom. The folks that are here are my staff plus lawyers
13 that are helping your folks. Okay? We excused your parents
14 primarily because we wanted to make this easier for you. The
15 way that we make a record here, there's a TV monitor in front
16 you, if you look up in the ceiling you see the cameras up
17 there.

18 THE SUBJECT MINOR: Uh-huh.

19 THE COURT: There's some cameras up in the back up
20 this way. What we say and what's happening up here is video
21 recorded and voice recorded. That's how we make a record. So
22 the dialogue that I'm having with you and your answers to any
23 kind of questions are recorded. And we need to make a record
24 because what we do here is evidence. Okay?

1 The reason why I wanted to meet you and the reason
2 why you're here is because I -- your parents have made
3 agreements and the Court has made orders that affect you. And
4 you're reaching -- you know, you're close to being an adult,
5 but you're not an adult. And so I wanted to talk with you, I
6 wanted to get some information from you, and hopefully that
7 will help me make a better decision or a good decision. Okay?

8 Now, when you come in to testify, your testimony,
9 what you say and the answers to questions is evidence. And
10 witnesses come in and they promise to tell the truth. Did you
11 ever see that on TV where they stand up--

12 THE SUBJECT MINOR: Like with the Bible?

13 THE COURT: Yeah, yeah. Well, we don't have a Bible
14 here, but we do ask that you tell the truth. And we need to
15 establish, which sounds kind of silly to you, but we need to
16 establish that you understand the difference between telling
17 the truth and not telling the truth.

18 THE SUBJECT MINOR: Yeah.

19 THE COURT: I mean, if I told you that I had real
20 long hair and that I was like really skinny, would I be
21 telling the truth or not telling the truth?

22 THE SUBJECT MINOR: No.

23 THE COURT: Okay.

24 THE SUBJECT MINOR: Sorry.

1 THE COURT: So we have --

2 MS. FUJII: That was a good one.

3 THE COURT: So you have -- you have to promise to
4 try to understand the question and to answer it as directly as
5 you can. I'm going to ask you some questions. You probably
6 -- you may not know the lawyers here, but they're going to
7 introduce themselves and they're going to ask you some
8 questions. That's the process.

9 THE SUBJECT MINOR: Okay.

10 THE COURT: I don't know whether this is going to
11 take 20 minutes or 45 minutes. I don't know how long it's
12 going to take. But this is a chance to get information from
13 you. By the way, we kind of went through this a little bit
14 before.

15 THE SUBJECT MINOR: Yeah.

16 THE COURT: In the interview.

17 THE SUBJECT MINOR: Yeah.

18 THE COURT: Now, that interview was ordered by me.
19 I ordered that interview because I wanted to get some feedback
20 from you. That's different going into an office, talking to a
21 specialist, then coming into court. This is like a step more.

22 THE SUBJECT MINOR: Yeah.

23 THE COURT: You may be asked some stuff that you
24 were asked in that interview or other stuff. Also I want you

1 to understand that, you know, this is part of the court
2 record. Your parents are going to get to see your testimony.
3 Ordinarily they might be sitting in and seeing it as you give
4 it, but, you know, to make it easier for you we've excused
5 them. But they will see your testimony. Do you understand?

6 THE SUBJECT MINOR: Yep.

7 THE COURT: All right. So do you have any questions
8 before we begin?

9 THE SUBJECT MINOR: No.

10 THE COURT: Are you prepared to promise to tell the
11 truth?

12 THE SUBJECT MINOR: Yes.

13 THE COURT: All right. The way you do that is you
14 stand up and you raise your right hand and you follow the
15 clerk and promise to tell the truth.

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

19 THE SUBJECT MINOR: So help me God.

20 THE COURT: Or yes.

21 THE SUBJECT MINOR: Yes.

22 THE CLERK: Thank you. You may be seated.

23 MIA STIPP

24 called as a witness on behalf of Defendant, having been first

1 duly sworn, did testify upon her oath as follows:

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q Now, you're kind of soft spoken. I mean --

5 A Sorry.

6 Q -- I know you're probably a little nervous. So you
7 want to be able to speak loud enough so that your voice is
8 recorded. We'll start with a bunch of easy questions like why
9 don't you state your name.

10 A Mia Stipp.

11 Q And how old are you, Mia?

12 A Fifteen.

13 Q Where do you live?

14 A Las Vegas.

15 Q And where do you go to school?

16 A Faith Lutheran High School.

17 Q What grade are you in there?

18 A Ninth grade.

19 Q How do you do in school?

20 A I do good.

21 Q Did you go to Faith Lutheran before high school or
22 did you --

23 A Yeah, I went there for middle school.

24 Q Oh, great. Great. Do you know why you're here?

1 A I think so.

2 Q What is your understanding of why you're here?

3 A I am here to explain why I prefer to live with my

4 dad for -- for most of the time.

5 Q Okay. And your mom and dad don't live together?

6 A Correct.

7 Q In fact, they probably haven't lived together for a

8 long time, right?

9 A Yeah.

10 Q And do you have any brothers or sisters?

11 A I do.

12 Q It's Ethan, right?

13 A Ethan and Mitchell.

14 Q And Mitchell. How old is Ethan?

15 A Twelve.

16 Q How old is Mitchell?

17 A He's about to turn nine.

18 Q Okay. And are you aware generally that your parents

19 have had an agreement over the years to share you between the

20 houses?

21 A Yeah.

22 Q Okay. So what type of custody timeshare have you

23 been doing for the last few years?

24 A Well, it's kind of changed over the course of time.

1 Like when I was little my mom mainly -- I was with her for
2 most of the time. I don't remember the exact schedule, but it
3 was like during school I was mainly with her and on weekends I
4 was with my dad.

5 Q Uh-huh.

6 A And then recently, like I guess recent years, it's
7 been every other week.

8 Q So when you were in middle school maybe or before
9 that?

10 A Middle school, yeah, around there.

11 Q Okay. And what days would you change from one house
12 to the next?

13 A Fridays usually.

14 Q Fridays.

15 A After school, like five-ish.

16 Q Are you still doing Friday to Friday?

17 A No.

18 Q When did that change?

19 A That changed in August, around there.

20 Q Okay. And what have you been doing since August?

21 A I've just been staying with my dad.

22 Q And have you visited at your mom's at all since
23 August?

24 A Uh-huh (affirmative).

1 Q When was the last time you were at your mom's?

2 A Last time I was at my mom's house was around
3 Christmastime, but I saw her last Saturday.

4 THE COURT: Okay. I may have some more questions
5 for you, but all the details and the reasons why there was a
6 schedule or why there were changes with the schedule I'm going
7 to let the lawyers introduce themselves and ask questions.
8 Mr. Smith is going to ask you questions first.

9 So, Mr. Smith, you can either stay there or go to
10 the podium, it's up to you, but why don't you introduce
11 yourself and --

12 MR. SMITH: If you don't mind, I'll just sit here.

13 THE COURT: That's fine.

14 MR. SMITH: Okay.

15 THE COURT: Yeah.

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q So I'm Radford Smith. I think you know that, right?

19 A Yes.

20 Q Okay. So you've actually been to my house, right?

21 A I don't remember.

22 Q See, this -- I have this impression on a lot of
23 people. All right. So you came over swimming about seven or
24 eight years ago and my wife --

1 A I'm not going to remember that.

2 Q Anyway, doesn't matter. Yeah, I got it.

3 Have you and I had any conversations whatsoever at
4 any time that you can recall?

5 A No.

6 Q Okay. So -- so in this process, Judge Ritchie has
7 indicated to you that you were interviewed.

8 A Uh-huh (affirmative).

9 Q And so that's the only information I have about you,
10 so I'm just going to try to go over some of those facts that
11 you stated in the interview and then just walk you through
12 some additional questions to sort of clarify those things.
13 Okay?

14 A Okay.

15 Q So you had indicated to Judge Ritchie that you go to
16 school at I think it's Faith Lutheran, correct?

17 A Yeah.

18 Q And you said you were -- you do good in school? You
19 do well in school?

20 A Yes.

21 Q Tell me about that. What kind of grades do you get?

22 A Well, I've gotten all A's there, but I got one B,
23 but I'm still going to say I got all A's.

24 Q Okay. And how have your grades been since -- Judge

1 Ritchie had indicated to you that after a period of time you
2 weren't going back and forth or you said you weren't going
3 back and forth between your parents' house. When did that
4 happen to the best of your recollection?

5 A In August, probably the first or second week.

6 Q Okay.

7 A After school started.

8 Q So it was after school started.

9 A Like a week.

10 Q How have you done this year in school?

11 A Good.

12 Q Okay. Still -- is this when you got the B or was
13 that before --

14 A It's this year. It's just because it's a bad
15 teacher.

16 Q What was the B?

17 A Geometry.

18 Q Okay. The -- do you participate in any other
19 activities in school?

20 A Uh-huh (affirmative).

21 Q What kind of things do you do?

22 A I do choir, and then I also do handbells.

23 Q Why choir?

24 A Because it's fun and you get to like --

1 Q Do you sing?

2 A Yeah. And you get to meet new people, and it's like
3 a little family.

4 Q Okay. And do you have friends in choir?

5 A Uh-huh (affirmative).

6 Q Tell me about you and your friends. I mean, who do
7 you -- do you have a lot of friends? Some close friends?

8 A It's mainly close, like small but close friends.

9 Q Okay. Have you -- any time in school have you ever
10 had a problem with discipline like if somebody -- if the Court
11 said -- or the school said you did something bad?

12 A No.

13 Q Have you ever had any fights or anything like that
14 with any of the kids?

15 A No.

16 Q And has anybody accused you of doing anything that
17 was in proper at school to your recollection?

18 A Nope.

19 Q Okay. Do they still -- just out of curiosity, do
20 they still give those like grades for like conduct and stuff?
21 Do they do that anymore?

22 A Like if you're in trouble?

23 Q Well, like on your report card they have like a
24 grade for conduct. Do they have that anymore?

1 A No.

2 Q No? Okay.

3 A They use like a website and it says if you've gotten
4 in trouble, like if you've been suspended or something.

5 Q A website. Of course.

6 A It's just on there.

7 Q All right. Thanks.

8 So have you ever been -- have you ever regularly
9 missed class or been accused of being tardy too much or
10 anything like that?

11 A No.

12 Q So you have good attendance and --

13 A Uh-huh (affirmative).

14 Q -- not tardy. All right.

15 How do you -- is -- how do you do your homework?

16 Are any -- are your parents involved in the homework? Are you
17 -- do you do it yourself? How does that work?

18 A Well, I like doing -- well, I don't like doing my
19 homework, but if I don't get it done then I -- it feels like I
20 need to get it done. So they don't really check up on me
21 because I always do my work.

22 Q All right. And in regard to the -- do you have any
23 plans going forward as to what you'd like to do with your
24 life? What are you going to --

1 A I'd like to do something with music. I'm not
2 exactly sure what I want to do, but in that general area.

3 Q Okay. All right. Do you plan on going to college?

4 A Uh-huh (affirmative).

5 Q So there's this peculiar thing about law is you have
6 to answer yes or no instead of uh-huh or huh-uh.

7 A Oh, yes. Sorry.

8 Q Because I don't want anybody, you know, to --

9 A Sorry.

10 Q -- to misunderstand you. No, no, no. It's --
11 there's -- I don't think I've ever seen a witness that didn't
12 do that, so don't worry.

13 So can you tell me some of your friends that you --
14 you have relation -- you know, that you're good friends with?

15 A Uh-huh (affirmative). Like their names?

16 Q Yeah, sure.

17 A Well, I have a friend named Sam. Well, Sam and Giama
18 (phonetic) and Ariel, those are my choir friends.

19 Q Okay.

20 A And we always hang out during classes, and they're
21 in my honors classes, too, so I always have someone to talk
22 with.

23 Q All right. Any other friends that you would think
24 of as best friends or close friends?

1 A Uh-huh (affirmative).

2 Q Who are they?

3 A I sit -- my lunch table there's Joey and Shawn and
4 Lucas and Josie, and I just sit with them.

5 Q All right. Has there ever been any situations where
6 you've been involved in somebody bullying or you've been
7 accused of bullying somebody?

8 A No.

9 Q Okay. And tell me about the things that you like to
10 do. What do you do in your spare time?

11 A I like to go on my phone. I like to be in my room.
12 I like being by myself.

13 Q What do you do when you're on your phone?

14 A Just like watched YouTube, take a nap, relax.

15 Q All right. In terms of the timeshare, let's talk
16 about that. You've indicated that you knew at certain times
17 that it was week on/week off and that stopped. So I want to
18 talk to you about how that happened, how that evolved. Okay?
19 So can you describe to me your relationship with your mom?
20 And I want to -- I want to start with the time that you've
21 gone back and forth week to week. Okay? So tell me about
22 your relationship with your mom since then.

23 A Since the week to week?

24 Q Since you started going week to week, yeah.

1 A Well, I was happy because I got to see my dad more.
2 And the relationship, it's never been the best.
3 Q What do you mean by that?
4 A We've always fought, we've never really got along.
5 It just -- we weren't really close at all. And recently we're
6 just not close at all.
7 Q You said that you guys fought.
8 A Uh-huh (affirmative).
9 Q How would -- what are you describing there?
10 A Like physical fights.
11 Q Tell me when the first time that you can recall
12 having a physical fight with your mother.
13 A Well, I've always had physical fights with her when
14 I was like little, but I don't remember those clearly. The
15 fight that I do remember the clearest, like when I was older
16 (indicating) --
17 Q Right.
18 A -- was in May.
19 Q May of what year?
20 A This year.
21 Q Okay.
22 A So last May. Oh, no, not last --
23 Q Got a new year now.
24 A 20 -- sorry.

1 Q No worries.

2 A 2019.

3 Q So last May, in 2019.

4 A Uh-huh (affirmative).

5 Q Tell me about that incident.

6 A Well, it started off like small because I wanted to
7 change the temperature on the thermostat because it was really
8 hot and I thought it was too hot. So there's a box over the
9 thermostat and I asked my -- because she has the key to it, so
10 I asked my mom if I could have the key so I could unlock it
11 and turn it down and she said no. And I was like why? And
12 she said, Because I said so. So we were just arguing over
13 that for a little bit.

14 And then she started getting angrier and started
15 like yelling. And then she was like threatening to call my
16 music teacher and my choir teacher and she -- well, the day
17 before this -- so this was happening at like evening kind of.
18 I was supposed to go on a -- like a two-day trip to California
19 with my choir, and she was just saying she was going to call
20 them and like say that I couldn't go and how --

21 Q Why did she -- you mean she was saying that the
22 following day?

23 A No. Like we were packing for the trip and I was
24 supposed to leave in the morning --

1 Q So this would be the day before the incident you're
2 describing in May, right?

3 A No. This is the incident.

4 Q Oh, okay. This is the incident with the thermostat?

5 A Yes.

6 Q Okay.

7 A And we're getting towards the physical fight.

8 Q Okay.

9 A But she was threatening to call my music teacher
10 because -- so this is happening, and then the day after that I
11 was supposed to go on the trip.

12 Q Okay.

13 A And so she was threatening to call my teacher and
14 saying I couldn't go because I'm a bad daughter, I was like
15 rude and disrespectful. And so I got angry and I pretended to
16 walk away, but I could hear her through the wall and she was
17 like calling them. And I got really mad and -- I don't know
18 why I decided to do this, but I grabbed like a soap container.
19 I just poured it down the drain. And she was really angry.

20 And so she grabbed at my phone and I grabbed it
21 back, and it was kind of like a tug-of-war, and then I let go
22 and she fell over. And so I grabbed my phone and I started
23 running to my room, and she was like chasing me. And then I
24 tried to shut the door like with my body because I didn't have

1 time to lock it, and she like bust -- not bust down the door,
2 but she like managed to get herself in and she like tackled me
3 and she was like pulling my hair and scratching me and like
4 punching me. And it was like why are you doing this? It was
5 just over like a phone, like over because I wanted to change
6 the thermostat.

7 Like somehow we got onto like my bed because this --
8 we were now in my bedroom. And she was just like pulling my
9 hair and like scratching me and like screaming and yelling.
10 And it felt like a couple minutes we were doing this.

11 And then, I don't know what was happening, but like
12 I managed to get her out of my room and I shut the door and I
13 locked it. And all I could hear is she was just laughing like
14 hysterically on the other side of the door. I'm like why are
15 you laughing? Like you were just hitting and scratching your
16 daughter. You shouldn't be laughing hysterically.

17 And then I sat in my room and I cried for a little
18 bit. And then I was like I'm not really safe here. I can't
19 stay here for much longer. So I called my dad and Amy and I
20 explained to them like, hey, can you come over here and help
21 me out because we just got into like a fistfight. And they
22 came over and they helped me, and they had a talk with her,
23 like my mom. And I was away. I was with Mitchell and we were
24 just hanging out. And I was just scared.

1 Q Okay. So you called Amy and your dad. Why call
2 them? Why did you -- why did you feel safe to call them?
3 Describe to me your relationship with Amy and your dad.

4 A I'm really close with them and --

5 Q Are you close with Amy?

6 A I'm very close with Amy.

7 Q Who was going to take you on the trip? Who was
8 going to chaperone you on the trip?

9 A It's not chaperoned. The teachers are the
10 chaperones.

11 Q Okay.

12 A But they had to take me to the school --

13 Q Okay.

14 A -- to get on the bus. But my mom would have done
15 that.

16 Q Okay. In regard to the -- your -- tell me about
17 your relationship with Amy. First of all, when did Amy get
18 involved in your life?

19 A Ever since I was little. I don't really remember
20 when, maybe two or three-ish.

21 Q Okay. You just always remember her being here?

22 A Yeah.

23 Q Okay. And tell me about what makes your
24 relationship with Amy good or bad.

1 A She's just someone that like I can always trust.
2 And like even though she's not my biological mom, I -- she's
3 like been more motherly than like a person that I've ever
4 known in my life could be. She's just always been there for
5 me, and she like gives me the best advice for what I need, and
6 she tells me if I was -- not if I was right or wrong, but like
7 you shouldn't be doing this. Maybe you should try new things.
8 And she's just been there for me when I needed her.

9 Q What do you mean by motherly?

10 A Like she's like my mom. And I tell people that
11 she's my mom.

12 Q Okay.

13 A Because some people don't see stepparents as being
14 actual parents.

15 Q Do you refer to her as mom or Amy?

16 A I refer to her as Amy, but when I'm talking to
17 people I say Mom.

18 Q Okay. Has that ever come up with your mom about the
19 fact that you're so close to Amy?

20 A Yes.

21 Q Tell me about that.

22 A She doesn't like it. She-- sorry. You can talk.

23 Q Thanks.

24 A Sorry.

1 Q That's a first.

2 So in regard to the relationship with Amy, you said
3 that your mom doesn't like it.

4 A Uh-huh (affirmative).

5 Q Has that been something that's new or has that been
6 going on for a while?

7 A No. It's been happening ever since I can remember.

8 Q Tell me about that. Tell me what you can remember
9 about the difficulties that your mom's had with the relation
10 with Amy.

11 A Well, every time I like mention Amy she'd always
12 give like a look of like disgust. And like I'd tell her, oh,
13 I'm going to go see Dad and Amy. And she's like do you like
14 Amy? I'm like, yeah, I love her. She's my mom. And she's
15 like she's not your mom. I'm your only mom. She can't be
16 your mom. I'm like why not? And she's like because I gave
17 birth to you. And I'm like but she can still be my mom and
18 you can be my mom too. And she's like no, that's not how it
19 works.

20 Q Does your mother have a name -- has she been angry a
21 lot with you? Do you two have fights about -- that end up in
22 yelling and that sort of thing?

23 A Yeah.

24 Q Do you have those kind of fights with Amy or your

1 dad?

2 A No. We have disagreements, but like it's never gone
3 to like yelling or fighting.

4 Q Okay. Is Amy a yeller? Does she yell at things?

5 A No. No.

6 Q With Ethan? Or have you seen her yell at Mitchell
7 or any of the --

8 A No.

9 Q Okay. How about your father, does he yell? Does
10 he --

11 A He doesn't yell, but like he can be stern and have a
12 stern voice, but it's never like yelling.

13 Q Okay. So you said that there were some things that
14 -- one was the -- this issue about her not -- Amy not being
15 your mom. What about were there any other things that you can
16 recall that suggests to you that your mom didn't have a good
17 relationship with Amy?

18 A Well, there's one incident that I can remember when
19 I was little. I had a project that I needed for school, but I
20 left it at my dad's house. And I didn't have a phone at the
21 time because I was in like second grade, and so I asked my mom
22 if I could use her phone. And she said sure.

23 And so I was looking up Amy's number, because I know
24 her number, and I was calling I'm like, hey, your contact name

1 is weird. She's like, oh, what is it? It was bruja, which in
2 Spanish means witch.

3 And so I asked my mom about it and she's like you
4 shouldn't see that. I'm like what does it mean? She's like,
5 oh, it just means witch. I'm like why would you call her a
6 witch? She's like it's my phone, my privacy. And I was just
7 like why would she do that?

8 Q Did she take it off --

9 A Oh, I don't know.

10 Q -- later or you just don't know; you've never seen
11 her phone?

12 A I don't know. I don't see her phone.

13 Q Okay. So what about the -- was there an incident in
14 which Amy was scheduled to provide some chaperoning on a trip
15 or to be there for a trip --

16 A Uh-huh, yes.

17 Q -- versus your mom? Can you tell me about that?

18 A Well, there was a trip that I was going -- because I
19 got invited to go on another choir trip --

20 Q When was that?

21 A I was in seventh grade, so 2017, 2018.

22 Q Okay.

23 A Around there.

24 Q Tell me about that.

1 A I asked Amy if she -- she and my dad would be
2 willing to take me, and they said yes. And I really wanted
3 them to go because they're my parents and I wanted them to go.
4 And my mom said that was fine. But my choir teacher was
5 talking with me and she was like, hey, your mom said that your
6 dad and your stepmom couldn't go on the trip with you. I'm
7 like but she said it was fine. And then the choir teacher's
8 like, oh, okay. And I was like that's weird.

9 So I was talking with my mom about it, and she's
10 like I'd really like it if I got to go instead of them. I'm
11 like but would you be okay if I went with them? She's like
12 yeah. But --

13 Q And that was the end of it?

14 A Yeah.

15 Q Okay. In regard to the -- in regard to the first
16 physical fight you can recall with your mom --

17 A Yeah.

18 Q -- was in May, correct, of 2019?

19 A Yes.

20 Q Did you -- have you ever been to -- you know your
21 parents went to Pepperdine University. Were you aware of
22 that?

23 A Yes.

24 Q Okay. So did -- have you ever been there?

1 A Yes.

2 Q How did you go there?

3 A It was like on this weird family camp trip. I did
4 not like it. It was terrible.

5 Q Did you have any issues with your mom at the family
6 camp trip?

7 A Yes, I did.

8 Q Can you tell me about that?

9 A Well, I had a group of friends and they really liked
10 me, and they would always hang out in like this kids lounge
11 and I would always ask to go. And she would say no, and so we
12 would get into fights about that.

13 And then she also like kind of forced me to go on
14 this trip, so I wasn't happy about it to begin with. And it
15 was always like fights about whether or not I should
16 participate in the activities. And I've told her that I
17 didn't want to participate, and she got mad at me.

18 Q Okay. Did you two have any kind of physical
19 altercation during that visit or that trip?

20 A Not that I can remember.

21 Q Okay. And then the next time that you indicated
22 that you got in a physical fight with your mom, when was that
23 after the May incident? Well, first of all, let me ask you
24 this.

1 After the May incident, you said you went with your
2 -- with your dad and Amy, correct?

3 A Yeah. Yes.

4 Q When you were with your dad and Amy, was Ethan with
5 you as well?

6 A Yes.

7 Q Okay. And how long after that altercation occurred
8 in May do you recall being in your dad and Amy's care with
9 Ethan?

10 A We stayed at their house -- well, after this I went
11 on the trip, but when I came back I was still with my dad for
12 like a month.

13 Q Okay. Did you have any communication with your mom
14 during that period of time that you were with your dad?

15 A I could. Like I could text her and call her. We
16 just didn't talk.

17 Q Okay. If -- in regard to the -- you had mentioned
18 that your brother Mitchell is nine, correct?

19 A Yes.

20 Q And he lives with Amy and your dad, right?

21 A Uh-huh, yes.

22 Q Do you -- what is -- has Mitchell had any physical
23 problems?

24 A Well, he has a minor deletion in his chromosome, the

1 22nd chromosome. I'm not sure of the specifics, but he also
2 has seizures and he has difficulty speaking. Physical, it's
3 -- he's never had problems, but like learning and stuff, it's
4 a little bit hard.

5 Q Has that prevented you from having a good
6 relationship with him?

7 A No.

8 Q Tell me about that relationship.

9 A I have a really good relationship with him. He's
10 like -- he's just so cute, and he's like a little kid and he
11 just wants to play and have fun, and I like to play and have
12 fun so I just hang around with him.

13 Q And Ethan, how would you describe your relationship
14 with Ethan?

15 A Well, we're different personality-wise and height-
16 wise and so he like to pick on me a little bit. But we're
17 good. We trust and we love each other.

18 Q Okay. In regard to the -- after this incident you
19 said you were with your dad.

20 A Uh-huh (affirmative).

21 Q And then you started seeing your mom on a week
22 on/week off or was it a different --

23 A Yeah, it was still week on/week off.

24 Q Okay. And even though this had happened, you didn't

1 have any problem going week on/week off during that time?

2 A Yeah, because we talked about it.

3 Q "We" being who?

4 A Me and my mom.

5 Q Okay.

6 A We had a little talk about it. After the month I
7 stayed with my dad we talked and then it started going week
8 on/week off.

9 Q Okay. Did you work it out, whatever happened? Did
10 you guys work through that?

11 A We talked about it, and we apologized.

12 Q Okay. Did your mom during that time acknowledge
13 that she had struck you?

14 A She told me that she did.

15 Q So you guys got through that?

16 A Yeah. We talked about it.

17 Q And then when was the next time you had a problem
18 with your mom?

19 A August of 2019.

20 Q Tell me -- tell me about that.

21 A Well, I finished my homework -- it was on -- this
22 was on a school night.

23 Q Okay.

24 A I finished my homework and I was calling my friend.

1 And I've always called my friends after I'm done with my
2 homework so there's never like a problem. And then my mom,
3 she was like, hey, time to go to bed. I said, okay, let me
4 just wrap up my call, because you don't just hang up on
5 someone. And so I was trying to wrap it up and she just kept
6 saying, Mia, get off the phone. Mia, it's time to go to bed.
7 Mia, if you don't leave the call right now I'm going to go
8 call your teachers, I'm going to call your principal, I'm
9 going to call your friend's mom, I'm going to tell them how
10 rude and disrespectful you are. And I'm like why would you do
11 that? They have nothing to do with what is happening right
12 now.

13 So I got really angry and so I left my phone in my
14 room. And she was like in the laundry room, and so I walked
15 over from my room into the laundry room hallway area and I was
16 talking with her. I was like you promised me you wouldn't
17 threaten me like this anymore. Because ever since I was
18 little she would always use like threats against me for things
19 that don't involve each other because like --

20 Q What kind of threats?

21 A Hmm?

22 Q What kind of threats?

23 A It's like I'm going to go call your teachers and
24 we're going to have a meeting and they're going to -- I'm

1 going to tell them how bad you are, how you're a bad student,
2 you're a bad daughter, you're disrespectful, you're rude. I'm
3 going to go and embarrass you in front of your classmates,
4 like just random threats --

5 Q Right.

6 A -- to people that I respect, like my teachers and
7 like my friends' parents. And so I was talking with her and I
8 said you promised me like many times that you would stop
9 threatening me, you would stop doing this. And she just kept
10 coming closer and closer and closer and like screaming and
11 like yelling. And she was like so close that her spit was
12 like all over my face. And it was just disgusting because you
13 shouldn't be that close. And she was like laughing at me and
14 saying I was like -- oh, you're so weak, and all that stuff.
15 And she was just like laughing so I pushed her off me.

16 Q You called her weak or she called you weak?

17 A She called me weak. Because she was just like
18 laughing at me. And so I pushed her --

19 Q Had she ever used names like that before?

20 A She called me bad names before.

21 Q Bad names like what? And if they're curse words,
22 just use like the first letter, if you would.

23 A She called me the "B" word a lot when I was little.

24 Q When you were little she called you that?

1 A Uh-huh (affirmative).

2 Q Not recently?

3 A Well, rec -- not recently, but like I -- she's -- as

4 I've grown up she's stopped using names like that.

5 Q Okay.

6 A But like she did -- like when you're older she'd be

7 like annoying, rude, disrespectful, but when you're little

8 she'd call me lots of bad words.

9 Q Okay. So you -- you're involved with your mom,

10 she's in your face, and you said you pushed her back.

11 A Yeah.

12 Q Okay. Then what happened?

13 A And then she -- her eyes like popped out of her

14 head. She does that when she's angry. And she just started

15 shaking and she like ran at me so I ran away. But then we got

16 into another physical fight in the hallway between like my

17 hallway and my room.

18 Q What happened?

19 A Hair pulling, scratching, like yelling --

20 Q Like who yelling to whom?

21 A Each other. Because she was like grabbing onto me

22 and I was like trying to get her off me. And then --

23 Q How long did that fight last in the hallway?

24 A It was shorter than the first one. The first one

1 was like a couple minutes. At least that's what it felt like.

2 Q Right.

3 A This one was like a minute or so.

4 Q Okay. And then what happened? Did you guys break
5 free or what happened?

6 A I got into my room like because we were in the
7 hallway and my door was open, so I had gone into my room and I
8 shut and I got like a -- I dragged my bookcase in front of my
9 door and I put a couple chairs and like a couple fans to make
10 sure that she didn't come in. And then she has like this lock
11 pick that you can like do something with it and you could open
12 the door even if you lock it. And I didn't really have time
13 to like lock it. I was just more focused on getting the door
14 secured. And so I was trying to hold it to the upright
15 position so it's locked for a couple minutes, and she just
16 kept trying to twist it and I kept trying to like twist it
17 back. And she was just banging and screaming and knocking on
18 my door, and I was like scared because I didn't want another
19 fight to happen.

20 Q So what'd you do?

21 A Hmm?

22 Q So what'd you do?

23 A I just waited until I could hear her footsteps walk
24 away, and then I cried and then I fell asleep.

1 Q Okay. You did -- what was the next communication
2 you had with her or your dad or Amy?

3 A Well, that night I texted Dad and Amy and I told
4 them we got -- me and my mom got into another physical fight,
5 but they didn't respond because it was night, and so I heard
6 from them in the morning, and they asked me what happened and
7 I told them what happened. And then I went to --

8 Q Did you tell them what you told us today?

9 A Uh-huh (affirmative).

10 Q Okay.

11 A And then I went to school, but I didn't talk with my
12 mom for a while.

13 Q What was -- let's -- what was your dad's reaction
14 when you texted him? I mean, what did he say back to you if
15 you recall?

16 A I don't remember.

17 Q Do you recall talking to him or Amy about this
18 incident and explaining what went on?

19 A I remember talking to them and I told them what
20 happened, and they asked what caused it and I told them.

21 Q And did you tell them the same thing? In other
22 words, you told them that your mom and you had got in a
23 fight --

24 A Uh-huh (affirmative).

1 Q -- you were pulling hair, you were wrestling --
2 A Yes.
3 Q -- the whole thing? All right. What was your dad's
4 reaction to that? What did he tell you?
5 A He just told me that to not get into like another
6 fight, just stay calm and do your work and just focus on
7 school and to not focus on her right now. Because we were
8 going to -- this -- I think this was towards the end of the
9 week, so I was going to go back to his house soon. So he said
10 we could just talk more when you get here. I said okay.
11 Q Okay. Did he ever suggest to you that you're going
12 to now come live with us or any words to that effect?
13 A No.
14 Q You came back though after that incident.
15 A No.
16 Q Did you go back to -- I mean to your dad's house.
17 A Yes.
18 Q Okay. Let's go back to the first instance when you
19 said that you were involved in this fight in May that you
20 described.
21 A Yeah.
22 Q Did you report that fight to your dad?
23 A Yes.
24 Q Did you report it to Amy?

1 A Yes.

2 Q And what was your -- Amy and your dad's response at
3 that time?

4 A Well, I think they were kind of shocked what
5 happened, too, because I've -- things were look -- starting to
6 look better for us, like me and my mom's relationship, but
7 then it kind of took a turn for the worse. And they told me,
8 they were like, hey, you probably shouldn't have thrown soap
9 down, you shouldn't -- you should have just stayed calm and
10 collected. But they said we shouldn't have gotten into a
11 fight and that wasn't okay.

12 Q Okay. Did you explain to -- who said what to whom?
13 I assume that when you guys were fighting you were not saying
14 nice things to each other.

15 THE COURT: Hold on. Hold on just a second.

16 Do you got a scratchy throat?

17 THE SUBJECT MINOR: I'm recovering from a cold. I'm
18 sorry.

19 THE COURT: Okay.

20 MR. SMITH: Do you want some water?

21 THE COURT: Do you use a Life -- do you use a Life
22 Saver at all, I mean like suck on a Life Saver?

23 THE SUBJECT MINOR: I just had a cough drop. Sorry.

24 THE COURT: All right. Well, I have one if you want

1 one.

2 THE SUBJECT MINOR: I'm okay.

3 THE COURT: All right.

4 THE SUBJECT MINOR: Thank you.

5 MR. SMITH: Do you need a recess? Do you want to
6 take a break?

7 THE COURT: No, I just -- I -- you're fine. I just
8 didn't want her to suffer as far as, you know, the coughing
9 and stuff.

10 THE SUBJECT MINOR: Oh, no. I'm fine. Sorry. It
11 doesn't hurt.

12 THE COURT: All right. That's fine.

13 THE SUBJECT MINOR: It just makes a loud noise.

14 THE COURT: Go ahead. Why don't you restate your
15 question.

16 THE SUBJECT MINOR: Sorry.

17 MR. SMITH: That would be good if I had a court
18 reporter here. I'll just state another question.

19 BY MR. SMITH:

20 Q In regard to the -- you said that during the fight,
21 you had this fight, you guys were pulling hair. This is the
22 first one and second one. But the first one you said you went
23 all the way to your room, you were on your bed, et cetera.
24 During that period of time I assume you were not saying nice

1 things to each other. Were you -- were you talking --

2 A I don't remember, but probably not.

3 Q Did you ever explain to your dad that you may have
4 said things to your mom that probably weren't -- well, let me
5 ask you this.

6 Did you say anything to your mom during that period
7 of time that you think that would be disrespectful or
8 inappropriate?

9 A I told her to get off me.

10 Q Okay.

11 A And I was screaming.

12 Q Was there anything that you said that you think
13 prompted her to act in that way? In other words, are you to
14 blame at all for what went on in your mind?

15 A I don't think I'm to blame for the physical fight.
16 I do think I shouldn't have poured soap down the drain. That
17 wasn't a good behavior.

18 Q Okay. And when your dad talked to you about that,
19 you're saying he said that?

20 A Uh-huh (affirmative).

21 Q Was there any other discussion during that time at
22 all? Did your dad or Amy or anyone else indicate to you that
23 this would result in some sort of change in the timeshare that
24 you had with your mom?

1 A No.

2 Q Did you suggest that at any time?

3 A Yes.

4 Q Tell me when you first suggested that.

5 A Like I've always brought it up to Dad, Amy, and my
6 mom. I've always brought it up because when I was little I
7 never got to see my dad as much as I'd like to, and so I've
8 always brought it up and the idea was always brought down by
9 my mom. She said, No, we're fine how we are. But I want to
10 see my dad more, so I've always been asking to see my dad
11 more. And when we got into the one -- every other week, I
12 kind of stopped asking because I felt like things were fair,
13 things were good, everyone was happy with the time that they
14 got with me and Ethan. And then -- where was I going?

15 Q You were talking about when you first stated --

16 A Oh, yes.

17 Q -- that you wanted a different timeshare.

18 A Uh-huh (affirmative). And then when we got into
19 the fight, I want -- I brought it up again how I thought it
20 would be better if I lived with my dad for most of the time.

21 Q Who did you bring it up to?

22 A I brought it up to Mom -- my mom, Amy, and Dad.

23 Q So all three of them?

24 A Yeah.

1 Q And what was -- what was your mom's response when
2 you brought that up after the first fight?

3 A After the first fight she said we could talk about
4 it. But then we never talked about it.

5 Q And what was -- what was Amy's response? Was Amy
6 and your dad together or did you talk to them separately?

7 A I talked to them together. They were like do you
8 think that'd be better for you? And I'd be like -- I said yes
9 because we were getting -- because from the first fight to the
10 second fight, like the first fight was kind of like a big
11 shock, like a tidal wave, and then it just started more and
12 more fights, like verbal fights started happening.

13 Q Right.

14 A And then it was just kind of like another like big
15 bang that kind of happened.

16 Q The August fight?

17 A Yeah.

18 Q Okay.

19 A And I was like I can't do this anymore.

20 Q During the first discussion you had after the May
21 fight, what were -- what was their reaction to your desire to
22 be in a separate, you know, different relationship? In other
23 words, for you to be more with your dad.

24 A They said that we could talk about it. And we did

1 talk about it. They said, well, maybe during school you could
2 spend most of the time with us since you're really like
3 anxious with school -- when school starts because of like
4 tests and quizzes and stuff, and then maybe for the summer we
5 can go back to every other week and then holidays can stay how
6 they were.

7 Q When you had that conversation, did you have that
8 same conversation with your mom?

9 A I tried to.

10 Q Okay. And she --

11 A But she -- I don't think it really got to her or --
12 it was just kind of glanced over.

13 Q Okay. Did you continuously bring it up with your
14 dad or was that something that --

15 A No.

16 Q -- you just talked about it after the fight and then
17 let it go till the next fight?

18 A I didn't let it go, but it -- I didn't continuously
19 talk about it, like I'd bring it up every now and then, but I
20 wasn't pressing anything because I can't do anything.

21 Q When you had the second fight --

22 A Uh-huh.

23 Q -- you said you went and you were with your dad.
24 Was that about the time -- I think you've already identified

1 it -- but that was about the time you stopped going, right --

2 A Yeah. Yes.

3 Q -- to your mom's house. Why did you do that?

4 A Because I feel like -- well, I know I'm still a
5 child, but I feel like things weren't going -- things weren't
6 going to end up good. I felt like we were still going to
7 fight, and I felt like physical fights were going to become
8 regular. And I just felt like it would be better if I was in
9 an environment where I was safe and like loved -- I'm not
10 saying I'm not loved. But I felt more comfortable there. And
11 I'd still see my mom; it's just not as often as I would -- as
12 I used to.

13 Q Why is it more comfortable, in your view, at your
14 father's home than it is at your mother's home?

15 A Because we never really get into a physical
16 argument, like physical fights. And if I were to get like
17 punished, I wasn't being like threatened or like forced to do
18 anything that seems like crazy.

19 Q Okay. Did you ever express this to your mother --

20 A Uh-huh, yes.

21 Q -- that you felt more comfortable with your dad and
22 the things that you just indicated?

23 A Yes.

24 Q And what was her response, to your knowledge?

1 A She said I'm sorry you feel that way.

2 Q Did you ever discuss with her after the second
3 incident, the second fight, did you ever discuss that fight
4 with her to try to get some resolution like you did the first
5 time?

6 A Not at first -- actually, yes. Sorry. We did talk
7 about it a week after it happened and nothing was resolved.

8 Q What was the -- why wasn't it resolved? Why didn't
9 you guys have the same kind of resolution you had previously?

10 A Because she didn't see her -- she never like took
11 responsibility and she was blaming it on me and other things.
12 And she said I didn't hit you, I didn't do these things to
13 you. I'm like you clearly did. And she was just lying.

14 Q Have you had that conversation with her about, "Mom,
15 you need to be -- you know, you need to say that you did these
16 things before we can make any progress," or words to that
17 effect?

18 A Yes. We talked about it like after it happened, and
19 also we talked about it a lot in therapy.

20 Q Okay. So you've -- when did you first hear the idea
21 that you -- first of all, once you said that you didn't want
22 to go with your mom, what was your -- what was your
23 communication with your father and Amy about that or either of
24 them?

1 A About how I didn't want to go?

2 Q Yes.

3 A I told them that I didn't want to go and that I

4 wanted to talk with her about it and see if she'd maybe

5 understand and try to see my point of view kind of.

6 Q And did you try to talk to her?

7 A Uh-huh (affirmative).

8 Q Yes?

9 A Yes.

10 Q And she didn't see your point of view?

11 A Correct. She would say, okay, we can talk about

12 this at my house, like once you're here for a week then we can

13 talk about it. I'm like, no, we need to talk about it now.

14 Q Is it -- is it true that your father has either

15 encouraged you or discouraged you to go to your mother's

16 house?

17 A He has encouraged me.

18 Q In what sense? What did he do?

19 A Well, he said that it'd be better for me to have a

20 relationship with my mom and that I should see her whenever I

21 can because she's important in my life. And he makes me go to

22 like therapy with her. And he's like, hey, you have to go see

23 your mom this weekend, like for lunch or dinner or breakfast

24 or something like that.

1 Q Well, couldn't he just tell you to go back to the
2 week on/week off then?

3 A He could have.

4 Q Would you?

5 A He told me that I should. And he's like, okay, your
6 mom's here. You should go with her. And I didn't.

7 Q Why?

8 A Because I said that I didn't want to because nothing
9 was resolved.

10 Q When you say nothing was resolved, are you talking
11 about nothing was resolved with your mom?

12 A With me and her, yes.

13 Q So how does this situation get better?

14 A It didn't.

15 Q How does it? How does it -- what are -- what we're
16 ultimately trying to do here is to see if it's -- if there's a
17 way to make the situation better for you.

18 A Yeah.

19 Q How do -- how does -- how do we make it better for
20 you? How do we figure this out?

21 A Well, I would say therapy would be an option for me
22 and my mom's relationship to get better, but in therapy she
23 like lies to the counselor. And when she -- she admits
24 something in one session and then in the next session she

1 backtracks it. And so it's like we're in like circles trying
2 to get nowhere. I think time and space -- I don't know about
3 our relationship, and I hospital that it'll get better as time
4 goes on, but I feel like for me personally it'd be much better
5 if I just stayed with my dad but I'd still be safe with my
6 mom.

7 Q What do you think is the timeshare that would be
8 best for you if you were given that choice?

9 A If I were given the choice, I'd stay with my dad
10 full time, and then I'd see my mom whenever I could. That's
11 if I had the choice.

12 Q So one of the things that you've talked about in
13 terms of your preference, so to speak --

14 A Yeah.

15 Q -- would be to be with your dad. Is that it's just
16 there's -- you're not -- you don't have the fighting at his
17 house?

18 A Correct.

19 Q Is there anything else about your relationship with
20 your mother or your parents -- your stepmother or your dad
21 that causes you to think that you're better off at your dad's
22 house?

23 A No. Well, I feel like it's better for me to be at
24 my dad's house also because I have a brother there that I

1 don't get to see often, and I feel like it's good that I also
2 get to see my family.

3 Q Tell me about your -- you're talking about Mitchell
4 now, right?

5 A Yeah.

6 Q Okay. Has your mother ever indicated to you
7 anything about Mitchell that caused you any concern between
8 your --

9 A Yeah. Yes.

10 Q Tell me about that.

11 A On Mother's Day a couple years ago -- I don't
12 remember the exact year, but I know that I was younger than
13 what I am now --

14 Q Where were you?

15 A I was at her house because on Mother's Day --

16 Q Okay.

17 A -- my dad takes us and we stay there for like a
18 family party or something.

19 Q Okay.

20 A And I don't remember what caused a fight to happen,
21 but me and my mom had a fight and she would tell me that like
22 Mitchell was going to die and that he had problems and he's
23 going to die soon and how he's bad and he's just -- she's
24 never said good things about him.

1 Q She said that to you directly?

2 A Yes.

3 Q You didn't overhear her saying that?

4 A No. She yelled it at me.

5 Q Was your brother present during that time as well?

6 A I think so.

7 Q Ethan?

8 A Yes. I think so.

9 Q What was your reaction to that?

10 A I started crying. And my grandpa, who is her
11 father, my mom's dad, he was like, okay, you're going too far.
12 And he was like trying to calm her down, but she was just
13 screaming and yelling and she was very passionate about
14 letting me know that my brother was going to die.

15 Q What happened after that? Did you -- did you go to
16 your room? Did you leave the house? What happened?

17 A Well, what -- I don't know why I didn't go to my
18 room. But I was in like the office/family room and I locked
19 the doors. And she took away my phone so I couldn't really
20 call anyone. And if I tried calling on the house phone she
21 would pick up and she could hear the conversation.

22 And so I went on my dad's website online. It's like
23 if you have any comments let me know. And I would start
24 typing on the computer like please pick me up. I don't want

1 to be here anymore. Please pick me up. And I don't remember
2 what really happened after that, but all I know is that I was
3 picked up and I left.

4 Q Did you tell your dad that you were locked in a room
5 when you were communicating with him?

6 A No. I locked myself in the room.

7 Q Okay.

8 A But I didn't -- I was just sad.

9 Q Has there ever been a time when you've been locked
10 in a room by anyone else?

11 A Yes.

12 Q Tell me about that.

13 A Well, when I was little -- I don't know how you can
14 do this with doors, but you know how the lock is supposed to
15 be on the inside?

16 Q Right.

17 A It was changed so the lock was on the outside for a
18 lot of my younger life. And whenever I misbehaved I was
19 locked in my room and my mom would lock it. But like she
20 wouldn't let me out for a long time, so I would use the
21 bathroom in my room and she would get mad at me. But I told
22 her, I was like I told you I needed to use the bathroom and
23 you didn't let me out, so I went.

24 Q Did you ever relate that to your father?

1 A I think I did.

2 Q Okay.

3 A I was little.

4 Q All right. So in regard to -- in regard to now, you
5 are going to therapy, correct?

6 A Kind of, yes.

7 Q You said your dad was forcing you to go to therapy.
8 Does that mean you don't want to go?

9 A I don't want to because I feel like -- I'm not
10 saying it's pointless, but like the point of therapy is to be
11 honest about your feelings and to see what's causing problems
12 so you can fix those problems. But my mom lies and just
13 contradicts herself in therapy all the time, so I feel like
14 it's just around about and it's pointless, at least right now.

15 Q How would you -- if you were going to describe your
16 mother, how would you describe her?

17 A Could I describe her how other people would see her
18 or how I see her?

19 Q How you see her.

20 A How I see her? She's stubborn, she's -- what's it
21 called? How would -- sorry.

22 Q It's okay.

23 A Selfish, I guess, and arrogant.

24 Q Anything positive?

1 A She's nice sometimes. Other people think that she's
2 smart and intelligent.

3 Q Tell me about your father. How would you describe
4 him?

5 A He's serious, but he's also very goofy. He's
6 caring.

7 Q Amy?

8 A Amy? Oh, she's very sweet and she's very -- what's
9 it called -- optimistic, and she's very empathetic --
10 sympathetic. Those words.

11 Q Could your relationship be resolved by your mother
12 being, in your view, honest about what occurred at these
13 events and speaking to you frankly about it? Would that be
14 enough to change your opinion as to where you would spend
15 time?

16 A Well, this kind of reminds me of like in therapy we
17 were kind of talking about something like this. And I said
18 that if she just admitted it, it's not going to be enough.
19 She has to change, too. Because you can say whatever you
20 want, but as long as you don't change nothing's going to
21 happen. So if she admits it and if she like stops threatening
22 me, stop being quick to anger and physical things and just be
23 honest and more compassionate I feel like things could get
24 resolved. But I don't see her being that way at all.

1 MR. SMITH: Pass the witness, Your Honor.
2 THE COURT: All right. Now, Mr. Grigsby or Ms.
3 Fujii are going to ask you some questions. You ready to go?
4 THE SUBJECT MINOR: Do you have a cough drop?
5 UNIDENTIFIED VOICE: We have plenty.
6 THE SUBJECT MINOR: Thank you.
7 THE COURT: I just want to make sure you can take
8 these, you know.
9 THE SUBJECT MINOR: I didn't want to ask in the
10 middle of this.
11 THE COURT: I can't do without them anyways, so.
12 MS. FUJII: Is it okay, Counsel, Your Honor, if I go
13 to the restroom real quick?
14 THE COURT: Yeah. We --
15 MS. FUJII: Do you want to just go --
16 THE COURT: Are you examining her?
17 MR. GRIGSBY: I am.
18 MS. FUJII: No. He is.
19 THE COURT: All right. Do you want to -- yeah, you
20 can go.
21 MS. FUJII: It's up to you.
22 THE COURT: Yeah, yeah, yeah.
23 MS. FUJII: Did you want to go straight?
24 THE COURT: Well, I mean, I'm concerned -- look. I

1 think that she's doing fine and --

2 MS. FUJII: Me too.

3 THE COURT: And this is going a little longer than I
4 wanted, but we're getting good information.

5 And you need to answer questions from everybody. So
6 as long as you're okay and you're not -- you seem relaxed,
7 right?

8 THE SUBJECT MINOR: Yeah. I'm chill.

9 THE COURT: And so -- we're going to -- probably
10 more than we are. But I want Mr. Grigsby to introduce
11 himself --

12 MS. FUJII: I'll stay. Yeah, I don't want to break
13 flow either, Judge. No pun intended.

14 THE COURT: Well, no, no, no. We're going to take
15 -- we're going to take a minute. But, look, we have a lot we
16 want to accomplish this morning, and I want her to finish her
17 exam and she's not nearly done, so --

18 MS. FUJII: I can't see the time either.

19 THE COURT: It's five to eleven.

20 THE SUBJECT MINOR: Oh, wow.

21 MS. FUJII: Okay. Go ahead.

22 THE COURT: So you could -- we'll take a break if
23 you need to take a break. Or we could have Mr. Grigsby
24 examine and you could just come back in when you're ready.

1 (Counsel confer)

2 THE COURT: Five minutes. All right. We'll be in
3 recess for five minutes.

4 MR. GRIGSBY: We'll be here.

5 THE COURT: You just sit here and --

6 THE SUBJECT MINOR: Chill?

7 THE COURT: We'll chill.

8 THE SUBJECT MINOR: Can I have another one, please?

9 THE COURT: Yes. Actually what I'm going to do is
10 I'm going to put this up here and you can take whichever one
11 you want.

12 THE SUBJECT MINOR: That's cool. Thank you.

13 (Off record)

14 THE COURT: -- break and I just want you to confirm
15 that you understand you're still answering questions under
16 oath. Okay?

17 THE SUBJECT MINOR: Yes.

18 THE COURT: Great.

19 Whenever you're ready.

20 MR. GRIGSBY: Oh, yes.

21 CROSS-EXAMINATION

22 BY MR. GRIGSBY:

23 Q My name is Aaron Grigsby and I'm helping represent
24 your mom right now, so I'm also going to ask you a few

1 questions just like Mr. Smith did.

2 A Uh-huh, yes.

3 Q If you -- let's just try to answer the questions out
4 loud, verbally, instead of uh-huh or huh-uh or shaking your
5 head.

6 A I know.

7 Q It's hard to remember so --

8 A I know.

9 Q -- if occasionally I remind --

10 A I try to catch myself.

11 Q Okay. You said earlier that you and your mom I
12 guess have a history of physical fights; is that correct?

13 A Correct.

14 Q Okay. How many physical fights would you guess that
15 the two of you had?

16 A Oh, goodness. A lot.

17 Q Okay. Now, specifically you talked about one in May
18 of 2019. Do you recall that?

19 A In what?

20 Q May of 2019, last May.

21 A Yes. Yeah. Yes.

22 Q Okay. Now, you said this altercation started over
23 you wanting to adjust the temperature in the house; is that
24 correct?

1 A Yes.

2 Q Okay. Now, you -- I believe you said you asked your
3 mom could you change the thermostat with the key and she said
4 no.

5 A Correct.

6 Q Okay. And you got angry because your mom said no;
7 is that correct?

8 A I was irritated.

9 Q And what irritated you about her saying no in this
10 instance?

11 A Well, because usually she would change it, and I
12 asked nicely and I didn't really understand why no.

13 Q So if you asked your mom something nicely then is it
14 your opinion she should do whatever you ask her to do?

15 A No.

16 Q Okay. So I believe you said in this instance she
17 wouldn't let you adjust the thermostat so you got -- I believe
18 what you described now as irritated?

19 A Uh-huh, yes.

20 Q Okay. And I believe after getting irritated with
21 your mom, you started to I believe you said pour soap down the
22 drain; is that correct?

23 A Not after that.

24 Q Okay. So what precipitated you pouring the soap

1 down the drain?

2 A Well, she was getting angry that I was trying to ask
3 why. She wouldn't change the thermostat. And so she
4 threatened to call my music teachers and say that I couldn't
5 go on a trip like the day before.

6 Q Okay. And so as your parent, if you're -- you need
7 your parents' permission to go on this trip; is that correct?

8 A Correct.

9 Q Okay. And so if you're not doing what your mom's
10 telling you to do, she decides you can't go on the trip, would
11 you agree that she has that authority to decide you can't go
12 on the trip?

13 A She already signed permission and we already paid.

14 Q Well --

15 A But she does have authority.

16 Q Right. And so your mom can still change her mind
17 anytime she wants; is that correct?

18 A Well, my dad also agreed.

19 Q Yes. I'm asking you can your mom change her mind
20 about you going on the trip anytime she wants?

21 A Correct.

22 Q Yes. And so if you're not behaving up to her
23 expectations, would it be unthinkable for her to change her
24 mind about you going on the trip?

1 A It wouldn't be unthinkable.

2 Q Okay. Now, would it be fair to say that you found
3 the fact that she was potentially going to change her mind
4 about you going on this trip unfair?

5 A I'm sorry, what? Sorry.

6 Q Would it be fair to say that you found the fact that
7 she was going to potentially change her mind about you going
8 on this trip to be unfair?

9 A Yes.

10 Q Okay. And it was because you were upset that she
11 was threatening to change her mind about you going on this
12 trip that caused you to go start pouring soap down the drain?

13 A Well, she was also yelling at me and I didn't
14 understand why she was yelling at me.

15 Q Okay. Exactly what was she yelling at you during
16 this time?

17 A She told me that I should just be more respectful
18 and how I shouldn't keep asking.

19 Q Okay. So when your parent tells you no, do you feel
20 that she owes you an explanation when she tells you no?

21 A Yeah. Yes.

22 Q And why do your parents owe you an explanation -- in
23 your opinion --

24 A Because --

1 Q -- why do they owe you an explanation when they tell
2 you no?

3 A Because if it's something wrong that I'm doing and
4 they're telling me no, I don't know if it's wrong. That's
5 like -- in school if I get told no, then they say why.

6 Q Okay. Now, would you agree that when parents tell
7 you no -- tell kids no all the time?

8 A Yes.

9 Q Okay. And specifically your parents, do they
10 frequently tell you no?

11 A No.

12 Q Okay. So your parents frequently tell you yes to
13 most the things you want?

14 A Uh-huh, yes.

15 Q Okay. So you're not used to hearing no from your
16 parents?

17 A Well, like I feel like the stuff that I ask isn't
18 bad. It's just asking for permission.

19 Q But, okay. So -- but you also -- is it fair to say
20 that you also feel that if your parents tell you no they owe
21 you an explanation?

22 A Yes.

23 Q Okay. And why -- I guess my question is why do they
24 owe you, their child, an explanation if they say no?

1 A Because they should tell their child why.

2 Q Okay. So you don't feel they have to; you just want
3 an explanation?

4 A Yes.

5 Q Okay. And so when your mother -- after your mother
6 told you no, do you feel that -- and declined to give you an
7 explanation, do you feel it was disrespectful to keep pushing
8 the issue there?

9 A No.

10 Q Okay. And her refusing to give you an explanation,
11 does that cause you to be irritated?

12 A No. What caused me to get irritated is she started
13 getting in my face and yelling at me.

14 Q Okay. And so your response to that was to go get
15 soap and start pouring it down the drain?

16 A That was after she was pretending to call my
17 teachers, but yes.

18 Q Yes. Okay. And it was after -- then after that she
19 -- it was after you started pouring -- what type of soap was
20 this you were pouring down the drain?

21 A Like Bath & Body.

22 Q Okay. Was this just like new soap that you were
23 just opening up and pouring down the drain?

24 A No. It was just kind of there in the bathroom.

1 Q Okay. Okay. So and it was after this that you and
2 your mom got into the alleged altercation; is that correct?

3 A Correct.

4 Q Okay. Now, did you feel that your mom owed you an
5 apology for that altercation?

6 A Yes.

7 Q Okay. Now, I want to ask you, what about your
8 actions in that incident -- was there anything about your
9 actions that could have prevented that altercation?

10 A I could have not poured soap down the drain. And I
11 apologized for that.

12 Q Okay. What if we're going back further. Could you
13 have just not got irritated that she told you no and was not
14 going to give you an explanation?

15 A I could have.

16 Q Yes. And so you had, at the very least, a
17 substantial part in -- would it be fair to say you had at
18 least a substantial part in this altercation?

19 A Yes.

20 Q Okay. I believe the -- now, after having the
21 altercation with your mom, were you allowed to still go on the
22 trip?

23 A Yes.

24 Q And where was the trip to?

1 A California.

2 Q Specifically was it to anywhere in California
3 (indiscernible)?

4 A Where was it? I think it was Anaheim. Anaheim.

5 Q And what was the purpose of this trip?

6 A It was to go perform at a festival and get
7 adjudicated on and then the day after go to Disney Land.

8 Q Okay. So even though you had, well, an altercation
9 with your mother, you were still allowed to essentially go to
10 Disney Land?

11 A (Nods affirmatively).

12 Q Is that correct?

13 A Correct.

14 Q Okay. Now, which parent were you staying at during
15 the time that you went to Disney Land?

16 A My dad.

17 Q Okay. Now, did you dad impose any punishments or
18 sanctions for you getting into an altercation with your mom?

19 A He gave me like -- we talked about it, and he said
20 if this happened again then I'd be in trouble.

21 Q Okay. But for that instance you actually didn't
22 actually get in any trouble; is that correct?

23 A Correct.

24 Q Okay. Now, in your opinion, would it have been

1 unfair if your mother after that altercation had said, hey,
2 you're not going to Disney?

3 A I feel like it would have been unfair.

4 Q Why?

5 A Because she was hitting me.

6 Q Were you hitting your mother also at the time?

7 A Because she hit me.

8 Q Okay. I'm asking the questions here. Yes, you hit
9 your mother at the time, right?

10 A Because she hit me, yes.

11 Q Yes. So as a child, you feel you have the right to
12 hit your parents; is that correct?

13 A Because she hit me.

14 Q Yes. And you -- is it still your opinion that after
15 hitting your mom, it would have been unfair for her to keep
16 you from going on a trip to Disney Land, correct?

17 A Yes. Correct.

18 Q Okay. Now, were there any pictures taken of --
19 well, sorry. Did you suffer any injuries from this alleged
20 altercation in May?

21 A Emotion scarring, but other than that no.

22 Q No physical injuries. Now, you said she was hitting
23 and scratching you; is that correct?

24 A Well, yes.

1 Q And so did you -- but you didn't have any injuries,
2 any scratch marks, any bruises?

3 A I had bruises and a couple scratch marks.

4 Q Okay.

5 A But it wasn't anything terrible.

6 Q Okay. So -- and I believe you said at that time
7 that you were afraid of your mom, correct?

8 A Yes.

9 Q Did you call law enforcement?

10 A No.

11 Q You said that -- so given the fact that you were in
12 fear of your mom at that time, why didn't you call law
13 enforcement?

14 A Because I'm afraid of law enforcement.

15 Q And why are you afraid of law enforcement?

16 A Because law enforcement can be scary.

17 Q Okay. I understand that. But is there a specific
18 reason that you're afraid of law enforcement?

19 A No, there's no specific reason.

20 Q Okay. So I believe you said you called your dad
21 after that; is that correct?

22 A I called my dad and Amy, yeah.

23 Q Yes. And what -- how long after the altercation
24 between you and your mom in May was it before your dad came

1 over?

2 A An hour.

3 Q Okay. So your dad was there within an hour. Does
4 anyone take any pictures of this bruising or scratching or --

5 A I took pictures, but I didn't do anything.

6 Q Okay. Now, the next time -- okay. Then after that
7 you said you stayed with your dad for an extended period of
8 time; is that correct?

9 A Correct.

10 Q And how long did you stay with your dad?

11 A About a month.

12 Q And this was in May of 2019, correct?

13 A Correct.

14 Q Now, isn't it true that the prior month, April of
15 2019, you stayed with your mom most of that month?

16 A I don't remember. I feel like it had been 50/50.

17 Q Okay.

18 A There wouldn't have been a reason to.

19 Q Okay. Now, let's move to you said there was also an
20 altercation in August of 2019; is that correct?

21 A Correct. Correct.

22 Q And this is the time that you were on the phone with
23 one of your friends; is that correct?

24 A Correct.

1 Q And specifically who were you on the phone with?
2 A My friend Joey.
3 Q Okay. And is Joey a friend or is that your
4 boyfriend?
5 A My boyfriend.
6 Q Okay. Let's get into that issue. Have your parents
7 met Joey?
8 A Yes.
9 Q Okay. Now, how long after you start dating Joey was
10 it before your parents met him?
11 A Three months.
12 Q Okay. Now, isn't it true that you were upset when
13 your -- there was a time that you were upset that your mother
14 wouldn't let you go out with Joey without meeting -- without
15 talking to his parents?
16 A Yes.
17 Q Okay. And --
18 A Oh, wait. No.
19 Q -- were you upset that your mother wanted contact
20 information and to be able to talk to Joey's parents before
21 allowing the two of you to go out to the movies?
22 A But we did go to the movies.
23 Q My question is were you upset that your mother
24 wanted to contact his parents?

1 A I was upset because I knew that if she would get
2 contact information she would use it against me one day, and
3 she did.

4 Q Okay. So and isn't it true that the only reason you
5 gave her contact information for Joey's parents is that -- it
6 was because she told you you could not go out with him absent
7 her having contact information and being -- and talking to his
8 parents?

9 A Correct.

10 Q And how old were you at the time this happened?

11 A How old was I?

12 Q Yes.

13 A Fourteen.

14 Q Okay. Now, do you think that is, you know, that is
15 an unreasonable demand of a parent for a 14-year-old child to
16 give them contact information so they could talk to their --
17 the boyfriend's family prior to allowing them to go out?

18 A As a parent, no, it's not unreasonable.

19 Q Okay. Then why were you upset by that?

20 A Because she would use it to threaten me because I --
21 every time I give her a friend's parent's contact information
22 she always uses it as a threat against me, like if you don't
23 do this I'm going to text their parents that you're bad and
24 that you're disrespectful. And I was afraid that she was

1 going to do that.

2 Q Okay. So wouldn't a simple solution to prevent that
3 from happening be not be bad or disrespectful?

4 A Correct.

5 Q Okay. So you have the -- you have the power to
6 prevent your mom from sending those text messages by just
7 doing what your mom wants you to do; is that correct?

8 A No. Because she would still text it anyways.

9 Q Okay. So even if you did -- your testimony is even
10 if you did exactly what your mom wanted you to do, she would
11 still randomly text people and say that you're rude and
12 disrespectful?

13 A Yes.

14 Q Okay. So give me an example of a time that your
15 mother just randomly text someone and said that you were rude
16 and disrespectful even though you were actually doing what she
17 wanted you to do.

18 A So I was invited to like a friend's like barbecue or
19 something and I was -- my mom was like if you act up then you
20 can't go. And this was when I was acting bad, as she says,
21 and so I changed my behavior and I was acting good, and she
22 still texted their parents and said I couldn't go.

23 Q Okay. So how long ago was this?

24 A I don't remember. A year or two ago.

1 Q Okay. So you would have been 13, 14 when this
2 happened?

3 A Yes.

4 Q Okay. And so would you agree it's kind of
5 subjective whether you're being good or bad? It's kind of
6 your mom's subjective of being -- of your being good or bad?

7 A Yes, subjective.

8 Q And if your mom determines that you're not behaving
9 up to her expectations, would it be unreasonable for her not
10 to allow you to do something that you may otherwise want to
11 do?

12 A No, it's not unreasonable, but I think she should
13 tell me if I'm not allowed to go or not.

14 Q And did she in fact communicate that to you that you
15 couldn't go by not letting you go?

16 A I found out from a friend before I had to find out
17 from her.

18 Q Okay. But you still found out that you couldn't go;
19 is that correct?

20 A The day before, yes.

21 Q Okay. And, like I said, whether you had -- sorry.
22 It's within your own power to behave up to your mother's
23 expectations, even if you don't think those expectations are
24 reasonable; is that correct?

1 A Correct.

2 Q Okay. So that was another incident that you
3 probably could have prevented her from contacting these
4 people, the friend's family, just by doing whatever it was
5 that she wanted you to do, whether you found -- whether you
6 personally found it reasonable or not; is that correct?

7 A No. Because she still would have done it anyways.
8 It doesn't matter --

9 Q How do you know she --

10 A -- what I do. She still does it.

11 Q How do you know she still would have done it if you
12 had done everything she wanted you to do?

13 A Because she's done it before.

14 Q Okay. Then give me another example of when she's
15 done that when you still -- when you had done everything that
16 you were -- that she wanted you to do?

17 A Because she tells me that she does it.

18 Q No. I'm asking give me a specific example of a time
19 when your mother -- when you'd done everything your mother
20 wanted you to do and she still texts someone and told them you
21 were being bad or rude?

22 A When I was in elementary school she would just text
23 my friends' parents.

24 Q And how do you know she would text your friends'

1 parents?

2 A Because my -- because my friends would tell me, hey,
3 your mom's texting my mom and saying these things.

4 Q Okay. So you just know because your friends told
5 you.

6 A Correct. And I've seen messages.

7 Q You've seen messages. And how -- how were you able
8 to see these messages?

9 A Because they show me screenshots.

10 Q So your friends show you friends screenshots of
11 their parents' phones text messages.

12 A Uh-huh, yes.

13 Q Okay. And you said that time was in elementary
14 school?

15 A Yes.

16 Q So that would have been five, six years ago?

17 A Oh, the screenshots are not from elementary school.
18 The screenshots were recently in high school.

19 Q Okay. We're talking about -- we're talking about
20 now you said the example happened when you were in elementary
21 school; is that correct?

22 A No.

23 Q Okay. So it's not. I'm sure that's what you said.

24 A I'm sorry. Well, you asked about another example.

1 Q Okay. So let me ask a different -- let me ask the
2 question a different way.

3 A Okay.

4 Q If we -- tell me, going back specifically to that
5 August 2019 incident.

6 A Yes.

7 Q You were on the phone with your boyfriend.

8 A Yes.

9 Q And your mother told you to go to bed; is that
10 correct?

11 A Correct.

12 Q And you wanted to wrap up the phone call; is that
13 correct?

14 A Correct.

15 Q And I believe your testimony is your mother kept
16 telling you to go to bed.

17 A Correct.

18 Q Okay. So you could have -- isn't it -- wouldn't it
19 be fair to say you could have stopped all of this before it
20 ever began by getting off the phone and going to bed?

21 A But that's never happened before.

22 Q No. My question's not whether it happened before.

23 A Okay.

24 Q It was entirely within your power to end the phone

1 call --

2 A Okay.

3 Q -- and comply with your mother's directions; is that
4 correct?

5 A Correct.

6 Q And you were in her home at the time, correct?

7 A Correct.

8 Q Now, I believe you said you got angry because she
9 kept telling you to get off the phone; is that correct?

10 A No.

11 Q Hmm. I believe your testimony --

12 A I got angry because she was threatening to call my
13 boyfriend's parents.

14 Q And you -- and so you don't think it's reasonable
15 for your mom to call your boyfriend's parents when you won't
16 get off the phone with him?

17 A No, I don't. I don't think it's reasonable, because
18 I was going to get off the phone.

19 Q Would you agree it's not up to you to arbitrarily
20 make a decision what you want to do when your parents tell you
21 to do something?

22 A Correct.

23 Q And if, you know -- in hindsight, should you just
24 have gotten off the phone when your mother told you to get off

1 the phone?

2 A Yeah.

3 Q And if you had gotten off the phone when your mother
4 told you to get off the phone, all the rest of this wouldn't
5 have been -- I guess it probably wouldn't have happened that
6 night; is that correct?

7 A Correct.

8 Q Now, even after that, you said you got angry when
9 your mother threatened to call your boyfriend's parents,
10 correct?

11 A Correct.

12 Q And after you got off the phone, I believe you said
13 that you went down to the laundry room to confront your
14 mother?

15 A To talk with her.

16 Q Okay. Once again, in hindsight, isn't -- this is
17 another point where you could have stopped everything before
18 it started by not going down to the laundry room to talk to
19 your mother about you not doing what she told you to do?

20 A I could have, but I didn't.

21 Q Right. And looking back and reflecting on your
22 actions, this second incident was something entirely within
23 your control to stop.

24 A It could have.

1 Q But you chose not to. You made a --
2 A Was it my choice for her to hit me?
3 Q No, that's -- but you made a series of probably not-
4 so-good decisions that led you to that point, correct?
5 A I wouldn't call them not so good, but correct.
6 Q Okay. What was good about the -- you said your
7 first one was not so good. So it was a good decision in your
8 opinion to not --
9 A It's just normal behavior.
10 Q Please, ma'am. Wait till I finish the question.
11 A Sorry.
12 Q So it was a good decision in your mind to not get
13 off the phone when your mother tells you to get off the phone;
14 is that correct?
15 A No, it's not a good decision.
16 Q So it was a good decision to go down and talk to or
17 confront your mom about not doing what she told you to do; is
18 that correct?
19 A I wouldn't word it like that, but sure.
20 Q Okay. So you could concede that those were probably
21 poor decisions on your part?
22 A Yeah.
23 Q And absent either of those poor decisions, the
24 subsequent events probably would not have happened, correct?

1 A Correct. But it still did.

2 Q Okay. Yes, it still did. So you said you went down
3 there -- actually, approximately what time did all this stuff
4 happen?

5 A I don't remember.

6 Q Okay. Do you have a normal bedtime?

7 A No.

8 Q I'm talking about when you're at your mom's house.

9 A Not really.

10 Q Okay. I believe you said it was -- it was a school
11 night; is that correct?

12 A Correct.

13 Q Okay. Do you know whether it was before or after
14 10:00?

15 A Before.

16 Q Okay. Then you went down to the laundry room, and
17 like I said, once again I believe you said the -- your mother
18 got in your face and you ended up pushing her; is that
19 correct?

20 A Correct.

21 Q So you were the first person to physically lay hands
22 on the other person; correct?

23 A Correct.

24 Q And once again, absent you -- absent you putting

1 your hands physically on your mother, once again the
2 altercation probably would not have happened, correct?

3 A No, because she was still close to me.

4 Q So your mother invading your personal space in your
5 mind justifies you striking your mother?

6 A I didn't strike her. I pushed her away so she
7 wouldn't hit me.

8 Q Okay. So you said you were in fear of her hitting
9 you, that's why you pushed her; is that correct?

10 A Yeah, that's why I pushed her away.

11 Q Had she threatened to hit you at that time?

12 A No, but she was putting up her hand.

13 Q Okay. Now, you didn't say that before when Mr.
14 Smith was test -- had your testimony. You didn't say she had
15 put up her hand or made any threatening gestures to you.

16 A Okay.

17 Q Okay.

18 A I didn't say it.

19 Q Okay. So is there a reason why you didn't -- didn't
20 say it?

21 A No. I just didn't.

22 Q So, okay. After pushing your mother then you allege
23 that the two of you got into a physical fight.

24 A Correct.

1 Q And then you said -- I believe you said at some
2 point you ran to your bedroom and closed yourself in the
3 bedroom.

4 A Yes.

5 Q Okay. Does your bedroom door open in or out?

6 A Out.

7 Q Okay.

8 A I don't know how to describe it.

9 Q Okay. You said out. Now, if your bedroom door
10 opens out, I believe you said you were pushing furniture in
11 front of the bedroom door.

12 A Uh-huh (affirmative).

13 Q So why were you pushing furniture in front of your
14 bedroom door if it opens out?

15 A Because if she gets the unlock -- like if she gets
16 it unlocked and she tries to like come in she can't.

17 Q Why wouldn't she -- how -- I'm not sure how -- I
18 understand how that works.

19 A Sorry.

20 Q If your bedroom door opens out, and you --

21 THE COURT: You need to put it -- look. You need to
22 put her in the room or out of the room in order to answer that
23 question. Okay?

24 MR. GRIGSBY: Yes.

1 THE SUBJECT MINOR: (Indiscernible) --

2 THE COURT: She's trying to understand the logistics
3 of the question. Okay?

4 If you don't understand the question, then just, you
5 know, let him know that he's not being clear. Okay?

6 THE SUBJECT MINOR: Yeah.

7 MR. GRIGSBY: Okay.

8 THE COURT: If you're inside your bedroom, does your
9 bedroom door open in or out?

10 THE SUBJECT MINOR: If I'm inside the bedroom?

11 THE COURT: Yeah.

12 THE SUBJECT MINOR: It opens this way (indicating).

13 THE COURT: Right. Okay. So when -- if it was
14 opening out from your bedroom, then obviously it was confusing
15 to Mr. Grigsby about whether or not you were barricading
16 something when all you do is open the door out. Okay?

17 So put her in the right perspective and she can
18 answer the question properly. The door of the bedroom opens
19 in. Next question.

20 MR. GRIGSBY: Yeah. (Indiscernible).

21 BY MR. GRIGSBY:

22 Q That night after it ended, did you call law
23 enforcement on the evening of August --

24 A No.

1 Q -- 2019?

2 A No.

3 Q Did you call your father that evening?

4 A Yes.

5 Q Okay. Did he come over on that night and pick you
6 up?

7 A No.

8 Q Okay. Now, you stayed with your mother --

9 A (Indiscernible) --

10 Q -- you stayed at your mom's house the next day; is
11 that correct?

12 A Yes.

13 Q I believe you -- how many days after that did you
14 stay at your mom's house?

15 A I'm not sure.

16 Q But would it be fair to say at least two or three
17 days after that you stayed at your mom's house?

18 A Around there, yeah.

19 Q Okay. Now, were there any other physical
20 altercations with you and your mother in that subsequent two
21 or three-day period?

22 A No.

23 Q Okay. And then after that time period I believe you
24 said you went to your father's house in his normal visitation;

1 is that correct?

2 A Yes.

3 Q Okay. Now, when you get to your father's house, did
4 he impose any punishment on you or sanction on you for
5 fighting with your mother?

6 A Yes.

7 Q And what was the punishment that was imposed on you
8 for that obvious fight with your mother?

9 A I got my phone taken away.

10 Q And how long was your phone taken away for?

11 A About a day.

12 Q Okay. Anything else?

13 A No.

14 Q Okay. Now, after you went to your dad's house --
15 well, let me ask you this.

16 Since that time you went to your dad's house, how
17 many times have you stayed overnight at your mother's house
18 since then?

19 A None.

20 Q Okay. Now, whose decision was it that -- for you
21 not to go back to your mother's house?

22 A My decision.

23 Q Okay. Now, at least your father encouraged you to
24 go to your mother's house?

1 A Correct.

2 Q Okay. In August of 2019, how did he encourage you
3 -- sorry. For the subsequent visitation, how did he encourage
4 you to go to your mother's house?

5 A He made me pack my things like when I was going with
6 her, like the next -- so we switch off on Fridays.

7 Q Yes.

8 A So the next following Friday when she came, he told
9 me that I should pack my bags, get dressed, get ready, and to
10 go with her.

11 Q Okay.

12 A And I did.

13 Q And did you in fact pack your bags and stuff and get
14 ready?

15 A I did.

16 Q And were you there -- did you go with your mother --
17 did your mother come and pick up -- sorry. Does your mother
18 pick you up at that time or was your father taking you to your
19 mother?

20 A She was supposed to come and pick me up.

21 Q And did she in fact show up to pick you up?

22 A She did show up.

23 Q Okay. And why didn't you go with her at that time?

24 A Because I told her that I wanted to talk about it a

1 little bit more because we haven't talked about it at all.
2 I'm like the other fight, we talked about it, and things were
3 better. So I wanted to talk about it and hopefully get things
4 better, and she denied everything and she didn't accept
5 responsibility for her actions in this fight, and I accepted
6 responsibility for mine and I apologized. And she said, I'm
7 sorry you feel that way, but we can talk about that more when
8 you come with me.

9 Q Okay. Now -- I'm sorry. How do you feel that you
10 accepted responsibility for your actions on that?

11 A Because I told her that I was sorry and I told her
12 what I did and how I shouldn't have done certain things, that
13 I should have just went to bed and I should have just not done
14 it.

15 Q Okay. And it was your expectation that your mother
16 would do the same thing; is that correct?

17 A Correct.

18 Q And she didn't do that.

19 A Correct.

20 Q And so you felt that justifies you in refusing to go
21 to your mother's house?

22 A (No verbal response.)

23 Q Is that correct?

24 A I guess so, but there's more than that.

1 Q Okay. So after you refused to go to your mother's
2 house, what did your dad do to -- after that to encourage you
3 to go to your mother's house?

4 A Well, he said that he was going to talk with my mom
5 for a little bit and then he would come in and tell me to go
6 with her. But she ended up calling the police, and so the
7 police came, but while they were waiting -- while she was
8 waiting, which was a couple hours, she was like in our
9 driveway and she was just like circling -- like not circling
10 but like driving like in front of the house and like getting
11 out of the car and looking for like cameras and stuff.

12 Q Okay. Now, does your dad threaten to impose any
13 punishment for you essentially disobeying your parents and
14 refusing to go?

15 A No.

16 Q Did he -- since the time you refused to go to your
17 mother's house, have you missed any of your extracurricular
18 activities?

19 A No.

20 Q Have you not been allowed to go on your -- any
21 school trips?

22 A No.

23 Q Have you had any of your electronic devices taken
24 away?

1 A Yes.

2 Q Okay. When did -- when did you have your electronic
3 devices taken away?

4 A I don't remember.

5 Q What devices were taken away?

6 A My phone.

7 Q For how long?

8 A A day.

9 Q Okay. And was it just the one time it was taken
10 away for a day?

11 A I think so. I don't get in trouble there often.

12 Q Okay. So the rest of the time you -- so were you
13 getting in trouble for disobeying your parents and not going
14 to your mother's house?

15 A I didn't get in trouble.

16 Q Okay. Now, if there was a choice between going to
17 your mother's house or having your electronic devices taken
18 away permanently, would you have gone to your mother's house?

19 A No.

20 Q Okay. So if there's a choice -- well, sorry.

21 So you feel that it's in -- the decision-making
22 power is in your hands in whether you go to your mother's
23 house or not?

24 A No.

1 Q Okay. Now, are you aware -- now, in October of
2 2019, were you aware that there was a -- basically you were
3 supposed to go back to your mother's house and you were going
4 to the exchanges -- like supervised exchange at the court? At
5 Donna's House.

6 A Oh, Donna's House.

7 Q Yes.

8 A Yeah.

9 Q Were you -- do you -- were you aware of that time
10 period?

11 A Yeah, because I went.

12 Q Okay. And do you know why the supervised exchange
13 was taking place at Donna's House?

14 A Not really sure why, but it probably had something
15 to do with court.

16 Q Okay. And so -- but you refused to participate in
17 the supervised exchange at Donna's House; is that correct?

18 A Correct.

19 Q Okay.

20 A Well, I went there.

21 Q Excuse me?

22 A And I -- sorry. What do you mean by refusing?

23 Q Did you go -- did you go to Donna's House and go to
24 your mother's house -- for the exchange with your mother?

1 A I went to Donna's House and I -- at -- in the
2 facility I told them I wasn't going with her.

3 Q Okay. And so what made you think that you had the
4 power to say "I'm not going to do this"?

5 A Because I -- I just could.

6 Q Okay. And did you face any consequences or
7 sanctions for not doing what you were supposed to do?

8 A No, but my parent -- like Dad and Amy, they just
9 keep -- not pressuring me, but they just would be like you
10 should go with your mom.

11 Q So they tell you that you should go, but they don't
12 impose any consequences or sanctions; is that correct?

13 A Correct.

14 Q Okay. Now, is that usually what happens at your
15 dad's house if you refuse to do something he tells you to do
16 that there is no consequences or sanctions?

17 A No.

18 Q Okay.

19 A That's not true.

20 Q So normally if you refuse to do something your dad
21 will tell you to do, what would happen?

22 A Well, it depends on the situation.

23 Q Okay. Give me an example of a time that you refused
24 to do something your dad told you to do.

1 A If I refuse to do my laundry then I get my phone
2 taken away.

3 Q Okay. And how long's your phone taken away for not
4 doing your laundry?

5 A Until it's clean and done and all hung up.

6 Q Okay. But in this situation, your dad didn't take
7 your phone away until you complied with his request?

8 A Correct.

9 Q And just out of curiosity, do you -- do you have any
10 idea why that didn't happen?

11 A No.

12 Q Okay. I also believe you said you don't get to see
13 your -- you don't get to see your brother Mitchell that often
14 when you -- when your parents were following the regular
15 custody order; is that correct?

16 A Correct.

17 Q Now, you were at your dad's house at least every
18 other week; is that correct?

19 A Correct.

20 Q So you get to see your brother Mitchell at least
21 every other week; is that correct?

22 A Correct.

23 Q So you see him on a regular basis; is that --

24 A Some days I don't see him because he's really busy

1 and I'm really busy and our schedules don't work out.

2 Q Okay. But you still see him on a semi-regular

3 basis, at least once every other week you're probably going to

4 see Mitchell; is that correct?

5 A Yeah. Correct.

6 Q Okay. So now let's go on to the time that you said

7 -- I believe you said that your mother made a negative

8 statement about your brother Mitchell. Okay?

9 A Yes.

10 Q Now, when did this happen?

11 A Mother's Day a couple years ago. I don't remember

12 the exact year.

13 Q Okay. Do you remember how many years ago? Three?

14 Four? Five? More? Less?

15 A Less than five.

16 Q Okay. Now --

17 A Yes.

18 Q -- what was the context of the conversation that led

19 to your mother making that alleged statement?

20 A I don't remember.

21 Q Okay. So did she just randomly throw this out of

22 left field?

23 A No. There's a fight. I just don't remember what

24 caused it, and I don't remember why it escalated.

1 Q Okay. But in that situation, once again, you said
2 you went and locked yourself into a room; is that correct?

3 A Correct.

4 Q Okay. And at that time, why did you lock yourself
5 in your room?

6 A Because I wanted to be alone.

7 Q Okay. And -- okay. Now, did you also say that
8 you're attending therapy; is that correct?

9 A (No verbal response.)

10 Q That you're currently attending therapy with
11 Dr. Ponzo?

12 A Oh, yes.

13 Q I'm sorry. Mr. Ponzo.

14 A Yes.

15 Q And I believe your statement is that your dad is
16 forcing you to go.

17 A Correct.

18 Q When is the last time that you attended one of these
19 therapy sessions?

20 A I can't remem -- well, then there was the break,
21 like probably when school started back up, which was January
22 6th-ish.

23 Q Was that -- was that therapy -- did that therapy
24 session in January include your mother?

1 A Yeah -- no. No. sorry.

2 Q So when's the last time you attended a therapy
3 session that included your mother?

4 A I think the week before the 16th of December-ish.

5 Q So that would be the -- so that would be the first
6 or second week in December?

7 A Yes.

8 Q Was the last time you attended a therapy session
9 with your mom; is that correct?

10 A Correct.

11 Q Now, I also believe you said it's your opinion that
12 your mom lies in therapy; is that correct?

13 A Correct.

14 Q So in your mind -- if your mom makes a -- is it fair
15 to say if your mom makes a statement that you don't agree with
16 in therapy that your mom is lying?

17 A No.

18 Q Okay. So specific -- well, now, does your mom have
19 a different point of view of the alleged altercations between
20 the two of you?

21 A Sometimes.

22 Q For example, the August 2019 altercation, does your
23 mom view it differently -- sorry. Have you discussed that
24 altercation with your mom?

1 A Yes.

2 Q And do you and your mom see that altercation the
3 same way?

4 A Well, sometimes we do, sometimes we don't.

5 Q Okay. And does it bother you that you and your mom
6 don't see the altercation the same way?

7 A Yes.

8 Q Going back. Did you spend the Christmas holiday
9 with your mother?

10 A The day after.

11 Q The day after Christmas you spent with her?

12 A Around -- it was sometime near Christmas, but not on
13 Christmas.

14 Q Okay. So in the time you spent with her sometime
15 near Christmas, how much time did that amount to? Did you
16 stay overnight with her?

17 A No. But it was a couple hours.

18 Q Okay. And did -- what about Thanksgiving, did you
19 spend Thanksgiving with your mom?

20 A No, I did not.

21 Q Now, you had a -- when's your birthday?

22 A October.

23 Q Okay. So did you spend your birthday with your mom?

24 A No.

1 Q And -- oh. Did you -- did you have a homecoming
2 dance that you attended?

3 A Yes.

4 Q Okay. Did you see your mom at the home -- for
5 homecoming?

6 A Nope.

7 Q Is there a reason why you didn't see your mom for
8 homecoming?

9 A Yes.

10 Q Why?

11 A Because she -- I think this was when we were around
12 starting therapy at the time, and I still felt that we had
13 issues unresolved and so I just didn't see her.

14 Q So you made the decision not see your mom for
15 homecoming, correct?

16 A Well, we just didn't talk about meeting up.

17 Q What about Thanksgiving? Who made -- why didn't you
18 see your mom for Thanksgiving?

19 A We didn't talk about any plans.

20 Q Okay. So when you say "we didn't talk about any
21 plans," who --

22 A Me and my mom.

23 Q Okay. So how often do you -- do you and your mom
24 talk since August? How many times have you and your mom

1 talked -- sorry. Strike that.

2 Do you and your mom talk on a regular basis since
3 August 2019?

4 A No. But I see her a lot.

5 Q You see her a lot?

6 A Kind of, yes.

7 Q Okay. How many times would you think you've seen
8 your mom since August of 2019?

9 A Oh, since August? A coup -- at least 15 or more.

10 Q Okay. And where do you usually see your mom?

11 A Well, it's either in like therapy or like at --
12 sometimes I would go over for dinner or we would have dinner
13 somewhere or breakfast or go hanging out somewhere.

14 Q Okay. Would it be fair to say that most of the
15 times you've seen your mom since August of 2019 occurred in
16 those therapy sessions?

17 A About half, yeah.

18 Q Okay. And the rest of them, the meals, you said the
19 dinners and breakfasts, how long do those normally last?

20 A Around two hours each.

21 Q Okay.

22 A But like the ones when I'm with her, they can last a
23 long time.

24 Q Okay. So, now, moving on. Do you call or text your

1 mom on a weekly basis?

2 A No.

3 Q Okay. How many times in a month, since August of

4 2019, would you estimate you text your mom or call her?

5 A Oh, I don't know. A decent amount.

6 Q What's that? It would be -- do you estimate you

7 call or text her more than five times a month since August

8 2019?

9 A More than five times a month? Around five times a

10 month maybe. I just don't text or call her.

11 Q And have you ever -- since August of 2019, have you

12 ever told your mom to stop texting you or stop bothering you?

13 A Yes.

14 Q Okay. And how many times has that happened?

15 A Once, texting. But I've told her --

16 Q And what was the context of that happening?

17 A Well, in therapy we were talking about how -- she

18 was like why don't you respond to my messages? And I was

19 like, well, in therapy you're like basically calling me liar

20 and then the next day you want to go and have dinner. And I

21 said I think I need a little bit more space, and I'd be

22 willing to hang out and talk with you more if we gave it a

23 little bit more space and more chances for me to talk.

24 Q So is it your opinion that you should control the

1 amount of access that you -- the times you spend with your
2 mother?

3 A No.

4 Q Okay. Then in your opinion, who should control the
5 amount of time or access you spend with your mother?

6 A I don't think anyone should control it. I think it
7 should just happen.

8 Q Okay. And has it organically happened in the last
9 six months that you spend any overnight time with your mom?

10 A No.

11 Q And when do you anticipate that just happening in
12 the future?

13 A Well, it's not going to until some progress is made.

14 Q And so if you're not seeing your mother and not
15 communicating with her, how do you --

16 A But I am seeing her.

17 Q You said you've seen her approximately 15 times
18 since August of 2019, correct?

19 A Correct.

20 Q And about half of those occurred in therapy
21 sessions, correct?

22 A Maybe, yes.

23 Q Okay. And how long do those therapy sessions last?

24 A Oh, it could take two hours sometimes. It's --

1 Q So generously the -- would it be fair to say that
2 the total amount of time that you've spent with your mother
3 since August of 2019 amounts to probably less than 48 hours?

4 A I don't think it would be less than 48.

5 Q Okay. All right. How much time -- about how much
6 time do you --

7 THE COURT: It doesn't -- look. Don't do the --

8 MR. GRIGSBY: Yeah, I --

9 THE COURT: We're pushing the envelope on time.
10 Look. You probably got that number by taking 15 times two or
11 15 times three, right?

12 MR. GRIGSBY: (Indiscernible) --

13 THE COURT: It doesn't matter. The idea is you've
14 already established the scope of the time that she's had. And
15 I know you may have some other questions, so just move on to
16 the substantive issues.

17 MR. GRIGSBY: That would be fine. I'll do that.

18 THE COURT: You get -- we get to the point where
19 both of you have asked about 45 minutes' worth of question and
20 it's pushing my limit.

21 MR. GRIGSBY: Okay.

22 BY MR. GRIGSBY:

23 Q Do you know whether your parents monitor your
24 electronic devices?

1 A I know that my dad doesn't.

2 Q Okay. Do you know if your mom does?

3 A She doesn't have control because the phone's under
4 my dad's thing.

5 Q Okay. Now, do you believe that your parents should
6 be allowed to monitor your social media or electronic -- sorry
7 -- your electronic devices?

8 A Sure.

9 Q Now, was there ever a time that you and your mom got
10 into a fight or an argument over her finding inappropriate
11 things in your iPad?

12 A Yes.

13 Q Okay. And what was the context of that altercation
14 or fight?

15 A Oh, gosh, I can't even remember.

16 Q Strike that.

17 A It was a while ago.

18 Q How long's a while ago?

19 A Three years.

20 Q Okay. Now, is it -- so you were about 12 years old
21 at the time?

22 A I think so.

23 Q And to the best of your recollection, what did your
24 mom find on your iPad that she found objectionable.

1 A Oy. She found sexual things.

2 Q Okay.

3 A Because I wanted to learn more about it and she
4 wouldn't tell me.

5 Q Okay. And what was your response to your mother
6 when she found these objectionable sexual things in your iPad?

7 A Well, I was embarrassed and -- I was just
8 embarrassed.

9 Q Okay. Now, do you recall what you actually said to
10 your mother at the time?

11 A No clue.

12 Q Okay. Now, to the best of your recollection, have
13 you ever transmitted electronic images or videos that your mom
14 found inappropriate?

15 A No.

16 Q Okay. Now, do you recall your mom -- what do you --
17 how do you refer to your mother?

18 A Well, I refer to her -- more recently I've been
19 referring to her as Christina.

20 Q Okay. And you feel that it's okay for you to call
21 your mother by her first name; is that correct?

22 A No.

23 Q Then why do you call your mother by her first name?

24 A Because I don't feel like she's a mother to me

1 anymore.

2 Q Okay. And what caused you to make that decision?

3 A I just started doing it --

4 Q When did you start doing it?

5 A -- because I don't feel like she's a mom to me.

6 Q Okay. Approximately when did you start calling your
7 mother by her first name?

8 A I've always kind of called it here -- her that here
9 or there, but I've been more recently sticking to it six
10 months ago.

11 Q Do you know if your mother finds it objectionable
12 for you to call her by her first name?

13 A Yes.

14 Q Okay. Yet you continue to do it anyways; is that
15 correct?

16 A Correct.

17 Q Now, what do you call your father?

18 A Dad.

19 Q Okay. Have you ever called your father by his first
20 name?

21 A As a joke, like not serious.

22 Q Okay. And how about -- how well did that joke over?

23 A It was funny.

24 Q Yes.

1 A Because he can take a joke.

2 Q Okay. Has your father ever heard you call your
3 mother by her first name?

4 A Yes.

5 Q And what was his response to you calling your mother
6 by her first name?

7 A He asked me why, and I said because I didn't feel
8 like she was a mother to me. And he said you shouldn't call
9 her that, at least when you're around her, if you're going to
10 do it.

11 Q Okay. Did he impose any punishment or sanction upon
12 you for calling your mother by her first name?

13 A No.

14 Q And I believe you said you understand that that's
15 not appropriate -- an appropriate thing for you to do; is that
16 correct?

17 A Correct.

18 Q Just a couple more questions. For that homecoming
19 event, did you -- sorry. Were you allowed to -- did you get a
20 new dress for homecoming?

21 A Yes.

22 Q And hair and nails done?

23 A Yeah.

24 Q So -- and you said you got all those things even

1 though you weren't following your father's instructions to go
2 to your parents time for -- to visitations with your mother;
3 is that correct?

4 A Correct.

5 Q Okay. To the best of your knowledge, has there been
6 any physical altercations between Ethan and your mother?

7 A Physical, no.

8 Q Okay. Other than calling your mother by her first
9 name, have you ever called or referred to her by any other
10 negative names?

11 A No. Not that I can remember.

12 Q Was there an incident with your mother -- I'm sorry.
13 Now, one time did you attend an Anna May (phonetic) Club?

14 A (Laughter.) Sorry. Yes.

15 Q Okay. Now, was there an incident with your mother
16 where you had told her you'd be attending the Anna May Club
17 but you actually didn't?

18 A Yes.

19 Q And where were you during this time period that you
20 were supposed to be at the Anna May Club?

21 A I was at the park.

22 Q And who were you at the park with?

23 A Joey.

24 Q Okay. And your mother discovered that you weren't

1 where you were supposed to be; is that correct?

2 A Correct.

3 Q And when did this occur? Approximately when did
4 this occur?

5 A May? April? March? Around there.

6 Q Would that be 2019?

7 A Yes.

8 Q Okay. And was that -- would that be fair to say it
9 was pretty close to around the time that you and your mother
10 got into that fight in May over the thermostat and --

11 A Kind of, but not really.

12 Q Was it like within a week of that time?

13 A No.

14 Q More than that?

15 A Yes.

16 Q Okay.

17 A Maybe a month.

18 Q Okay. So given the fact that you were sneaking off
19 and going to see Joey, do you think your mom had a right to be
20 concerned about this relationship?

21 A Yes.

22 Q Okay. At that time, do you know if she had -- at
23 the time of the Anna May Club incident, did she have any
24 contact information for Joey's parents?

1 A No.

2 Q Okay. So she had no way of contacting them to tell
3 them about that incident; is that correct?

4 A Correct.

5 Q Is that one of the reasons that you did not want her
6 to have your boyfriend's parent's contact information?

7 A No.

8 MR. GRIGSBY: Okay. I think I'm going to pass the
9 witness.

10 THE COURT: Okay. Ordinarily I would ask you if you
11 have redirect, but we're not going to have any redirect unless
12 you have something you have to ask.

13 MR. SMITH: I just wanted to follow up on areas that
14 I didn't ask her about but Mr. Grigsby did.

15 THE COURT: Give me your best example.

16 MR. SMITH: My best example is in regard to what had
17 occurred with Joey and this incident, was that something that
18 you felt was part of your decision not to see your mother?

19 THE COURT: All right. So since we never talked
20 about this issue where she went and saw her boyfriend at the
21 park instead of going to the club --

22 MR. SMITH: Correct.

23 THE COURT: -- in your direct, you just want to ask
24 her a point of clarification about it?

1 MR. SMITH: The only thing --

2 THE COURT: She said it occurred in March, April or
3 May of 2019.

4 MR. SMITH: Well, the clear implication was that it
5 was somehow related to her action and (indiscernible) --

6 THE COURT: Well, she said no.

7 MR. SMITH: Okay.

8 THE COURT: She said no. Doesn't mean you can't
9 have follow-up.

10 MR. SMITH: Okay.

11 THE COURT: I just am concerned about -- in the
12 interest of time, I don't know how material that is. Look,
13 this theme of, you know, kids navigating conflict with their
14 parents and this stuff is -- we've established it pretty well
15 for your argument.

16 MR. SMITH: All right.

17 THE COURT: The -- any other areas that you wanted
18 to get into?

19 MR. SMITH: Well, I just wanted her to clarify a
20 couple things that, for example, she said that they have a
21 different point of view on what occurred between she and her
22 mother sometimes. And I didn't under -- Mr. Grigsby didn't
23 follow up with that. I want to know what she meant by
24 sometimes.

1 THE COURT: You're talking about the way that they
2 talk about incidents between them at counseling?

3 MR. SMITH: Not necessarily counseling, just
4 generally. In other words, I didn't know what --

5 THE COURT: Well, it's a different --

6 MR. SMITH: -- she didn't really describe when they
7 were, but she described that their --

8 THE COURT: Yeah. I don't -- I don't know -- I
9 mean, I think the point that Mr. Grigsby was making was in
10 response to -- from her -- from Mia's point of view, she's
11 thought that some of the things that Mom would say about their
12 interactions was a lie.

13 MR. SMITH: Correct.

14 THE COURT: And he made the point that it might have
15 just been a different point of view or she sees things
16 differently.

17 MR. SMITH: That's why I wanted to --

18 THE COURT: That's a matter that's sort of
19 established already by her testimony.

20 MR. SMITH: Okay. I just wanted to follow up with
21 the notion that what "sometimes" meant. Does that mean her
22 mom sometimes said certain things and not others or --

23 THE COURT: Well, didn't she already testify that
24 sometimes she'd have a conversation with her mom and she'd say

1 one thing, and then in therapy she might say a different
2 thing?

3 MR. SMITH: Okay.

4 THE COURT: I mean, I -- we could --

5 MR. SMITH: If you're satisfied with that, Your
6 Honor --

7 THE COURT: We could probably -- look.

8 You're an important witness, and you're doing great.
9 Okay? You're -- you've testified a lot longer than what I
10 expected to. But you're doing -- you're engaging and
11 answering the questions, and obviously you're doing fine. But
12 the Court, you can see, I'm kind of pushing back. I kind of
13 want you to be finished with this process. But I do have a
14 couple other things that I want to mention, and that is that,
15 you know, you're here --

16 THE SUBJECT MINOR: Uh-huh, yes.

17 THE COURT: -- and you were interviewed --

18 THE SUBJECT MINOR: Yes.

19 THE COURT: -- because of basically the fact that
20 you're becoming closer to the age of majority but you're still
21 a child, subject to your parents' guidance and agreements and
22 other things, right?

23 THE SUBJECT MINOR: Right.

24 THE COURT: Because things are not working out that

1 the way they've been organized before, we're trying to fix or
2 resolve these things. And the Court does care to meet you, as
3 my orders affect you, and I care to kind of understand where
4 you're coming from because you're the -- you're one of the
5 pieces of the puzzle that I need to consider.

6 THE SUBJECT MINOR: Yeah.

7 THE COURT: What I also want to share with you,
8 since I have this opportunity, is that you're not the only
9 consideration. You're also not responsible for the decision
10 that the Court makes between your parents. In other words,
11 you've been asked a lot of things about how you feel or what
12 you'd like or whatever, but I'm not -- I don't want to put
13 that on you to where you are picking between your parents or
14 deciding that. But as you get closer to being an adult, your
15 preferences or input is something I'm supposed to consider,
16 and I will consider. Okay?

17 THE SUBJECT MINOR: Okay.

18 THE COURT: But there are a lot of other legal
19 factors and other things. Your parents are lawyers so you
20 know about --

21 THE SUBJECT MINOR: Yeah.

22 THE COURT: -- discussions of certain laws and
23 stuff. But I wanted to make sure that you had an opportunity
24 to ask me any questions. Do you have any questions before I

1 let you go?

2 THE SUBJECT MINOR: No.

3 THE COURT: All right. It is possible that -- well,
4 I may hear from Ethan.

5 THE SUBJECT MINOR: Okay.

6 THE COURT: You're not required to discuss your
7 testimony with your parents. They can look at it just like if
8 they were here because we're recording it.

9 THE SUBJECT MINOR: Yeah.

10 THE COURT: And if you don't have any questions, I
11 just want to thank you.

12 THE SUBJECT MINOR: Thank you.

13 THE COURT: You know, I don't, you know, relish
14 bringing kids in to testify, but, you know, you've done what
15 we've asked you to do, which is to try to answer the questions
16 thoughtfully and as directly as you can. Okay? So who are
17 you here with?

18 THE SUBJECT MINOR: My dad.

19 THE COURT: All right. We're almost at the end of
20 the morning. I'm going to let you go. You can check in with
21 them out there. Your parents are going to come back in, and
22 we're going to at least take a break and then see how -- you
23 know, I'd like you to be able to go home soon. But, all
24 right. Thank you very much.

1 THE SUBJECT MINOR: Thank you.
2 (Witness excused)
3 THE COURT: Do you want to step out and tell your
4 clients they can come back in for a minute?
5 MR. SMITH: Okay.
6 THE SUBJECT MINOR: Thank you.
7 THE COURT: You have a good day.
8 THE SUBJECT MINOR: You too.
9 THE COURT: Is, Mr. Grigsby or Mr. Smith, is Nic
10 Ponzo out there?
11 MR. SMITH: He is.
12 THE COURT: Why don't you go get him and bring him
13 in too.
14 MR. SMITH: Okay.
15 (Witness summoned)
16 THE COURT: He's not going to testify now, but I
17 want to just address him while we're -- while we've got him on
18 the record. He's been on ice all morning, right?
19 MR. GRIGSBY: Yes.
20 THE COURT: Did you subpoena him or did they?
21 MR. GRIGSBY: They did.
22 THE COURT: All right.
23 (Pause)
24 MS. FUJII: She's in the restroom. They're getting

1 her.

2 THE COURT: That's fine. Okay.

3 (Pause)

4 THE COURT: Mr. Ponzo.

5 MR. PONZO: Hi.

6 THE COURT: Just sit tight right there in the front
7 row. I'm trying to get you out of here. But I want the
8 parties to be here when I talk to you.

9 (Pause)

10 THE DEPUTY: Parties are all present, Your Honor.

11 THE COURT: We are going back on the record. This
12 is the Calderon and Stipp case D-08-389203. We've had
13 testimony from Mia during the bulk of the morning. We have
14 got Counsel and the parties present. We just excused Mia and
15 we have Mr. Ponzo present. He's been sitting here all
16 morning, and he was subpoenaed to testify.

17 Mr. Ponzo, you can hear me, right?

18 MR. PONZO: Yes.

19 THE COURT: All right. The issue has come up about
20 whether or not you're going to testify in this evidentiary
21 proceeding. And, frankly, I wanted to hear Mia's testimony
22 before I knew sort of like how that was going to guide me.
23 It's not the end of the process. I don't know if you've
24 interacted with Counsel. Certainly you've interacted with the

1 parties and the children in this case.

2 The Court's intention is to basically -- I
3 understand that you are a resource to try to help things. I'm
4 not expecting an evaluation or any other kind of interaction
5 that you don't think is in the -- in those interests. Okay?
6 If you're asked any questions here, it would be in the nature
7 of what you're doing and how this is working.

8 Before I made a decision as to whether or not you
9 should -- you might testify today, I wanted to hear Mia's
10 testimony because I wanted to at least hear it to see whether
11 or not there was something in her testimony that would raise a
12 question in my mind that I wanted to ask you today. But it
13 didn't.

14 Now, that doesn't mean you may never testify in this
15 case, but you're out of here. I'm going to release you from
16 the subpoena. And when we resume this case you'll get an idea
17 of when it is and they'll know whether you're going to be able
18 to testify.

19 I don't want anything in the litigation process that
20 I do or that Counsel does to derail you from your function,
21 which is to be a resource or remedial resource for this
22 family. And sometimes you get dragged into it and you become
23 an advocate or make -- asked to make opinions. That's really
24 my job. And I -- and we've had a long discussion with Counsel

1 over the course of hearings as to why we want you to continue
2 to do this with your history in doing this, and we're treading
3 lightly as it relates to you. We don't want anything that I'm
4 doing in the litigation process to be considered any kind of
5 mandatory direction to you. Okay?

6 I don't have a problem with Counsel contacting you
7 for the benefit of their client on context. But, you know,
8 lawyers, we're all in the habit of trying to advocate
9 positions every time we have a reason to contact you, you
10 know, doing that.

11 But before, when we talked in November, I had the
12 children interviewed. It's a tool we use but not really the
13 substitute for testimony. There are things that we're doing
14 that may be available to you if you want, but I'm not pushing
15 that on you. Okay?

16 So I guess mechanically what we're saying is we're
17 going to release you from the subpoena today.

18 MR. PONZO: Okay.

19 THE COURT: Unlikely we're going to finish today
20 with the evidentiary proceedings. That's -- we're just part
21 of that dialogue. And if and when we resume it, you'll have
22 to make a decision as to whether you think Mr. Ponzo is
23 necessary. Okay?

24 MR. SMITH: Let me say this, Your Honor.

1 THE COURT: Yeah.

2 MR. SMITH: I want to make the record clear, I've
3 never contacted Mr. Ponzo.

4 THE COURT: I understand that.

5 MR. SMITH: You kept saying Counsel.

6 THE COURT: But we -- what I'm alluding to is the
7 dialogue that we've had about whether you thought it was good
8 or bad in the interest of the children to provide anything
9 that we've had in this case. You raised a concern that maybe
10 there were communications within the gray areas of our
11 dialogue that we had. I didn't make a finding that you did.
12 All I want Mr. Ponzo to hear is I'm not expecting him to do
13 heavy lifting in this case. Report what he's doing, if
14 anything, and I wanted to let him know he could go since he's
15 been sitting and waiting outside.

16 MR. SMITH: In regard to your comment, again, your
17 comment about Counsel contacting Mr. Ponzo --

18 THE COURT: You objected and I did not hear a full
19 dialogue --

20 MR. SMITH: Okay.

21 THE COURT: -- about communications between one or
22 both of his counsel with Ponzo.

23 MR. SMITH: But the order itself indicates that no
24 third parties are to have that information and that's --

1 THE COURT: I didn't issue that order.

2 MR. SMITH: Okay.

3 THE COURT: Did I sign an order and file it that
4 says that?

5 MR. SMITH: There is an order. It already exists.

6 THE COURT: That's filed?

7 MR. SMITH: In 2014 in --

8 THE COURT: No. All right. That's a different
9 thing. Then if and when Mr. Ponzo would testify, we would
10 have to start with this notion that the parties did a
11 stipulation and order that enlisted him in the first place.

12 MR. SMITH: I understand.

13 THE COURT: That stipulation and order not only
14 talked about context, but it talked about privileges and
15 things like that. So if we open that can of worms related to
16 that, we're going to have to get waivers or deal with that
17 issue, and we're --

18 MR. SMITH: And that's my point.

19 THE COURT: I'm not even prepared to have that
20 discussion in the interest of time.

21 MR. SMITH: All right.

22 THE COURT: Mr. Smith is well to say that it's not
23 as simple as just saying he's relevant and he can offer the
24 information.

1 MR. SMITH: Yes.

2 THE COURT: We have some work to do if we determine
3 that he testifies.

4 MR. SMITH: That's right. And the other thing is
5 that in terms of contact with Counsel, I do think that it's
6 prohibited under the parties' original order. I think it's
7 prohibited under the law, and I think that that should remain
8 private. One of the -- and one of the foundations --

9 THE COURT: Okay. But look --

10 MR. SMITH: -- of good therapy is that it's
11 confidential.

12 THE COURT: -- for the purpose of time -- we don't
13 have time -- we don't have time to get into a long dialogue.
14 I'm squashing it --

15 MR. SMITH: Okay.

16 THE COURT: -- because I haven't near enough
17 information or prepared to make a ruling one way or another on
18 that.

19 MR. SMITH: Okay. All right.

20 THE COURT: What I wanted -- I didn't want the
21 witness to sit out there for another half an hour --

22 MR. SMITH: I agree. I agree.

23 THE COURT: -- or an hour wondering whether he's
24 going to be called. Okay?

1 MR. SMITH: Yeah.

2 THE COURT: Mr. Ponzo, do you have any questions?

3 MR. PONZO: I don't think so, Your Honor.

4 THE COURT: All right. See you later.

5 MR. PONZO: Okay. Thank you.

6 THE COURT: Okay. I thought -- I mean, you're going
7 to get to see the examination. This might be the longest
8 examination of a child that I've had. And Counsel handled it
9 well. It was pretty even as far as time. You know, they both
10 did about 45, 50 minutes each. I think you're going to find
11 that, you know, because Mia was well spoken and thoughtful and
12 answered the questions, responded to them, you know, you have
13 a lot to comment on it and consider concerning the testimony.
14 But if she had been a poor witness or not understanding the
15 questions or not articulated, it probably would have taken 20
16 minutes instead of an hour and a half. Okay?

17 No, Ethan was scheduled to testify too. Ethan is
18 prominent in the report. Ethan, there's also --

19 MR. SMITH: Yes.

20 THE COURT: -- issues with that. And I'm concerned
21 about the fact that the time that we started and the time that
22 we spent with Mia is preventing us from accomplishing what I
23 wanted to accomplish this morning.

24 Ethan's available, right?

1 MR. SMITH: He is here.

2 THE COURT: I guess we won't know until he testifies
3 whether it could possibly take an hour and a half. Do you
4 think it could take an hour and a half?

5 MR. SMITH: I don't anticipate that, Judge.

6 THE COURT: All right. Just -- I may have asked
7 this before, but I can't recall. Obviously Mia testified that
8 since August she may have seen her mom sporadically, but she
9 has not followed the weekly timeshare.

10 MR. SMITH: That's right.

11 THE COURT: Ethan has not followed the weekly
12 timeshare, has he?

13 MR. SMITH: That's my understanding.

14 THE COURT: Is that right?

15 MR. GRIGSBY: That's correct.

16 THE COURT: So we have -- I want to hear his
17 testimony. Can we take a recess for an hour, hour and ten
18 minutes and come back?

19 MR. GRIGSBY: Whatever the Court's preference is.

20 THE COURT: All right. Well, I hate to do it that
21 way --

22 MR. GRIGSBY: I understand.

23 THE COURT: -- because now he's on ice. But I want
24 Ethan to testify today if he can.

1 MR. GRIGSBY: Yes.

2 THE COURT: And that will be it for the day.

3 MR. SMITH: Ethan is here, Your Honor. I'm going to
4 have him remain with either Ms. Stipp or -- but I'm going to
5 meet with Mr. Stipp. I just wanted it to be clear that I'm
6 not having any kind --

7 THE COURT: All right. Well, the parties haven't
8 seen Mia's testimony, but obviously what I don't want is I
9 don't want anyone to discuss Mia's testimony --

10 MR. GRIGSBY: All right.

11 MR. SMITH: Well, that's what I'm saying. I'm going
12 to -- I don't want that allegation to be happening, so I'm
13 going to take Mr. Stipp away from that -- then so that there
14 are --

15 THE COURT: Well, he didn't see the testimony so he
16 --

17 MR. GRIGSBY: Yes --

18 MR. SMITH: I'm obviously going to talk to him about
19 that testimony.

20 THE COURT: Oh, oh, yeah, yeah, yeah. Don't talk
21 about the testimony with --

22 MR. GRIGSBY: Yeah. My more worry is of Mia and
23 Ethan talking about the testimony.

24 THE COURT: Well, that's the point I was making with

1 her. She's going home, right, or is she --

2 MR. GRIGSBY: No. No. She's going to stay until --

3 THE COURT: Okay. Well, one of the things that
4 you're going to ask Ethan --

5 MR. GRIGSBY: Yes.

6 THE COURT: -- and maybe when we leave here you can
7 just say, you know, tell your daughter don't talk with Ethan
8 about your testimony.

9 MR. SMITH: Yeah. We should have -- we probably
10 should have told her that already.

11 THE COURT: Well, I -- you know, the thing is I'm
12 not -- that's your -- a parent responsibility, counsel's
13 responsibility.

14 MR. SMITH: Okay. Okay.

15 THE COURT: If she was an adult, I would have
16 definitely done it.

17 MR. SMITH: Okay.

18 THE COURT: And I tried to make that point in a
19 subtle way.

20 MR. GRIGSBY: Yes.

21 THE COURT: And I don't know if I did a good job,
22 but I don't want you to be worried about it, and I don't want
23 Ethan to say, yes, I talked to Mia about my testimony over
24 lunch. So why don't you just -- I'm going to let you go.

1 We'll plan on a quarter after. You can leave the stuff you
2 don't want to take. We'll make sure no one's in here and
3 we'll just see you then.

4 MR. SMITH: Okay. So Mr. Stipp is going to instruct
5 both of them not to talk about -- is that okay or would you
6 rather have someone else do that?

7 THE COURT: Well, you just say, look, Ethan's going
8 to testify after lunch. Don't talk about your testimony.

9 MR. SMITH: Okay.

10 THE COURT: Yeah. That's a good idea.

11 MR. SMITH: All right. All right.

12 THE COURT: All right. Thanks.

13 MR. SMITH: Thank you, Your Honor.

14 MR. GRIGSBY: Thank you, Your Honor.

15 (Off record)

16 THE COURT: We are resuming post-judgment
17 proceedings. The case number is D-2008-389203. We've got
18 parties and counsel present. We took a break around noon, and
19 we're going to complete the session today with the testimony
20 of Ethan, unless something's changed.

21 You guys ready to go?

22 MR. SMITH: Yes.

23 MR. GRIGSBY: Yes, Your Honor.

24 THE COURT: Now, I thought the exam went fine.

1 That's why I didn't interrupt you until we'd gone for, you
2 know, an hour and 45 minutes. But we never know whether these
3 are going to take, you know, 15 minutes or an hour.

4 MR. SMITH: We don't.

5 THE COURT: The Court is going to hear your
6 testimony and Dad's testimony if we -- if it proceeds -- after
7 you've had a chance to look at both of your children's
8 testimony. It wouldn't be fair for you to just jump into your
9 testimony. I think you probably caught it at the end when
10 that question was raised. I want you to look at the testimony
11 before you testimony. Because if you were a party in a case
12 and this was a witness that testify, you'd see it, right? So
13 that's what we're going to do. So I would just excuse you
14 again and my marshal will get Ethan and we'll get him on and
15 off as quickly as we can.

16 MS. FUJII: And, Judge, briefly. I have a court
17 appearance in (indiscernible) court at 2:00 and we'll resume.
18 I'm just going to let the Court know as a courtesy. I'm not
19 asking for a break --

20 THE COURT: Well, maybe we'll be finished by then.
21 We'll see. Yeah. Yeah.

22 MS. FUJII: Yeah. I'm not asking for a break. I
23 would just be excusing myself --

24 THE COURT: Las Vegas?

1 MS. FUJII: -- without disruption.

2 THE COURT: Las Vegas?

3 MS. FUJII: Yeah. It's Burt Brown. I'm just going
4 to go upstairs.

5 THE COURT: Yeah. Well, you know, if you have to
6 leave you might be there and back before we're done.

7 MS. FUJII: Sure.

8 THE COURT: Okay.

9 (Witness summoned)

10 THE COURT: Come on in. Be careful when you step up
11 in there.

12 THE DEPUTY: Pull the gate open hard at this end.
13 Watch your step, please.

14 THE SUBJECT MINOR: Thank you.

15 THE DEPUTY: No, you're welcome. Go ahead and have
16 a seat right there.

17 THE COURT: All right. Welcome. I know that you've
18 been sitting outside for a few hours. That's got to be lousy.
19 So you finally get to, you know, come in, kind of see the
20 room, and we're going to spend a little bit of time together.

21 First I want to introduce myself. My name is Art
22 Ritchie. I'm a judge here in Nevada. I'm responsible for the
23 case involving your parents.

24 We are having you testify just like for the same

1 reason that we have you interviewed, just because this order
2 affects you.

3 THE SUBJECT MINOR: Yeah.

4 THE COURT: And in some way I'd like to meet you,
5 like to get some information from you, and we've brought you
6 in to answer some of my questions or the questions from the
7 folks helping your parents.

8 THE SUBJECT MINOR: Okay.

9 THE COURT: Now, to try to make this a little bit
10 easier, your parents are excused, and so you don't have to sit
11 here and answer those questions in front of them. But they
12 are going to be able to see your testimony, okay?

13 THE SUBJECT MINOR: That's fine.

14 THE COURT: You ever been in court before? Never
15 took a field trip to a court or anything?

16 THE SUBJECT MINOR: I did take a field trip before.

17 THE COURT: Okay. And so you've seen, maybe not
18 this courtroom, but you've seen a courtroom before.

19 THE SUBJECT MINOR: Yes.

20 THE COURT: I want you to check out a couple things.
21 You see the cameras that are up there in the ceiling?

22 THE SUBJECT MINOR: Yeah.

23 THE COURT: And there's some up here?

24 THE SUBJECT MINOR: Uh-huh (affirmative).

1 THE COURT: And we've got microphones in front of
2 everybody here. That's how we make a record. It's not the
3 way every court makes a record, but that's how we make a
4 record. So the questions that are asked, your answers,
5 they're recorded. Okay?

6 The other thing is, these are my staff, and these
7 are folks that will introduce themselves to you if you don't
8 know them already. They're lawyers who are helping your
9 folks. Okay?

10 Now, I'm going to ask you a few general questions,
11 and then they may ask questions. We just ask that you listen
12 to the questions and you answer them as truthfully as you can.

13 THE SUBJECT MINOR: Yes, sir.

14 THE COURT: Okay. Now, when somebody testifies in
15 court, you may have seen this on TV, they promise to tell the
16 truth. You ever seen that before?

17 THE SUBJECT MINOR: Yeah.

18 THE COURT: You know, they raise their right hand,
19 this and that. You're almost 13. You're going to be 13 in
20 March, right?

21 THE SUBJECT MINOR: Yeah.

22 THE COURT: And I expect that you know the
23 difference between telling the truth and not telling the
24 truth.

1 THE SUBJECT MINOR: Yes.

2 THE COURT: If I were to tell you that today was
3 Sunday, would I be telling the -- would I be -- would that be
4 true or not true?

5 THE SUBJECT MINOR: Not true.

6 THE COURT: Okay. So do you have any questions for
7 me before we begin?

8 THE SUBJECT MINOR: No.

9 THE COURT: Okay. Why don't we start just with some
10 basics, like I know you've told me your name, but just state
11 your name for the record.

12 THE SUBJECT MINOR: Ethan Stipp.

13 THE COURT: Where do you go to school, Ethan?

14 THE SUBJECT MINOR: Faith Lutheran.

15 THE COURT: And how old are you?

16 THE SUBJECT MINOR: Twelve.

17 THE COURT: Did you go -- how long have you been
18 going to Faith Lutheran?

19 THE SUBJECT MINOR: This year. I'm in sixth grade.

20 THE COURT: All right. Sixth grade. Where did you
21 go before sixth grade?

22 THE DEPUTY: (Inaudible) that microphone.

23 THE COURT: Yeah. We're communicating well here,
24 but for the other folks and for the microphone in front we've

1 got to project out just a little bit.

2 THE CLERK: Judge, can you (inaudible)?

3 THE COURT: Yeah, we can do that.

4 So where did you go to school before?

5 THE SUBJECT MINOR: The Academy, like Faith Lutheran
6 Academy.

7 THE COURT: All right, great. So what I want you to
8 do now to start, since your testimony is sworn testimony, is
9 to stand up, raise your right hand, and follow the clerk.

10 THE CLERK: Raise your right hand.

11 THE DEPUTY: Face the clerk and you'll be sworn in.

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

15 THE SUBJECT MINOR: Yes.

16 THE CLERK: Thank you. Be seated.

17 THE DEPUTY: Go ahead and have a seat. Scoot all
18 the way up. Watch your hands there. And there's the
19 microphone right there. All right?

20 THE SUBJECT MINOR: Okay.

21 THE DEPUTY: All right. Thank you.

22 ETHAN STIPP

23 called as a witness on behalf of Co-Petitioner, having been
24 first duly sworn, did testify upon his oath as follows on:

VOIR DIRE EXAMINATION

1
2 BY THE COURT:

3 Q All right. Now, I've learned a little bit about
4 your family and you guys during the course of me handling this
5 case. I've only been handling this case for a few months.
6 But I understand that your parents live separate, right?

7 A Yes.

8 Q And there have been times over the course of your
9 life where you've spent certain days with your mom, certain
10 days with your dad.

11 A Yeah.

12 Q How long have you been living with one parent for a
13 week and another parent for a week?

14 A Like three years.

15 Q Three years?

16 A (Nods affirmatively).

17 Q And is that your -- what are the -- what's the day
18 that you guys move from one house to the next?

19 A Fridays.

20 Q Okay. Is that the schedule that was followed up
21 until a few months ago?

22 A Yes.

23 Q Okay. Tell me -- again, I know, but I want you to
24 just say who are your siblings.

1 A My sister Mia and my little brother Mitchell.
2 Q And Mia's here, right?
3 A Yeah.
4 Q And how old is Mitchell?
5 A Eight.
6 Q And Mitchell is your dad and Amy's child?
7 A Yes.
8 Q Okay. The Court issued an order to get some
9 feedback from you. Do you remember going to the mediation
10 center to get interviewed?
11 A Yes.
12 Q Did they tell you that you -- they asked you a lot
13 of these same or similar questions?
14 A Uh-huh (affirmative).
15 Q Do you think that you are ready to answer questions
16 from Counsel?
17 A Yes.
18 Q All right. If you have any questions during the
19 course of it or you don't understand the questions, let them
20 know, say you don't understand it.
21 A Okay.
22 Q Just do the best that you can. Okay?
23 A Yes, sir.
24 THE COURT: I'm going to have Mr. Smith introduce

1 himself first and then Mr. Grigsby.

2 Go ahead.

3 DIRECT EXAMINATION

4 BY MR. SMITH:

5 Q I'm Radford Smith. I'm working with your father in
6 this case, and I'm going to ask you some questions now. I
7 think you and I have met --

8 A Yes.

9 Q -- although are you like your sister and don't
10 remember it?

11 A No, I remember it.

12 Q You were over at my house, weren't you?

13 A Yeah.

14 Q Okay. All right. Other than that day, and I think
15 it was about five or six years ago --

16 A Yeah.

17 Q -- it would be actually almost seven years ago, have
18 you and I ever spoken?

19 A Not since then.

20 Q Okay. So you said you go to Faith Lutheran, right?

21 A Yes.

22 Q And what do you -- what kind of grades do you get
23 there?

24 A A's and B's.

1 Q All right. Now, what do you -- what classes do you
2 like or not like?

3 A I like math and science. I don't really like
4 reading.

5 Q Okay. And what are your extracurricular activities?

6 A I play baseball.

7 Q Do you like it?

8 A Yes.

9 Q Play year round?

10 A Yes.

11 Q Club teams?

12 A Yeah.

13 Q You any good?

14 A Yes.

15 Q What do you play?

16 A Third place and center field.

17 Q Where do you bat in the order?

18 A I usually bat at least seven, sometimes four.

19 Q All right. And you play for the school and for your
20 club baseball, right?

21 A Not for the school.

22 Q Not for the school. Do they have a team?

23 A Yes.

24 Q Okay. Have you ever had any problems with

1 attendance or discipline at school?

2 A No.

3 Q Ever been in any fights?

4 A No.

5 Q There was some -- I thought there was an occasion at
6 one point in time you go to RPC or you got suspended for a
7 minute.

8 A Yes. Yeah.

9 Q What was that about?

10 A It was me and my friend, Augustus, we were pushing
11 each other, and like Faith has a policy where even like
12 roughhousing with your friends is not acceptable.

13 Q Okay. So it wasn't a fight?

14 A No.

15 Q All right. Where -- you were at school grounds?

16 A Yes. P.E.

17 Q Okay. And what happened?

18 A We were in P.E.

19 Q Okay. And then --

20 A Yeah.

21 Q And then someone in P.E. then took you to the office
22 or something --

23 A Yeah, the next day. It was Friday. So on Monday.

24 Q Okay. How do you do your homework? Who helps you?

1 A I don't need help. If I need help, I'll talk to my
2 dad, but I usually do it myself and finish it.
3 Q Okay. Does anybody check your stuff?
4 A No.
5 Q And what's your plans in the future? What would you
6 like to do?
7 A I'd like to try to make the MLB, but if not I'd
8 probably like to do what my dad does and be an attorney.
9 Q Be a lawyer?
10 A Yeah.
11 Q Okay. You were -- do you have friends?
12 A Yes.
13 Q You said one was Augustus.
14 A Yeah.
15 Q What are -- who are some of your good friends?
16 A Nicholas, Nate, Colton, Matao, Dominick, people like
17 that.
18 Q Okay. And those are kids from school or do you have
19 kids --
20 A Yeah, from school.
21 Q -- baseball or -- those are from school?
22 A Yeah.
23 Q All right. And what do you do with the kids -- with
24 the -- you know, your friends mostly? What other kind of

1 activities other than baseball?

2 A We hang out outside of school sometimes and then we
3 just like talk during school.

4 Q Okay. Watch TV, that kind of thing?

5 A Yeah.

6 Q All right. What's your first memory of when your
7 dad and mom -- do you have any recollection of your dad and
8 mom being together?

9 A No.

10 Q Okay. So at some point in time you were going back
11 and forth to your dad and mom's, and then that changed at a
12 time a few years ago. Do you remember what it was like before
13 that change when you were going --

14 A Well, it wasn't good because I didn't really want to
15 do the 50/50.

16 Q Why didn't you want to do 50/50?

17 A Because I -- I don't really like spending as much
18 time with my mom as I do with my dad, and I wanted to stay
19 with my sister.

20 Q Why is that?

21 A Because my mom like -- she's like -- I don't really
22 think like she's stable. Like sometimes she's nice and like
23 she puts on a show, like she'll like text and do stuff just
24 for people to say like, hey, look what I did. But it's like

1 fake. I think she's fake. And she's like -- like rude to me
2 and my sister outside of that.

3 Q You have baseball games, right?

4 A Yes.

5 Q Who goes to your baseball games?

6 A My dad. My mom doesn't attend my baseball games.

7 Q Have you ever asked her about that?

8 A Yes.

9 Q What'd she say?

10 A She said that she's going to try to come to my
11 baseball games. And then I had a tournament and she didn't
12 come.

13 Q Does she ever come? I mean, she's got to come
14 sometimes.

15 A She came like three games out of like 40 games.

16 Q Okay. Have you ever told you that you'd like to
17 have her there?

18 A Yes. I told her if she could come to one of my
19 games, but she never came to a game.

20 Q After the week on and week off, did you ever talk to
21 your parents about trying to change that schedule or is that
22 something you just went along with?

23 A After the week on/week off? I really -- I didn't
24 want to -- I wanted to have -- live primarily with my dad.

1 Q Why? Why is that? In terms of -- you said your mom
2 had some issues. Why would you want to live with your dad.
3 In other words, what is it about your dad's side.

4 A Because my dad, he like treats me better and he's
5 like a father to me. Like he like will help me with homework
6 and he'll like take me to school and like help me with
7 baseball, and he never like flips out on me like how my mom
8 does.

9 Q Does -- tell me about that. You said your mom flips
10 out on you. Like what?

11 A Yeah, because like sometimes like at baseball --
12 like this happened about six months ago. I was at baseball
13 and I was doing homework and like we were talking, and then
14 like I remember I said something to -- I don't remember what I
15 said -- and then she started yelling at me out of nowhere.
16 And she told my coach about it.

17 Q How did that make you feel?

18 A It didn't make me feel good, because like I don't
19 know why she's telling my coach about her flipping out on me.
20 It just didn't make sense.

21 Q This was at one of your baseball games?

22 A No. This was before I went to practice she told my
23 coach.

24 Q Oh, okay. Who's your coach that she's talked to?

1 A Oh, this is my old coach from Little League. His
2 name's Coach Wade.

3 Q Coach Wade. And she -- did she reach out to Coach
4 Wade or did she go up to him --

5 A Yes.

6 Q -- and talk to him? Or how did she --

7 A She like texted him.

8 Q Okay. Did Coach Wade get back to you on that?

9 A No, he didn't talk to me about it.

10 Q Okay. There was a time when you were going week
11 on/week off, right?

12 A Yeah.

13 Q When did that stop?

14 A About August, September.

15 Q And what happened?

16 A Me and my sister decided that we didn't want to like
17 keep getting yelled at and like basically being abuse, because
18 she would like lock us in our rooms when were little and stuff
19 like that. So we decided we didn't want to do that anymore
20 and we wanted to live with our dad, so we didn't go.

21 Q Was that something you and Mia talked about?

22 A Yes. We didn't want to go.

23 Q What'd your dad say about that?

24 A At first he was like, well, that's the schedule.

1 But then he like supported us about -- he didn't say like --
2 he wasn't like you don't have to go to your mom's. He told us
3 that we had to go to our mom's, but he also like supported us
4 if we didn't want to do that because of what my mom has done.

5 Q Did you ever express to your father what was going
6 on at your mom's house --

7 A Yes.

8 Q -- the things that bothered you?

9 A Yeah.

10 Q What did you tell him?

11 A I told him like over the years of the stuff that
12 she's done to us.

13 Q What kind of stuff? You talked about being locked
14 in your room.

15 A Like, yeah, she would -- she just constantly would
16 like yell at us and call us names.

17 Q What kind of names did she call you?

18 A Could I say it?

19 Q You can say whatever -- whatever's true.

20 A She called me an asshole and bitch. And I was
21 little too. I was like four or five. She called me an
22 asshole.

23 Q What about your sister, did you ever hear her call
24 your sister names?

1 A Yeah.

2 Q Same?

3 A Yes. Like bitch and stuff like that. And she --

4 she told us that even when we were little. That's how like we

5 even would like say bad words when were little, but that's

6 because she would say stuff and we thought it was acceptable,

7 which it's not.

8 Q At any time did you get into a physical altercation?

9 Did you get in a fight with your mom?

10 A No, not physical.

11 Q Okay. Did she -- how does she discipline you when

12 she wants you to do something?

13 A She doesn't discipline me or my sister other than

14 like yelling at us. And when she disciplines my sister, she

15 doesn't discipline her; she like pulls her hair and like --

16 she's even like spit on my sister. So it's not like

17 discipline; it's like fighting.

18 Q Have you seen that?

19 A Yes.

20 Q When did you see that? When did you see her pull

21 your sister's hair?

22 A The first time -- the first time I didn't see it

23 because I was sleeping, and then the second time I saw it just

24 because I was about to go to baseball.

1 Q So the first time that you described that you said,
2 you know, you were aware that she pulled your sister's hair,
3 that's somebody told you that, right?

4 A No. I saw it the second time, when they were
5 fighting. They fought twice.

6 Q Okay. When was the first time that you're referring
7 to that you believe that that happened?

8 A When they were -- well, like the -- there have been
9 two major fights in this past year.

10 Q Okay.

11 A But before that there was also fights when like we
12 were younger.

13 Q Okay.

14 A Between my mom and my sister.

15 Q So you witnessed fights between them even before the
16 two major fights you're talking about?

17 A Correct.

18 Q When do you recall the major fights happening? If
19 you can, like months or times of the years.

20 A Maybe -- let's see. So the second one, maybe like
21 five months ago.

22 Q Okay. So you went -- you started school, what, in
23 August?

24 A Yes.

1 Q Was it before or after you started school, if you
2 can recall?

3 A It was before school.

4 Q Okay. So a long time before school or just a short
5 time before school?

6 A Summer. I think it was in the summer.

7 Q So August? You said -- July?

8 A Around there. Summer.

9 Q Okay. And you recall them getting into a big fight?

10 A Yes.

11 Q And you said you saw that. What did you see and
12 where were you when you saw it?

13 A Well, I was -- so there's a -- in the -- there's
14 like a hallway, and then my room is on this side and my
15 sister's room is on this side, but we're like -- like close.
16 And then like the -- my mom had the door open, and then I just
17 like walked out because I heard like yelling. And then I saw
18 like my mom like on top of my sister and they were like
19 hitting each other and --

20 Q Where were they?

21 A On my sister's bed.

22 Q Okay. And in regard to the -- was that the incident
23 that happened in August?

24 A Yes, I think so.

1 Q Or is that the incident that happened earlier than
2 that?

3 A No, I think that was in August. They had one in the
4 hallway, too, but I think that was before.

5 Q Okay. So you know there was one in the hallway and
6 one in the bedroom.

7 A Yes. That's what I remember.

8 Q And you saw the one when they were on the bed?

9 A Yeah. The hallway one I was sleeping.

10 Q Okay. Did you hear them talking or yelling at each
11 other before the -- you saw them tussling or, you know --

12 A Yes. Yes.

13 Q Okay. What did you hear, if anything?

14 A Well, I heard the same things I'd hear since I was
15 little, like my mom's cussing out my sister, and then my
16 sister was yelling back, and then I just saw fighting.

17 Q What did you do?

18 A Watched. I don't want to get involved. Because I
19 wasn't going to help my sister -- well, I would have, but I'm
20 not going to get involved in that because then my mom would
21 probably hit me or start yelling at me so I didn't want to get
22 involved. I just sat on the side.

23 Q How long did it last?

24 A Forty-five seconds.

1 Q Okay. And then it -- and then it ended. And then
2 what did you do?

3 A Got ready, got my cleats on and went to practice.

4 Q Okay. In regard to -- so this one, the one that you
5 remember, happened during the day, correct?

6 A Correct.

7 Q Okay. So in regard to the -- there was a time where
8 you stopped going week to week. Do you recall that?

9 A Yes.

10 Q Was there ever a time before that where you spent
11 more than just a week with your dad?

12 A No, other than vacations when they agreed on it.
13 Like if I had like a long vacation, they would agree on like
14 me spending time with my dad, or if I had a long vacation with
15 my mom, I spent more time with my mom.

16 Q What kind of vacations did you take last year with
17 your dad?

18 A I went to San Diego like four or five times.

19 Q All right. When did you go to Cooperstown?

20 A This summer.

21 Q Okay. So that was this past summer?

22 A Yeah.

23 Q Okay. So that would be 2019?

24 A Correct.

1 Q How long were you guys in Cooperstown?

2 A One week.

3 Q In regard to the -- you have you said your brother
4 Mitchell as well?

5 A Yes.

6 Q Can you describe for me your relationship with
7 Mitchell?

8 A I have a good -- I have a great relationship with
9 him. We have like -- our bedroom's like right here, but we
10 share the same bathroom. It has like two sinks. It's like a
11 Jack and Jill, I think you say it like that. So I spend a lot
12 of time with him.

13 Q Okay. How would you describe your relationship? Do
14 you care about him?

15 A Yes.

16 Q Or is he just a bother?

17 A Yes, I love him. He's my brother, so.

18 Q All right. So in terms of the -- your experience
19 with Mitchell Junior, does he have any physical or mental
20 issues?

21 A Yeah. He has special needs.

22 Q Tell me about that.

23 A I don't know too much about it because he's not like
24 diagnosed with anything like he's the only person that has

1 like his condition. Like he's -- he's not -- he doesn't have
2 autism, but he's like -- has something close to that.

3 Q Okay. So is he verbal? Does he talk?

4 A Yes, he does talk.

5 Q Okay. But limited I suppose?

6 A Yes.

7 Q Okay. And does that help -- hurt your relationship
8 with him?

9 A No. I try to teach him words.

10 Q Okay. What else do you do with him?

11 A I just hang out with him at the house. And I'm at
12 practice a lot, too, so when I get back I'll say hi to him or
13 goodnight if he's going to sleep.

14 Q All right. So at any time did your mother say
15 anything about Mitchell to you, Mitchell Junior, that bothered
16 you?

17 A Yes, on Mother's Day. I think it was Mother's Day
18 about 2017 --

19 Q Okay.

20 A -- I'd like to say. We were in the hallway and it's
21 just like every day, so it was fighting again between me and
22 my sister and my mom. And I remember her saying -- she said
23 like, oh, Mitchell's going to die anyway, or something like
24 that. Because my brother has special needs. And it really

1 bothered me.

2 Q What did you say then? I mean why did she say that?

3 A I don't -- because she -- like I said, she just
4 flips out and she says stuff. And then she'll like go to her
5 friends or go to people who will be like, oh, like what she --
6 look what like the kids are doing. She'll go to people who
7 will tell her everything she wants to hear.

8 Q So did she ever threaten to -- like when she
9 disciplines you, does she threaten to go to other people and
10 tell -- tell them.

11 A Yeah.

12 Q Tell me about that.

13 A Like she went to my -- so she went to my coach,
14 coach now, and she was like telling him like, oh, this my like
15 custodial time. This is in August.

16 Q Right.

17 A And my coach was like I don't really want to be
18 involved in this. And she said she was going to call the
19 police at the park. And my coach was like please don't text
20 me again. And so her and my coach, they don't really text
21 often, because my coach told her not to text him.

22 Q How did you learn about that? How did you learn
23 that your coach had told her not to text?

24 A Well, my coach talked to me about it. Like my coach

1 talked to me. He was like I know you're having like problems
2 at home. And I was like yeah.

3 Q How'd you feel about that?

4 A I mean, that's just embarrassing like to have to
5 like explain that to your coach. It's like --

6 Q Did she ever go to your friends' parents' or
7 teachers or anything like that to talk about you?

8 A Not my teachers.

9 Q Just your coach?

10 A Yeah.

11 Q Okay. In regard to the -- your relationship with
12 your mom, how would you describe it? How would say "What is
13 my relationship with my mother?"

14 A We don't have a relationship. We don't have a good
15 relationship anyway.

16 Q Is that as a result of the fact you haven't seen her
17 much?

18 A No. It's the result of the fact that all the stuff
19 that she's done to me and my sister.

20 Q Well, tell me about that. What are the things that
21 come to mind when you say, you know, other --

22 A Just she would always just like scream and yell at
23 us when we wouldn't do anything. And like when my sister was
24 like younger, she had like issues with like sensory issues

1 where she didn't like certain clothes, and like my mom would
2 like yell at her for stuff like that. And it's just not a
3 good relationship at all.

4 Q Well, how would you describe your relationship with
5 your father?

6 A Great. Because --

7 Q Tell me about that. What is it that's great about
8 your relationship?

9 A Well, because he actually parents me. He doesn't
10 just start screaming at me and not showing me anything. He
11 shows me like everything like baseball and school, and he
12 teaches me stuff and he's like a father.

13 Q What are the rules that you have at your mom's house
14 that you could tell the Court that you have to follow?

15 A I don't really think there's any rules. She doesn't
16 really discipline anybody.

17 Q Well, she was disciplining your sister, I suppose.

18 A Yeah, well, that's -- I don't really think that's
19 like disciplining. I think that's like fighting. She's never
20 like, hey, don't do this or like you're grounded or, hey,
21 you're going to get your phone taken away. She would just
22 like start screaming at us or spit or kick or anything like
23 that.

24 Q What do you describe then as the rules at your

1 father's house?

2 A Like you're not allowed to cuss and just to like
3 behave and like school and stuff like that.

4 Q What are things about school? When you say stuff
5 like what do you mean?

6 A I'm not allowed to have like C's, D's or F's. I
7 have to have A's and B's to be able to play sports.

8 Q Okay. And in terms of the -- your homework timing,
9 things like that, are there rules about that sort of thing?

10 A No, because I've always gotten my homework done.

11 Q Okay. How about is there any -- like do you
12 understand the rules at your father's house?

13 A Yes.

14 Q In regard to the when you don't follow the rules --
15 I assume there's been a time or two when you didn't follow the
16 rules, right?

17 A Uh-huh (affirmative).

18 Q Right? Yes?

19 A Yes.

20 Q What does your -- what does your dad do in those
21 circumstances?

22 A Well, we either like get grounded, we get our phone
23 taken away, we couldn't do stuff, and we couldn't go out with
24 our friends or anything like that. Or if you get in a lot of

1 trouble, you can't like go to practice.

2 Q Okay. And what about -- what about your stepmom,
3 Amy?

4 A She disciplines us, too. Like my dad, she'll take
5 away our phone.

6 Q What would you -- how would you describe your
7 relationship with Amy?

8 A Great.

9 Q What is about that relationship that you would
10 describe as great?

11 A Well, because she's like a mom to me. She's always
12 like taught me things, she's always been nice to me. And it's
13 not like she like gives me everything or anything like that;
14 she teaches me stuff.

15 Q Is it different than your relationship with your
16 mom?

17 A Yes.

18 Q You realize you have both a mother and a stepmother,
19 correct?

20 A Yes.

21 Q How do you refer to Amy?

22 A Well, we refer to her as Amy.

23 Q Okay. And how about your mom?

24 A Mom.

1 Q Okay. Have you ever called your mom Christina?

2 A No.

3 Q All right. At some point in time, though, as we've
4 established, you stopped going to see your mom sometime in
5 late summer. Tell me about that. Why did that happen?

6 A Why did I stop seeing her?

7 Q Why did you stop seeing her?

8 A Because I didn't want to deal with what I've had to
9 deal with. I didn't want to get into fights and constantly be
10 yelled at and not even be parented. She doesn't -- she's not
11 even home. She's at work till five, and then she like -- I
12 have like other people who will take me. And then when she's
13 home, it's not even like a happy time.

14 Q Did there -- you managed, even when you were going
15 and living with her, you were doing okay, though, right? You
16 were --

17 A Yeah.

18 Q -- doing good in school and so forth?

19 A Yes.

20 Q Is there anything that was going on in the house
21 that you thought was going to affect you in the future or --

22 A Well, just constant fighting. It's just not -- I
23 don't -- it's not a good environment for me. Like it's
24 stressful, and I don't want to have to like go to school after

1 like all the fights because I'm like tired.

2 Q Are you here today talking about this because your
3 dad told you to?

4 A No.

5 Q How about Amy?

6 A No. I'm here because I want to talk about it.

7 Q Did any -- did your dad instruct you how to testify
8 today?

9 A No.

10 Q How about Amy?

11 A No.

12 Q What is your preference now as to what would happen
13 for custody?

14 A I'd like to live primarily with my father.

15 Q If your father would have told you that you can't
16 play baseball anymore unless you go with your mom, would you
17 have gone?

18 A No.

19 Q Why?

20 A Because baseball is just -- it's just a sport. I
21 don't want to have to go deal with that. I don't have to --
22 want to get like abused and yelled and kicked and then locked
23 in my room and stuff like that. I don't want to have to deal
24 with that.

1 Q What about, you know, your phone and things like
2 that? If you were taken away your phone or taken away your
3 ability to see your friends, couldn't he have caused you to
4 go?

5 A No. I wouldn't have gone.

6 Q So in regard to your relationship with your mother,
7 how do you think it could be improved? What could we do to
8 help you have a better relationship with your mom?

9 A Just like her knowing like how to parent. That
10 would just help everything, because she's never like taught us
11 anything. All she's ever done is like yelled at us. And then
12 when she's in front of people, she's like so fake.

13 Q What do you mean by she's so fake?

14 A Like she'll like send text message just to say, hey,
15 look, I sent this text message, just to be like, oh, they're
16 not responding to me. And she just does everything for a
17 reason. She's not like a normal person.

18 Q You had contact with her over the course of the last
19 several months of some type, correct?

20 A Correct. Right.

21 Q Tell me about that. Has it gotten better? Have you
22 made any progress in counseling? Has anything changed?

23 A Well, me and my sister like visited with her I think
24 Sunday.

1 Q Okay.

2 A And counseling helps, but the texting part I don't
3 -- I don't really respond that often to her when she texts me
4 because I don't -- I know she's not being genuine.

5 Q When you -- do you have any belief that your --
6 would your mother disagree with what you claim has happened in
7 regard to with your sister or the things that she said about
8 Mitchell? Do you know? Have you discussed that with her?

9 A Well, yes, and she -- she -- it's the same thing.
10 If you go to counseling, you can ask like Nick. It's the same
11 thing. She does not tell the truth. If you ask her, hey, did
12 you say this? No, I didn't say that. That's just what she
13 says. She never tells the truth.

14 Q Have you talked to her about this? I assume that a
15 portion of your conversations with your mother have been
16 about, Mom, why don't you tell the truth? Why don't you just
17 say these things?

18 A Yeah. That's what I was saying in counseling. I'm
19 like she won't tell the truth. And she's like, well, I am
20 telling the truth; I never said that. She won't give up about
21 how she's never said something or how she never did something.

22 Q Well, couldn't this just be a problem with
23 perception and that you remember something differently than
24 she does?

1 A No, because it happened. And she's been the same
2 like this my whole life. It's -- she's -- she never like
3 wants to change. It -- she always wants to fight and argue
4 about everything.

5 Q Let's assume that she -- you go through more
6 counseling and she finally does acknowledge that, you know,
7 your concerns and your feelings and what happened, is there
8 any way to make this relationship better so that you could go
9 back to the 50/50 time?

10 A Well, I don't know about the 50/50, but I think that
11 I would have a better relationship with my mom if there was
12 counseling. But it's not even all about counseling. It's if
13 she would finally tell the truth and own up to everything
14 she's done, then maybe it would work. Because if I went to
15 therapy with somebody and I just denied everything, then
16 what's the point of even going to therapy if you're not
17 getting help?

18 Q So is it fair to say you think that therapy can help
19 at least? Maybe not help her --

20 A It can -- it can help if she tells the truth.

21 Q Okay. And in those circumstances where the therapy
22 you believe has helped and you believe she's being more
23 truthful and straightforward, do you think you could spend
24 more time with her? Do you think that would be okay?

1 A Yes.

2 Q Has all of your time with your mom always been
3 terrible?

4 A No.

5 Q No?

6 A Most of it.

7 Q Have you had good times with her and --

8 A Yes. Yes.

9 Q Okay. She's been nice to you at times?

10 A At times, yes.

11 Q She's cooked you the food you want? I mean, I know
12 when I was 12 that was about the most important thing for me.

13 A Yeah. I like eat and sleep. That's about it. So,
14 yes, she's provided.

15 Q All right.

16 A Yeah.

17 Q All right. So if you were to have a timeshare with
18 her now, you go through counseling, continue that, what would
19 you think would work, what you think that would help you to
20 get on a better footing, you and your mom?

21 A Well, like I said, I would like to live with my dad
22 primarily, and I would like to visit my mom, and I would like
23 to live with her. But she has to admit everything or what's
24 the point of counseling? That's what I think.

1 Q Okay.

2 A So if she admits everything in counseling, then I
3 think a better relationship would be something.

4 Q Okay. So we just have time for a couple other
5 things. Your home environment, is it nice? Do you live in a
6 nice place?

7 A Yes.

8 Q Dad takes care of you, feeds you --

9 A Yes.

10 Q -- you don't need for anything?

11 A Yeah.

12 Q Everything's okay? Amy too? Anything that they do
13 -- do they fight amongst each other or --

14 A No. No.

15 Q Does your dad -- does your dad yell at you a lot
16 or --

17 A No. There's -- my dad's house and my mom's house is
18 way different. There's no fighting at my dad's house.

19 Q And you said I think -- I don't know if this was you
20 were just saying this to make a point, but you said that there
21 was -- it's like every day that there was another fight.

22 A Yes. Like --

23 Q You guys didn't fight every day, did you?

24 A It's not like they're physical fights, but there's

1 always arguing. There's never a day just peaceful. There's
2 always arguing, there's always something between me and mom or
3 my sister and my mom. There's just always something.

4 Q Has your -- is your mom -- tell me how your mom
5 talks about Amy.

6 A She doesn't talk well about any of my family.

7 Q What do you mean by that?

8 A Well, like she -- well, when I was a little kid, I
9 was like four or five, she called Amy like a witch. But I
10 didn't know, I thought it was a joke, so I even called Amy a
11 witch just because that's just how my mom acts. She'd make me
12 say stuff to other people because I was a little kid. Just
13 like with the incident of me cussing a lot is because of her,
14 of all the stuff she's said and all the stuff like she's
15 taught me. She's never disciplined me.

16 Q In terms of the -- in terms of what happens when she
17 talks about Amy, is that something that continued? You talked
18 about when she (sic) was a little kid it was, you know, witch.
19 But what about recently, has she had anything positive or
20 negative about Amy?

21 A She doesn't really talk about my family anymore
22 and --

23 Q Okay. What about your dad? Does she say anything
24 positive or negative about your father?

1 A No.

2 Q Are you aware of why you're here today?

3 A Yes.

4 Q And how are you aware of that?

5 Well, I'm aware because I want to be here so I could -- so I
6 could get my point across that living with my mom is not even
7 a good idea because it's just hostile for me. It's just --
8 it's the same thing over and over. Every time I go over I
9 have to deal with fighting between me and my mom or my sister
10 and my mom. She doesn't discipline us and she doesn't even
11 act like a parent. So I don't want to go back to her house.

12 Q All right. But with some level of canceling, some
13 level of communication with your mom, do you think you could
14 restart that relationship and have time to work with her?

15 A Yes.

16 MR. SMITH: Pass the witness, Your Honor.

17 THE COURT: Okay. Mr. Grigsby's going to introduce
18 himself, and he's got some questions for you. Are you ready
19 to go?

20 THE SUBJECT MINOR: Yes.

21 THE COURT: All right. Great. Whenever you're
22 ready.

23 CROSS-EXAMINATION

24 BY MR. GRIGSBY:

1 Q Ethan, my name is Aaron Grigsby and I'm here helping
2 out your -- helping out your mom in this matter.

3 A Okay.

4 Q I'm going to ask a few questions to you. You know,
5 as you already heard, just try to answer them out loud instead
6 of shaking your head. It might be a little clearer, whatever
7 you're saying, if you move your hand away from your mouth. It
8 might -- it might help the microphone pick up what you're
9 saying. Because we don't want to --

10 A Okay.

11 Q -- anyone to misinterpret anything you're saying.
12 Okay?

13 A Yeah.

14 Q Okay. And try to answer the questions yes or no or,
15 you know, just as well as you can.

16 Now, did you talk to anyone to get ready to come to
17 court here today?

18 A No.

19 Q Okay. And did you or your sister talk between --
20 after she got through testifying?

21 A I'm sorry, what? I didn't hear you.

22 Q Did you talk to your sister after she got done
23 testifying?

24 A No.

1 Q Okay. Did she tell you anything about what happened
2 while she was in court?

3 A No. She didn't talk about it.

4 Q Okay. Now, you said you -- your main
5 extracurricular activity is baseball; is that correct?

6 A That's correct.

7 Q And you primarily play for club teams, yes?

8 A That's correct.

9 Q How long have you been playing baseball?

10 A Since three, four years.

11 Q Three -- I'm sorry, three or four --

12 A Three or four years.

13 Q Okay. Now, did both of your parents initially
14 support you playing baseball?

15 A Yes.

16 Q Now, isn't it true that there was a time that you
17 couldn't go to practice -- attend practices or games during your
18 father's parenting time?

19 A Well, yes, because, like I said before, I have to
20 have A's and B's to be able to play baseball. And in second
21 grade I had two C's so my dad didn't support me playing
22 baseball because he says school's more important. So --

23 Q So what grade are you in now?

24 A Sixth grade.

1 Q And so how long did that go on that your dad did not
2 allow you to play baseball during his parenting time?

3 A Till I got A's and B's.

4 Q And was that one year? Two years?

5 A Two years.

6 Q Two years. So there was a two-year time period that
7 you could only play baseball during your mother's parenting
8 time; is that correct?

9 A Correct. Well, I didn't even play baseball during
10 my mother's parenting time, but yes.

11 Q Oh, so she didn't -- there wasn't a time where
12 she --

13 A No. No. There wasn't -- I don't really remember a
14 time where she took me and my dad didn't support it. Every
15 time I played, fourth, fifth, sixth grade, my dad and my mom
16 supported it because I had A's and B's.

17 Q And so prior to that you said you've been playing
18 since second grade, though, correct?

19 A No. I said in second grade I couldn't play.

20 Q Okay. So I just want to make sure I'm clear on it.
21 So your dad would not let you play baseball until you got
22 grades he felt was acceptable; is that correct?

23 A Yes, all A's and B's.

24 Q Okay. And was your behavior at school also part of

1 the reason he wouldn't let you play baseball.

2 A Yes.

3 Q Now, how often during baseball season -- how often
4 do you have practices or games?

5 A Three, four times a week.

6 Q Okay. Now, how many practices or games would you
7 estimate you've had since August of 2019?

8 A Forty.

9 Q Forty? Forty -- is it games or practices and games?

10 A Practices and games, probably 40 to 50 practices and
11 games.

12 Q Okay. And how many of those practices or games have
13 you missed since August 2019?

14 A I missed one practice because I was on vacation.

15 Q Okay. Have either of your parents ever prohibited
16 you from playing baseball as a sanction for bad behavior?

17 A No, it was usually grades.

18 Q Okay. Have either of your parents precluded you
19 from playing baseball for -- as a sanction for having bad
20 grades other than the incident you've already talked about?

21 A Yes.

22 Q And when was the most recent time one of your
23 parents told you you couldn't play baseball because of bad
24 grades?

1 A Second grade. So since the last time.

2 Q Okay. Now, I believe you mentioned you got

3 suspended from school recently; is that correct?

4 A Not recently, but yes, in --

5 Q When did that suspension happen?

6 A Four, five months ago.

7 Q Yeah. Was it before or after -- after August 2019?

8 A Before or after? I think it was like a couple weeks

9 after, two, three, something.

10 Q Okay. Now, what -- did you receive any punishment

11 from your parents for getting suspended?

12 A Yes.

13 Q What was your punishment?

14 A I was grounded.

15 Q And how long were you grounded for?

16 A A month.

17 Q And what did the grounding consist of?

18 A I couldn't hang out with my friends, couldn't be on

19 my phone, couldn't really do anything but play baseball. And

20 that's about it.

21 Q And who imposed this punishment? Which one of your

22 parents imposed that punishment?

23 A Amy and my dad.

24 Q Okay. Now, you said your mom doesn't really help

1 you practice baseball; is that correct?

2 A That's correct.

3 Q Now, isn't it true that she often pitches to you so
4 you can practice your batting?

5 A Not true.

6 Q Okay.

7 A To -- she -- this summer she pitched to me twice one
8 bucket. That's not like a lot of time. Twice, one bucket.

9 Q And didn't she like even purchase an old screen --
10 pitching screen so she could pitch behind the screen because
11 -- to prevent her from getting from come-back balls?

12 A No. It's called a hitting net --

13 Q Yes.

14 A -- and you hit into that when you have a tee and you
15 do it by yourself. There's nobody involved. We didn't
16 purchase a net. There was a hitting net. No pitching net.

17 Q Okay. So those times that she pitched to you, how
18 long did they typically last?

19 A Twenty-five minutes.

20 Q Okay. Was it a time limit or was it until you hit a
21 certain number of home runs?

22 A Till I hit a certain number of home runs.

23 Q Okay. And did your mom do that with you whenever
24 you requested?

1 A Did I --

2 Q Sorry. Did your mom pitch to you whenever you

3 requested that she pitch to you?

4 A No.

5 Q So there have been times that you've asked her to

6 pitch to you she's refused?

7 A Correct.

8 Q And when was the most recent time that happened?

9 A Well, my mom hasn't pitched to me this summer, so I

10 can't really recall her not asking me, because she pitched to

11 me twice this summer.

12 Q Okay.

13 A So every time before that.

14 Q So you said how many times before this summer?

15 A Every time I asked. She pitched to me twice.

16 Q Okay. Now, you said that your mother contacted your

17 -- well, sorry. First you said your mother doesn't attend

18 your games; is that correct?

19 A Correct.

20 Q Okay. So to the best of your recollection, when's

21 the last time she attended your games?

22 A Two months ago maybe. Or -- or she can -- let me --

23 let me tell you something. So she can do what she does and

24 she could show up --

1 Q No, the -- sorry. Just -- the question -- when was
2 the last time --

3 MR. SMITH: He's trying to answer the question.

4 A I'm giving you my answer.

5 BY MR. GRIGSBY:

6 Q When's the last -- when was the last time she
7 attended one of your games?

8 MR. GRIGSBY: I believe he already answered and said
9 two months.

10 MR. SMITH: Yeah, but you -- he was trying to give a
11 clarification --

12 THE COURT: Yeah, I didn't --

13 MR. SMITH: -- what you mean by attended the games.

14 THE COURT: Look. If the question's confusing, just
15 let Counsel know that you're -- you would like them to clarify
16 the question.

17 THE SUBJECT MINOR: Yeah. Thank you. I understand
18 the question.

19 THE COURT: I mean, it seemed -- it seemed to me
20 like there may be games that she's attended, right?

21 THE SUBJECT MINOR: Yes. She hasn't -- I'm going to
22 explain it to him. So she hasn't really attended one of my
23 games. She goes there, she takes a picture -- like I said,
24 she is fake. She takes a picture, she says, hey, look, I went

1 to the game. No, you didn't. You didn't watch the game. You
2 took a picture, you posted it on TeamSnap, and you left.

3 BY MR. GRIGSBY:

4 Q And how do you know that she just takes a pictures
5 and leaves?

6 A Because I see her take a picture and leave.

7 Q Okay. Now, has there -- has there ever been a time
8 when you've asked your mom not to come to your games?

9 A No.

10 Q You said you were unhappy about your parents
11 contacting your coach -- your mom contacting your coach; is
12 that correct?

13 A Correct.

14 Q And, just to be clear, how do you know that your mom
15 actually contacted your coach?

16 A Did you not hear me just talk to him? I said that
17 the coach was talking to me. He pulled me aside and he --

18 Q So you don't know that your mom actually contacted
19 your coach; you only know what --

20 A I do know. He told me. He said your mom -- he said
21 your mom contacted me.

22 Q Right. So you only know what someone told you; is
23 that correct?

24 A Yeah, my coach.

1 Q Okay. And you were unhappy about your mom
2 contacting your coach; is that correct?

3 A Correct.

4 Q Okay. Now, what was the context of her conversation
5 with your coach?

6 A I don't remember.

7 Q Okay. Now, is it your opinion that your mom doesn't
8 have a right to contact your coach?

9 A Not that she doesn't have a right; I just don't know
10 why it's appropriate to contact my coach.

11 Q Now, do you -- is there a cost involved with you
12 playing baseball?

13 A Yes.

14 Q Do you personally pay that cost for you to play
15 baseball?

16 A Do I pay?

17 Q Yes.

18 A My dad pays.

19 Q I'm asking you. The question is do you personally
20 pay?

21 A No, I don't personally pay.

22 Q Okay. So one of your parents pays one way or the
23 other; is that correct?

24 A That's correct.

1 Q Okay. And as your parents and the people who pay
2 for you to pay this club team, would you -- would you agree
3 that they have a right and a responsibility to communicate
4 with your coach whatever --

5 A My mom didn't pay. She refused to pay \$12 for a
6 hitting camp.

7 Q Sir, as your parents, do you believe -- would you
8 not agree they have a right for you to -- to contact your
9 coach whenever they deem is appropriate?

10 A I just gave you my answer. I told you that she
11 refused to pay \$12 for a hitting camp, so she didn't really
12 pay for my last hitting camp.

13 Q (Indiscernible). Listen to the question. The
14 question is would you agree that as your parents they have a
15 right to contact your coach whenever they deem is appropriate?

16 A Yes.

17 Q And would you also agree as your parents they have a
18 right to prohibit you from playing if they don't deem your
19 behavior is appropriate?

20 A Yes.

21 Q Okay. Now --

22 THE SUBJECT MINOR: Judge Ritchie, can I ask a
23 question?

24 THE COURT: Sure.

1 THE SUBJECT MINOR: So when he's asking me questions
2 and I'm answering his -- I'm answering his question, is he
3 allowed to say like -- like do I have to answer his question
4 how he wants it? Because I'm trying to clarify it for me and
5 he's like repeating his question.

6 THE COURT: Yeah, it's a little different. Well,
7 your mom and dad are lawyers.

8 THE SUBJECT MINOR: Yeah.

9 THE COURT: It's a skill. There's a reason why
10 everyone is asking the questions the way that they are.

11 THE SUBJECT MINOR: Okay.

12 THE COURT: And it can be frustrating as a witness
13 to be asked a question that doesn't allow you to explain your
14 answer.

15 THE SUBJECT MINOR: Yeah.

16 THE COURT: And before you finish, if there's
17 something that you want to explain but you can't because of
18 the way the question's asked, I'll ask you at the end whether
19 there's anything you want to clarify or say. What you're
20 doing is fine. This is not easy. But I want you to do is
21 what you've been doing, which is to listen carefully to
22 Mr. Grigsby's question and just try to answer it as directly
23 as you can. Okay?

24 THE SUBJECT MINOR: Thank you.

1 THE COURT: All right.

2 BY MR. GRIGSBY:

3 Q Now let's move on to another incident. You said you
4 -- there was a time where your mother locked you into -- in
5 your bedroom; is that correct?

6 A Correct.

7 Q When did this occur?

8 A Multiple times when I was younger.

9 Q Okay. Well, what's the last time that you can
10 recall this occurring?

11 A Mother's Day.

12 Q Mother's Day what year?

13 A 2017.

14 Q Okay. So Mother's Day 2017, so you would have been
15 nine at that time?

16 A Yes.

17 Q Okay. And during that time period, how long were
18 you locked in your room?

19 A Twenty minutes.

20 Q And why were you locked in your room for this 20
21 minutes?

22 A I don't know.

23 Q Okay. But you find -- do you personally find it
24 unreasonable that your mother allegedly locked you in your

1 room for 20 minutes when you were nine years old?

2 A Well, that's 20 minutes. I'm talking -- when I was
3 talking --

4 Q Yeah. Just answer the question. Do you find it
5 personally unreasonable that your mom locked you in your
6 bedroom for 20 minutes when you were nine years old?

7 A No, I don't find it unreasonable that she locked me
8 in my room for 20 minutes.

9 Q Okay. Now, other than the instance when you were
10 nine years old on Mother's Day, was there any times that your
11 mother allegedly locked you in your room?

12 A Yes, before that.

13 Q Okay. So there are prior to that. What's the
14 maximum amount of time that your mother allegedly locked you
15 in your room?

16 A Two hours, and she didn't even let me use the
17 restroom.

18 Q Okay. And when did that occur?

19 A When I was about five.

20 Q Okay. Let's see. I believe you also said that you
21 described your mother as being fake and rude; is that correct?

22 A That's correct.

23 Q Okay. Let's go on to -- in what way do you think
24 your mother's fake?

1 A In the way that she takes pictures of things and
2 acts like she was there. She did the same thing to my sister
3 when she was there (indiscernible).

4 Q I'm not talking about -- so you -- just to clarify,
5 you think -- you said your mother's fake because she -- you
6 alleged that she took pictures and then claimed she was at
7 your game and she wasn't; is that correct?

8 A Not only that.

9 Q Okay. Is there any other reasons?

10 A Yes, because she texts people, texts me certain
11 things just so she can say, hey, look, I texted him this, just
12 for a purpose.

13 Q So what do you -- what do you allege that your
14 mother texts you for improper purposes specifically?

15 A When she's like, hey, hey, how are you, all that
16 stuff. It's not genuine. Because that's not really how she
17 is.

18 Q So you don't think your mother genuinely has an
19 interest in how you're doing?

20 A No. She's just saying that for her attorney.
21 Because I've actually talked to her before.

22 Q Okay.

23 A Outside of --

24 Q So when is the last time your mother sent you one of

1 these fake text messages?

2 A I don't recall.

3 Q Okay. Would it have been in two -- this year or
4 last year?

5 A This year. Maybe like a week ago.

6 Q Okay. And specifically what were -- what were the
7 contents of this fake text message?

8 A Like I said, like how are you? What'd you do? But
9 really she's not genuine.

10 Q So how do you know your mother doesn't -- how do you
11 personally know that your mother doesn't actually have an
12 interest in how you're doing?

13 A Because I've talked to her before when the texts are
14 genuine. And plus she copies and pastes what she sends me to
15 my sister and then she blocks -- same emoji, same everything.
16 She copies and pastes. She does it for her attorney or for
17 somebody to say, hey, look, I texted it. She doesn't just
18 text it like that. She's not genuine.

19 Q Now how do you know that she's doing it for her
20 attorney or for some other reasons? How do you know that?

21 A I don't know. But I'm assuming.

22 Q Okay.

23 A Because I'm not --

24 Q Okay. So you don't know that she's actually doing

1 it for an improper purpose, that's just how you feel; is that
2 correct?

3 A For an improper purpose? That is correct, I don't
4 know for sure.

5 Q Okay. And I think the other thing you said you said
6 your mother is rude; is that correct?

7 A Correct.

8 Q Okay. And how would you -- why do you think your
9 mother's rude?

10 A Because she's been cursing at us since (sic) she was
11 little, she's hit us, kicked us, and she spit on us.

12 Q Let's break those down one at a time. When was the
13 last time your mother allegedly kicked you?

14 A Me and my sister last time she --

15 Q I'm not asking about your sister. I'm asking just
16 about you. When was the last time she allegedly kicked you?

17 A About me? When I was little. She's -- she's pushed
18 me, she's fought with me.

19 Q Okay. So just one thing at a time. We're just
20 talking about kicking now. When was the last time that you
21 recall that your mother allegedly kicked you?

22 A Five or six, when she would push -- push me and my
23 sister --

24 Q You said five or six. Do you mean five or six years

1 ago or when you were five or six?

2 A I mean when I was five or six.

3 Q Okay. And that was the most recent time that you

4 can remember where she allegedly kicked you; is that correct?

5 A Correct.

6 Q Okay. Now, when was the last time that you recall

7 of your mother allegedly spitting on you?

8 A Seven or eight.

9 Q Was this seven or eight years ago or were you --

10 A Seven or eight years old.

11 Q When you were seven or eight years old. And when

12 was the last time that you can recall of your mother allegedly

13 hitting you?

14 A Last time my mother hit me? Five or six. I was

15 little.

16 Q When you were five or six years old?

17 A Yes.

18 Q Now --

19 A She doesn't hit me anymore because I'm (inaudible).

20 Q Now what -- let's go with when you were five or six

21 years old when you said she allegedly hit you. What was the

22 context? What were the events surrounding her allegedly

23 hitting you when you were five or six?

24 A I don't remember. I just remember her hitting me in

1 my room --

2 Q All right. And were you like -- were you being
3 punished? Were you getting a spanking or she just random --

4 A It's not a spanking. She was hitting me.

5 Q Okay. And there was no reason? Do you -- can you
6 recall the reason? In other words --

7 A I can't recall the reason. I can't recall the
8 reason.

9 Q Okay. What about when you allege she allegedly
10 kicked you? What was the context of that? What was going on
11 with that incident?

12 A You already asked why -- what happened when she
13 kicked me.

14 Q I'm asking -- just answer the question, sir. What
15 happened -- what was going on around the time she allegedly
16 kicked you?

17 A Let me think. So I was in my room. I don't
18 remember. Like I said, my mom just flips out.

19 Q Okay. So you don't remember that.

20 A Okay.

21 Q What about her allegedly spitting on you? That was
22 a little bit more recently. How -- what was going on when she
23 allegedly spit -- spit on you?

24 A I already answered this question.

1 Q You may answer it again. What was going on when she
2 allegedly spit on you?

3 A I said I didn't re -- I said I didn't recall and I
4 was seven or eight years old.

5 Q Okay. Now, I believe you said one of your other
6 complaints about your mom is that she doesn't get off work
7 till about 5:00; is that correct?

8 A Correct.

9 Q Okay. Now, most of the day that she's at work where
10 are you? Where are you at while she's at work?

11 A School.

12 Q Okay. And what time do you get out of school?

13 A 3:05.

14 Q Okay. And during your mother's parenting time, who
15 normally cares for you in that two-hour time span between the
16 time you get out of school and she's off work?

17 A Selina.

18 Q And who is Selina?

19 A My cousin.

20 Q Okay. And how old is Selina?

21 A Twenty-something.

22 Q And what's your relationship like with her?

23 A She's my cousin, so my relationship is good.

24 Q Okay. So what is it about the fact that your mom

1 gets off work two hours after you get out of school that
2 causes you to have negative feelings?

3 A It's not about me having negative feelings. It just
4 about how she's not there, and when she's there it's not --
5 it's not a good time.

6 Q Okay. So that two-hour time span that she's not
7 there, that bothers you, correct?

8 A Doesn't -- well, let me answer your question --

9 Q Yes or no. Does that -- does it bother you --

10 A I'm answering your question.

11 Q -- that that two-hour time span between the time you
12 get off of school and when she's off work, it bothers you that
13 she's not there; is that correct?

14 A That doesn't bother me.

15 Q Okay. So --

16 A What bothers me is when she acts like she's always
17 there.

18 Q Okay. So, now, you understand that most adults in
19 society actually have to work; you understand that, right?

20 A Yes, I understand that.

21 Q And does your father also work?

22 A Yes.

23 Q What time will he typically get off of work?

24 A He works at home, and he gets off whenever he wants

1 to get off.

2 Q Okay. So, let me see. Okay. Now, you said -- in
3 August 2019 you and your sister decided not to go to your
4 mother's house anymore; is that correct?

5 A 2019?

6 Q Yes.

7 A That's correct.

8 Q Okay. And I believe your -- you -- from your
9 testimony before, you primarily said that it was because of a
10 fight that you witnessed between your mother and sister; is
11 that correct?

12 A No. I said it's because of many fights that we've
13 had over the years. I didn't --

14 Q Okay. You described witnessing one fight.

15 A Yes. That wasn't --

16 Q Was that the fight in August 2019?

17 A It was before that.

18 Q Okay. So when did that fight actually occur?

19 A The summer.

20 Q Exactly when in the summer?

21 A I don't know. Any of the summer months.

22 Q Okay. Just to be clear, what do you consider the
23 summer months?

24 A When I'm off school, so June, July.

1 Q Okay. So sometime in June, July your mother and
2 your sister got into a fight that you personally witnessed; is
3 that correct?

4 A Correct.

5 Q And approximately what time did this fight occur?

6 A Five.

7 Q Five p.m. or five a.m.?

8 A P.M.

9 Q Okay. And do you know what this fight was over?

10 A No.

11 Q Did you witness the beginning of the fight?

12 A Yes. I witnessed them yelling at each other.

13 Q Okay. And to the best of your recollection, what
14 were they fighting about?

15 A Like I said, I don't remember what they were
16 fighting about. I saw them yelling at each other.

17 Q Do you remember who struck whom first?

18 A I remember my mom hitting my sister. That's what I
19 remember.

20 Q And so how did your mom hit your sister? With a
21 closed fist? Open hand?

22 A Well, they were on the bed hitting each other.

23 Q Okay.

24 A Closed fist.

1 Q So who hit whom first if you --
2 A I saw my mom hit my sister first.
3 Q Okay. And how did your mom hit your sister?
4 A Closed fist.
5 Q Closed fist? Okay. And while you witnessed this
6 fight, did you do anything to try to stop the fight?
7 A No, I didn't do anything.
8 Q Did you call the police or --
9 A No.
10 Q Did you call your dad or anyone?
11 A No.
12 Q So after the -- I believe your testimony is that
13 after the fight was over you went to your baseball practice;
14 is that correct?
15 A Correct.
16 Q Okay. During your baseball practice, did you report
17 this to your coach or any adult?
18 A Like I said, this time my mom mentioned something to
19 my coach.
20 Q Okay. So the time that your mom talked to --
21 A My mom --
22 Q Sorry. I just want to clarify this. The time that
23 you talked -- that your mom talked to your coach was the same
24 time that you witnessed your mom and your sister fighting; is

1 that correct?

2 A She texted my coach. And I have two different
3 coaches.

4 Q So is that -- sorry. Is that -- sir, is that
5 correct, at the time that you -- the time you witnessed your
6 mom and your sister fighting was the same time that your mom
7 texted your coach; is that correct?

8 A Well, how would they be fighting and texting at the
9 same time. I don't understand.

10 Q I'm trying to clarify your statements. So --

11 THE COURT: Before you ask the question, look.
12 You're doing a fine job. I want you to take a second and I
13 want you to tell yourself in your head that you're examining a
14 12 year old, okay? And then I want you to continue. All
15 right. So, you're not down at justice court, you're not
16 upstairs in a criminal court, and it's not appropriate. It's
17 not coming over well, believe me. Okay? Make your points.
18 Don't spar with a 12-year-old kid. Okay? All right. Next
19 question.

20 BY MR. GRIGSBY:

21 Q Next question. Was that the only fight that you
22 witnessed between your mom and your sister?

23 A No.

24 Q What was the -- what was another fight that you

1 personally witnessed between your mom and your sister?

2 A In the hallway. I heard it. I was sleeping. Well,
3 I didn't witness it. I was sleeping. But in the morning I
4 heard about it.

5 Q Okay. So that was the only fight that you
6 personally witnessed between your mom and your sister,
7 correct?

8 A No. They were fighting a whole bunch when I was
9 little, but that was the first major fistfight that I
10 witnessed.

11 Q Okay. Let's go with your relationship with your
12 mom. Do you and your mom -- you and your mom, did you go on
13 any vacations together?

14 A Yes.

15 Q Okay. Describe some of the places you went on
16 vacation with your mom.

17 A I went to California.

18 Q Okay. Is that -- is that the only place you've gone
19 with your mom?

20 A No. I've been to other places when I was little,
21 but I don't really remember them.

22 Q Okay. At the time, do you recall yourself enjoying
23 these vacations with your mom?

24 A Some of them. But the last vacation I didn't really

1 enjoy.

2 Q Okay. And when was the last vacation you went on
3 with your mom?

4 A Oh, that was in California but --

5 Q No.

6 A -- the reason we went there --

7 Q When? When was the last vacation you went on with
8 your mom?

9 A I was in California.

10 Q All right. What was the date of the last vacation
11 with your mom?

12 A I don't know the exact date.

13 Q Okay. Did it happen in 2019?

14 A Well, we went for a funeral, so whenever my great
15 aunt died, was 2019 I guess.

16 Q Okay. Now, do you and your mom occasionally go
17 hiking together?

18 A No.

19 Q Okay. Let's see here. Okay. Going back to the
20 incident with your -- you said your mom and your coach. You
21 said you were embarrassed that your mom went to your coach; is
22 that correct?

23 A Correct.

24 Q Okay. Now, was there anything that you could have

1 done to prevent your mom from going to your coach?

2 A No.

3 Q Okay. Now, I believe you said you did -- your mom

4 went to your coach because you weren't attending the

5 visitation, correct?

6 A Correct.

7 Q So if you had went on the visitation, she probably

8 wouldn't have went to your coach about it; is that correct?

9 A That's correct.

10 Q Okay. So you did have the power to prevent her from

11 doing that; is that correct?

12 A Okay. But why would I want to go back to my mom's

13 house if I would have to deal with getting abused and stuff

14 like that? Why are you -- why are you --

15 Q You said --

16 A You're asking me a question that doesn't make sense.

17 You're asking me why -- do I have the power to do that? Why

18 would I want to go back to her house?

19 Q The question is that was in your hands, though, to

20 work out the situation.

21 A It wasn't in my hands. It wasn't. It was in her

22 hands because she shouldn't have been doing this.

23 Q Okay. Now, when is the last time you got in trouble

24 at your mom's house?

1 A She doesn't discipline us but hit us.

2 Q Okay. So you said your mom doesn't discipline you
3 and that's a -- it's a problem for you that you said your mom
4 doesn't discipline you; is that correct?

5 A Yes.

6 Q Okay. So what you would crave is more discipline
7 from your mom; would that -- would that be fair to say that?

8 A Well, I would expect her to be a parent.

9 Q Okay. So just to -- you're -- you want more
10 discipline from your mom; is that correct?

11 A That's correct. That's correct.

12 Q Okay. And so you -- do you recall the last time --
13 do you recall ever getting in trouble at your mom's house?

14 A No.

15 Q Okay. What about your father's house? When is the
16 last time you got in trouble at your father's house?

17 A Probably when I got in trouble at school.

18 Q Okay. But even though you got in trouble at school,
19 your dad still permitted you to play baseball; is that
20 correct?

21 A That is correct.

22 Q Okay. Now, you said your dad supported your
23 decision not to go to your mother's house; is that correct?

24 A What do you mean?

1 Q Well, you said in August 2019 he -- you and your
2 sister decided to just stop going to your mother's --
3 visitations with your mother; is that correct?

4 A That's correct.

5 Q And you said your dad supported that decision
6 between -- by you and your sister?

7 A Well, he told me that it's a custody order, which
8 means I had to go. So he said I had to go to my mom's house.
9 But he knows what my mom has done to me and my sister, so he
10 supported my decision of saying I don't want to go because of
11 what my mom and my sister have done to me. But he said that I
12 should go to their house because that's the custody order.

13 Q Okay. So how do you -- but you feel your dad
14 supported your decision; is that correct?

15 A Do I feel he supported my decision? He didn't
16 really support my decision. He supported me because I'm his
17 son.

18 Q Okay. So in your opinion how -- how do you -- how
19 did he support your decision?

20 A What? He was my father. I don't -- he didn't
21 really -- he wasn't like, hey, let's go get ice cream. He was
22 -- he's a father. He -- it's not like he like --

23 Q Did he impose any punishment or sanction upon you
24 for not going to your mother's house?

1 A Punishment? No.

2 Q Okay. What did your -- specifically what did your
3 father do to try to encourage you to go to your mother's
4 house?

5 A He told me I had to go to her house.

6 Q Okay. Now, since August of 2019, how many times
7 would you estimate that you've -- how many overnights have you
8 spent at your mother's house?

9 A I've never spent an overnight at my mother's house.

10 Q Okay. How many times have you gone to your mother's
11 house since August of 2019?

12 A Four or five times.

13 Q Okay. Now, you said you also attended therapy with
14 Mr. Ponzo; is that correct?

15 A That's correct.

16 Q Okay. And your mother attends some of these therapy
17 sessions with you; is that correct?

18 A That is correct.

19 Q And when was the last time you and your mother
20 attended a therapy session with Mr. Ponzo?

21 A Couple weeks ago.

22 Q Okay. Was that -- was that in July or December?

23 A Wait.

24 Q I'm sorry. January or December?

1 A January or December? Couple weeks ago. Early
2 January, late December.

3 Q Okay. So late December, early January, you and your
4 mom attended a session with Mr. Ponzo; is that correct?

5 A That is correct.

6 Q How long did that session last?

7 A Roughly an hour.

8 Q Okay. And overall how many session do you -- would
9 you say that you've attended with Mr. Ponzo and your mom since
10 August of 2019?

11 A Overall? I don't know.

12 Q More or less than five?

13 A Since August? Six, seven. I don't know.

14 Q Okay. And how long did these sessions with Mr.
15 Ponzo and your mom typically last?

16 A Roughly an hour.

17 Q Okay. And have you spent any time with your mother
18 outside of those sessions with Mr. Ponzo?

19 A Yes.

20 Q Okay. How many times would you estimate since
21 August of 2019 that you've seen your mom outside of those
22 sessions with Mr. Ponzo?

23 A Six, maybe seven times.

24 Q Okay. Now, did you visit your mom for Christmas

1 2019?

2 A No, because her family told me and my sister not to
3 come.

4 Q Okay. Now, specifically who in your mom's family
5 told you not to come?

6 A My mom's sister.

7 Q Okay.

8 A She was texting my sister.

9 Q Now, did your mom -- okay. So you said your mom's
10 sister was -- last part you said she was texting your sister?

11 A Correct.

12 Q Okay. And so who told you not to come?

13 A Well, she told my sister not to come. And that's my
14 sister. So if she's telling me not to -- if she's telling my
15 sister not to come, why would I come?

16 Q Okay. So specifically --

17 A That doesn't make sense.

18 Q -- no one -- no one specifically told you not to
19 come see your mom?

20 A No. They were talking to my sister.

21 Q Okay. Now, did your mom ever tell you not to come
22 see her on Christmas?

23 A No. My mom didn't text -- I don't remember my mom
24 texting me or my sister on Christmas.

1 Q Okay. Did you call your mom on Christmas?

2 A Not that I recall.

3 Q Okay. Now, does your mom regularly try to
4 communicate with you through phone calls or text messages?

5 A Yes.

6 Q How often does your mom try to communicate with you
7 through phone calls or text messages?

8 A Twice -- she -- I don't really remember her calling
9 me, but I remember her texting me once or twice a week.

10 Q Okay. Now, has there ever been a time where you've
11 told your mom to stop texting me?

12 A Yes.

13 Q Okay. And how many times -- to the best of your
14 recollection, how many times have you told your mother to stop
15 texting me?

16 A Once, because she was not being genuine.

17 Q Okay. Now, what did your mother text you that you
18 felt was not genuine?

19 A You already asked this question earlier.

20 Q Specifically about the time that you told her not to
21 text you anymore, what did she say that made you feel that her
22 communication with you was not genuine?

23 A I was in the middle of practice and she said -- she
24 was like, hey, love you, love you. She was just saying all

1 this stuff that it's not genuine. If you actually talk to
2 her, she doesn't talk like that at all.

3 Q Okay. So I just want to be clear. So when your
4 mother tells you she loves you, you don't feel that's genuine;
5 is that correct?

6 A She just texted.

7 Q So if she texted you that, you don't feel it's
8 genuine for her to send in text messages?

9 A It's not genuine the -- the way she text me.

10 Q Okay. Now, let's go to Thanksgiving. Did you see
11 your Mother for Thanksgiving?

12 A I don't -- I don't know. I don't know the answer to
13 that question.

14 Q Okay. Now, have you -- since August of 2019, have
15 you spent the night at any of your friends' house?

16 A Yes.

17 Q Okay. When was the most recent time you've stayed
18 over one of your friends' house?

19 A December. December.

20 Q And so -- and was that the only time that you spent
21 -- stayed overnight at one of your friends' house since August
22 2019?

23 A No.

24 Q Excuse me?

1 A No.

2 Q Okay. Now, would it be fair to say that even though
3 you want -- you refuse to spend overnights at your mom's
4 house, your father convinced you to spend overnights at your
5 friends' house; is that correct?

6 A Yes.

7 Q Okay. Now, was there -- I believe you described
8 your mom as not knowing how to parent; is that correct?

9 A Something along those lines.

10 Q Okay. Now, specifically what do you feel it is
11 about your mother that she doesn't know how to parent?

12 A Because she doesn't know how to discipline and she
13 just taught us bad things.

14 Q So it's mostly the lack of discipline that you
15 receive that makes you think your mother --

16 A No, it's not that. It's part. That's part of the
17 reason. It's not all that.

18 Q Okay. So other than the lack of discipline and
19 teaching you bad things, is there anything else that makes you
20 feel that your mother doesn't know how to parent?

21 A No. She teaches us bad things (inaudible).

22 Q Okay. And specifically what bad things has your
23 mother taught you?

24 A Well, she started cursing at us at a young age, and

1 that made us curse, and she calls us a bitch and an asshole.
2 That's what she would call us when we were little kids.

3 Q Okay. And is there anything else other than that?

4 A Many fights. And that's about it.

5 Q But you can you say your mother hasn't called you
6 those names in many years; is that correct?

7 A No. I never said that.

8 Q Okay. When's the last time your mother called you
9 an asshole?

10 A This summer.

11 Q Okay. And what was the context when that -- her
12 calling you that name?

13 A Another one of arguments. But there's been
14 thousands of arguments and hundreds of fights, so I can't
15 really recall which argument it was.

16 Q So do you recall what you and your mother were
17 arguing about when she called you that name?

18 A No, I don't recall, but I know she called me an
19 asshole.

20 Q Okay. And when was the last time you recall your
21 mother calling you a bitch?

22 A Valentine's Day -- or not Valentine's Day. Mother's
23 Day. Mother's Day.

24 Q Mother's Day I believe you said 2019?

1 A 2017 --
2 Q Oh, '17.
3 A -- when she said I hope your brother dies -- or your
4 brother's going to die.
5 Q Okay.
6 A Yeah.
7 Q And where were you at when this happened?
8 A I was with my sister in the office.
9 Q Is that at your mom's house or --
10 A It was Mother's Day. I was at my mom's house.
11 Q All right. So this happened at the -- you said at
12 the office at your mom's house; is that correct?
13 A That's correct.
14 Q Okay. And do you recall was there a context with
15 that conversation or was it just a spontaneous uttering by
16 your mom?
17 A Well, she was going on a rant, so she was saying
18 curse words the whole entire Mother's Day once she started
19 fighting with us.
20 Q Okay. So was she fighting with someone when she
21 said that or was she just going --
22 A She was fighting with me and my sister.
23 Q And what was she fighting with you and your sister
24 about?

1 A I think she wanted us to spend more time with her.
2 We were there for the whole day, but my grandma, on my dad's
3 side, we wanted -- we had to go -- we wanted to go to dinner
4 with her. We wanted to go. So we had to go, and then she
5 started flipping out on us.

6 Q Okay. And so you -- do you think it was
7 unreasonable for your mother to want to spend Mother's Day,
8 the entirety of Mother's Day --

9 A That's unreasonable because I spent the whole day
10 with her.

11 MR. GRIGSBY: All right. No further questions.

12 THE COURT: Okay. Before I wrap up the testimony,
13 Mr. Smith, I know that there were some matters that Mr.
14 Grigsby covered with Ethan that you didn't cover in your
15 direct. Was there anything that you wanted to inquire as far
16 as subject matter?

17 MR. SMITH: I just wanted to allow him to complete a
18 couple of his questions, but I think you had indicated you --

19 THE COURT: Yeah. I'm going to -- I'm going to
20 cover that with him. All right. First of all, you say you
21 want to go to -- be a baseball player and then you want to be
22 a lawyer, right?

23 THE SUBJECT MINOR: Yeah.

24 THE COURT: Well, first of all, if you're the best

1 baseball player in the world, you're done at like 32 or 33 or
2 34. Okay?

3 THE SUBJECT MINOR: Yeah.

4 THE COURT: So but let's just say this. Okay. When
5 you're a lawyer -- and you'll appreciate this later because
6 you're a kid and, you know, you present as older than you are,
7 but you're still a kid. You're being examined by
8 professionals to make points to the Court to help me make a
9 good decision, just like you are. Okay?

10 THE SUBJECT MINOR: Yes.

11 THE COURT: The other thing I want you to understand
12 is that you wouldn't be here, and I wouldn't have had you
13 interviewed if your opinions didn't matter or the stuff you
14 were telling me didn't matter. They're considered and they
15 matter.

16 THE SUBJECT MINOR: Yes.

17 THE COURT: And because the Court's considering it
18 and it's important, one of the things I want you to understand
19 is it's only one piece of the puzzle I've got to deal with.

20 THE SUBJECT MINOR: Yes.

21 THE COURT: You're not asked to decide this issue.
22 I don't want you to feel that kind of responsibility. But
23 when you have important evidence that's being considered --

24 THE SUBJECT MINOR: Yes.

1 THE COURT: -- from a legal point of view, it needs
2 to be available for confrontation. It needs to be challenged
3 and available for the parties to make their points. And
4 that's what this examination is about. It's intended to be
5 challenging the things that you're saying. Not necessarily to
6 say that you're not telling the truth, but to make you think
7 and expand on your answers. Okay?

8 THE SUBJECT MINOR: Yeah.

9 THE COURT: So you've gotten a good lesson in being
10 examined. And of the two folks here, based on your testimony,
11 he has the harder job than he does. Okay?

12 THE SUBJECT MINOR: Yeah.

13 THE COURT: And so what we want is for separated
14 parents to have a meaningful relationship with their kids, and
15 we want kids to have a good relationship with their parents.
16 If we're not having that then there's a reason to try to work
17 on that. Okay? So we're balancing this testimony and this
18 evidence with all the other stuff that we got.

19 Now, you were asked a bunch of stuff, and I could
20 tell from the way that you answered, you know, you tried to
21 answer the questions and you answered them directly, but you
22 would have liked to have said more on some of the stuff.

23 THE SUBJECT MINOR: Yeah. Well, I wasn't really
24 happy with the way he was talking.

1 THE COURT: I know. That's what he -- that means he
2 was doing a good job, because he's cross-examining you.

3 THE SUBJECT MINOR: Well --

4 THE COURT: But let me just say, I want you to tell
5 me if there was a time when he was asking you questions that
6 made you feel uncomfortable or that you didn't have a chance
7 to explain. I want you to clarify that and tell me what you
8 wanted me to understand from that -- those questions.

9 THE SUBJECT MINOR: Well, yeah. Well, basically --
10 well, I know he's doing his job and I know he's -- I know what
11 he's doing. He's trying to get the answer that he wants out
12 of me. And he wouldn't let me explain my answer. So
13 everything he would say was favored to my mom or anything she
14 wants. But, I don't know, I just would like to explain more.

15 THE COURT: Go ahead.

16 THE SUBJECT MINOR: Well, I don't remember the
17 questions that he was asking me.

18 THE COURT: Well, he was asking you -- well, he was
19 trying -- it's not easy, even for me, to remember specific
20 dates and times and stuff.

21 THE SUBJECT MINOR: Yeah.

22 THE COURT: I want you to understand that it's not
23 so much about the dates and the times. It's about sort of
24 what happened.

1 THE SUBJECT MINOR: Yeah.

2 THE COURT: You know, the frustration is when you're
3 -- when you're being examined is that you don't get a chance
4 to explain your answers.

5 THE SUBJECT MINOR: Yeah.

6 THE COURT: But before I let you go, I want you to
7 -- you know, I think I understand what you would like the
8 Court to understand. And I'll tell you what I am getting from
9 your testimony, and if I'm wrong then you just help me. Okay?
10 Is that your parents have been separated a long time, and
11 you've been sharing time between your mom and your dad's
12 place. You split the week for a while and then you did year
13 to year -- or week to week for a couple years.

14 THE SUBJECT MINOR: Uh-huh (affirmative).

15 THE COURT: Okay. Of the two households, you would
16 rather be at your dad's, and that's because of stuff that
17 happened in the last year.

18 THE SUBJECT MINOR: Uh-huh (affirmative).

19 THE COURT: It came to a head in August, and
20 essential even though the Court order hasn't changed, you have
21 essentially said I refuse to go to my mom on her weeks, right?

22 THE SUBJECT MINOR: Yes.

23 THE COURT: And that caused these court proceedings
24 and you to be interviewed --

1 THE SUBJECT MINOR: Yes.

2 THE COURT: -- and you to come in here. Have you
3 had a chance to explain the reasons why you came to that
4 decision?

5 THE SUBJECT MINOR: Yes, I explained it to Radford.

6 THE COURT: No, no, no. For me.

7 THE SUBJECT MINOR: Oh, for you.

8 THE COURT: Do you think you've --

9 THE SUBJECT MINOR: Yeah.

10 THE COURT: -- explained all the reasons? Are there
11 any other reasons that you didn't either touch on in answering
12 Mr. Smith's questions or Mr. Grigsby's questions?

13 THE SUBJECT MINOR: No. I think I -- just
14 everything about her just not raising me the right way, and
15 she would always cuss me when I was little, and all the
16 fighting. I just don't want to deal with that.

17 THE COURT: Now, is that how you feel today or do
18 you feel that this is a cumulative effect? Have we come to a
19 point where this is where you're at or do you have -- because,
20 you know, you're going to be 13 in March. It's not like
21 you're going to be 18 in a year.

22 THE SUBJECT MINOR: Yeah.

23 THE COURT: Another five years as a minor, right?

24 THE SUBJECT MINOR: Yeah.

1 THE COURT: So you want to have good relationships
2 when you're an adult, right?

3 THE SUBJECT MINOR: Yes.

4 THE COURT: So you've got to work out the
5 relationships you've got in your family --

6 THE SUBJECT MINOR: Yes.

7 THE COURT: -- at some level. I'm sure that's, you
8 know, that's one thing we hope everybody has. Right?

9 THE SUBJECT MINOR: Yeah.

10 THE COURT: All right. So we're all shaped by our
11 history, our heritage, our parents and stuff, and, you know,
12 they -- what I want you to understand is that I'm going to
13 take your testimony and the other evidence I need to consider.
14 And, you know, I wouldn't have brought you in here if I wasn't
15 going to consider it. Okay?

16 THE SUBJECT MINOR: All right. Thank you.

17 THE COURT: All right. Who are you here with?

18 THE SUBJECT MINOR: My dad.

19 THE COURT: All right. I'm going to excuse you.
20 Don't talk about your testimony with anyone until this matter
21 is resolved.

22 THE SUBJECT MINOR: I won't.

23 THE COURT: I suggested that to your sister. I want
24 to make sure that you guys know that -- you know, you're

1 living together. I'm not expecting you guys to sit here and
2 talk about your testimony. It's kind of uncomfortable and
3 it's not appropriate. Okay? Because we're not finished
4 today.

5 THE SUBJECT MINOR: Yes, sir.

6 THE COURT: The other thing is I've got to talk to
7 your folks. By the way, I may have mentioned this before,
8 they're excluded. They're excluded to try to make this
9 process easier. It probably was easier, even though it was
10 hard --

11 THE SUBJECT MINOR: Yeah.

12 THE COURT: -- with them not being here. They're
13 going to come back in, and I've got to visit with them, and
14 but your involvement in this is probably pretty much finished.
15 Okay?

16 THE SUBJECT MINOR: All right. Thank you.

17 THE COURT: Any questions before you go?

18 THE SUBJECT MINOR: No.

19 THE COURT: All right. Good luck.

20 THE SUBJECT MINOR: Thank you.

21 (Witness excused)

22 MR. SMITH: Should we bring the parties back in?

23 THE COURT: Sure. Yeah. You guys got your
24 schedules handy or your calendars handy?

1 MS. FUJII: I do.

2 THE COURT: What I want to talk to you about is you
3 guys did depositions in December of maybe January, you
4 responded to discovery and -- come on in -- and there was a
5 motion filed. I think it's set for --

6 MS. FUJII: Tomorrow.

7 THE COURT: -- in front of the commissioner at the
8 end of the month. Since then have you guys been able to talk
9 through or work through the disputes? I mean, there's a lot
10 of stuff over here. I'm wondering what -- come on in, ma'am.
11 What is the current status of that discovery dispute
12 concerning the written discovery or the complete -- the nature
13 of it?

14 MR. GRIGSBY: I believe it's -- I believe it's set
15 for tomorrow.

16 THE COURT: Oh, tomorrow.

17 MR. GRIGSBY: Yes.

18 THE COURT: Fabulous. Great. Then I don't have to
19 worry about that.

20 So we took the testimony of Mia and Ethan, and the
21 Court has determined that the parents should be able to review
22 it with their -- with your counsel so you can get a view of
23 the proceedings, and then you would testify and we'd set
24 another session for it. In the meantime, you're going to go

1 to court and deal with the discovery issues. The Court is
2 going to say that discovery is not reopened, but whatever the
3 recommendations are I'll consider them. We'll talk about
4 them. Okay?

5 The parties are going to testify if we proceed as
6 planned, and that takes a least a half a day. Right?

7 MR. SMITH: I think so.

8 THE COURT: So what do you think? I mean, do you
9 think we should schedule this for a Thursday or can we do half
10 a day?

11 MR. SMITH: It depends on what your ruling is going
12 to be on these various witnesses that have been in addition to
13 the parties.

14 THE COURT: Yeah. I don't know what to do about
15 that. I've got -- I closed discovery and the -- I guess
16 really what I'd like to do is know what these -- I mean the
17 description of their testimony was very general. Defendant's
18 father, Defendant's wife's mother, you know, so far we haven't
19 raised -- I mean, I don't know. I mean, if her therapist is
20 going to talk about her mental or physical health that that
21 really is argued as some kind of problem. Why not make --
22 that hasn't been -- I mean, she doesn't need to. And she's
23 got some of her relatives listed, you know, character folks or
24 whatever. That stuff may all be relevant, but not heard by

1 the Court in the interest of time.

2 The only thing that I would concede would not be
3 appropriate would be to limit her to -- or to exclude the
4 testimony of the parties.

5 MR. SMITH: No, I think the parties should testify.
6 And, frankly, we would like -- I think that through the
7 testimony of the children, we see what an integral part that
8 Amy Stipp plays in their lives as well.

9 THE COURT: Yeah. You know, you say that she --
10 unless they attack her or attack -- I mean, you have a couple
11 hours of testimony to argue concerning that relationship that
12 would have to be confronted in order for me to (indiscernible)
13 that testimony. Now, there may be a specific anecdote or a
14 specific thing that she can only testify to or that she's the
15 best witness for, and that would be what I'm looking for on
16 your side for these various fact witnesses, and say, Judge, we
17 really think that you should hear the testimony of so-and-so's
18 father or so-and-so's uncle or my sister because they have
19 this specific knowledge about this. And then I might consider
20 that. Okay?

21 But in the interest of time, we've already spent,
22 well, what I consider an entire day with about three hours of
23 testimony for important evidence. I'd like to, for my own
24 sanity, since I have 10, 12 cases a morning Monday through

1 Wednesday, to try to do this on a Thursday.

2 MR. SMITH: All right.

3 MR. GRIGSBY: That's fine.

4 THE COURT: I have -- but I also want you to feel
5 differently about the -- I mean, it's hard enough to get a
6 handle around the merits of the case than this discovery
7 problem. So if there's a recommendation that he needs to
8 produce more or supplement, I want to have a week or two or
9 three for him to do that. Okay?

10 MR. SMITH: I appreciate that. So, Judge, one of
11 the things that you would sort of clue us in on is this notion
12 of requiring answers to interrogatories after a deposition has
13 been taken and the answers simply have -- they're the same
14 questions that were asked in the deposition.

15 THE COURT: Yeah.

16 MR. SMITH: I just don't think it's necessary. But
17 we're more than happy to --

18 THE COURT: Well, I don't know. I mean, I don't
19 know --

20 MR. SMITH: -- take transcript portions of the
21 deposition --

22 THE COURT: I mean, that -- you know, that -- this
23 would not be an issue if I -- if we had six months to litigate
24 the matter. Okay?

1 MR. SMITH: Right.

2 THE COURT: The answers to interrogatories were
3 served at the same time as the depo or after the depo?

4 MR. SMITH: No. They were served prior to the
5 deposition. The deposition went forward. All of the
6 questions -- I think that's a fair statement -- that all of
7 the questions --

8 THE COURT: Were the interrogatories used to impeach
9 the witness in the deposition?

10 MR. SMITH: They were used to question the witness
11 in the deposition. Those very same questions were used.

12 THE COURT: Okay. So any kind of disputes or
13 nuances were fleshed out in the deposition?

14 MS. FUJII: No.

15 MR. SMITH: We believe so.

16 THE COURT: All right. Well, then I -- we'll -- I'm
17 going to respect the process. I didn't even look at the -- I
18 just saw that there was a discovery motion. I didn't study it
19 or anything. It's not my business.

20 MR. SMITH: So you're going to allow the discovery
21 for sure?

22 THE COURT: Yeah. I'm going to ask that you could
23 do that tomorrow.

24 MR. SMITH: All right.

1 THE COURT: I want to make sure that you're -- that
2 you get some form of relief if you're entitled to relief under
3 the discovery piece. Okay? Now, obviously there's a
4 recommendation and either one of you have issues with it, it's
5 going to be decided by me anyway, so.

6 What I was looking at is this. I can't do this
7 before the 13th, and more than likely the 27th is what we're
8 looking at, and that is obviously at 9 a.m. on Thursday. So
9 do you have a hard conflict on the 27th?

10 MR. GRIGSBY: Actually I do since I don't have Mr.
11 (indiscernible) calendar. I've been setting --

12 THE COURT: Well, this is in February.

13 MR. GRIGSBY: Yeah, February 27th. I actually have
14 a trial on that date already.

15 THE COURT: You do?

16 MR. GRIGSBY: Yes.

17 THE COURT: All right. Well, we can't have that
18 then. What about the 13th?

19 MR. GRIGSBY: Actually I have another in-custody
20 delinquency trial that day.

21 THE COURT: Okay. What about the 5th of March?

22 MR. GRIGSBY: I'm fine that day.

23 MR. SMITH: We're good on the 5th of March.

24 THE COURT: Okay. You're -- we heard your case.

1 You kind of heard my view on Ponzo, and you'll have to talk
2 about whether or not you want to have his wife testify
3 briefly. But your client's going to testify, right?

4 MR. SMITH: Absolutely.

5 THE COURT: And on your side you have your client
6 and then some other fact witnesses, right?

7 MR. GRIGSBY: (No audible response.)

8 THE COURT: So I guess what I'll do is I'll set it
9 over for, you know, same thing we did today, like nine to four
10 or something like that.

11 MR. SMITH: Okay.

12 THE COURT: If we take -- and then -- now, you guys
13 are engaged in an ongoing dialogue, I'm sure, and you've got
14 to let me know if there's any issues that come up that affect
15 that day. Okay?

16 MS. FUJII: I can -- I would make that
17 representation that we haven't had the opportunity, and I
18 appreciate the Court waiting, but we also saw Ponzo as a
19 restricted witness based upon the stip and order of the
20 parties and their representation. So I didn't want to engage
21 in that colloquy --

22 THE COURT: I didn't make a final order on that.
23 But what I want you to do, since we spent a little time on it
24 and -- is --

1 MS. FUJII: That's why I didn't subpoena him.

2 THE COURT: -- let's get into whether you are
3 stipulating to amend the 2014 order for any kind of limited
4 purpose or whether you think that there's any privilege or
5 impediment to him testifying. My idea, or the Court's
6 thinking on this, is that the trier of fact doesn't need an
7 expert. And so far we've had no contested testimony
8 concerning the number of counseling visits, the duration of
9 the counseling visits, and we have evidence already that's
10 cumulative to his testimony about whether it's effective or
11 making progress or whatever. So I'm not -- I am -- my
12 concern is that it's a resource that I think is potentially
13 valuable to these folks and to the children and that I don't
14 want to screw it up.

15 MR. SMITH: Judge, yeah. I want to -- I want to
16 mirror the -- so, Your Honor, the only reason that we had
17 actually even noted him as a witness is because in that book
18 that they presented to you --

19 MS. FUJII: The proposed exhibit --

20 MR. SMITH: -- are a series of things that Mr. Ponzo
21 had written to them. I think, and I've told you -- I think we
22 agree -- well, I think that we mentioned at the beginning of
23 this that the therapeutic process cannot work --

24 THE COURT: Well --

1 MR. SMITH: -- if the parties to the process think
2 that their stuff they say is going to be --

3 THE COURT: Well, that's fine. But wait a minute.
4 Wait a minute. If we had had a motion in limine --

5 MR. SMITH: Yes.

6 THE COURT: -- I'd stick my head in those books and
7 I would have looked at them and we would have had an argument
8 about it.

9 MR. SMITH: Right.

10 THE COURT: We have seven days before the trial.
11 We're not -- we're in the trial. So there was no motion in
12 limine for me to weigh in on that.

13 MR. SMITH: There was but -- we did file a motion in
14 limine, but it doesn't matter.

15 THE COURT: When?

16 MR. SMITH: If they are --

17 THE COURT: I didn't see it.

18 MS. FUJII: They improperly filed it as a
19 counter-motion to the discovery.

20 THE COURT: Whatever. Whatever.

21 MR. SMITH: In the absence of -- in the absence of a
22 stipulation, Your Honor, it would be our position this is
23 privileged. It will undermine the entire therapeutic process.

24 MS. FUJII: (Indiscernible) --

1 THE COURT: Okay. So in addition to the -- first of
2 all, there's got to be an ask.

3 MR. SMITH: Okay.

4 THE COURT: And then the Court -- you're just saying
5 that you have what you think is another compelling reason for
6 the Court to not hear the testimony. Right?

7 MR. SMITH: I just don't want that testimony to be
8 heard. Those kids have no chance unless they have a
9 therapeutic ground --

10 THE COURT: Look. I'm not necessarily --

11 MR. SMITH: Okay.

12 THE COURT: Well, look. They -- we've got our
13 own --

14 MR. SMITH: If they'd be telling --

15 THE COURT: We've got our own -- we've got our own
16 challenges. Okay? And the testimony today during the course
17 of the day doesn't -- doesn't support some sort of notion that
18 counseling isn't necessary or effective, and I'm not going to
19 mess with it.

20 MR. SMITH: Thank you.

21 THE COURT: But if the -- if we're going to be
22 making a ruling that either substantive proof or a witness is
23 not available to either side in this case, we'll make a better
24 record than we made today. Okay?

1 MR. SMITH: Okay. All right.

2 THE COURT: And you would get a chance to articulate
3 all the reasons why you think the Court should allow the
4 witness, and the Court would have to articulate the reason why
5 we excluded it if we did. Okay? Or what type of limited
6 scope we'd have for the witness. All right?

7 So we -- it was a long day. Counsel, what you did
8 was difficult and good. I thought you did a good job and --

9 MR. SMITH: Thank you.

10 THE COURT: -- and I will expect that your client's
11 will get a chance, hopefully soon, to be able to review the
12 day's proceedings and -- as if they were here so when they're
13 back here they're, you know, they've seen all the witnesses
14 that have testified. Okay?

15 MR. SMITH: So on the counseling, it's my
16 understanding the counseling will continue during this process
17 because --

18 THE COURT: Didn't I say that?

19 MR. GRIGSBY: Yes.

20 MR. SMITH: It will. Okay. So I just wanted to be
21 clear on that because there hasn't been any request for any
22 sessions since discovery ended all of a sudden.

23 THE COURT: Well, okay, but wait a minute. The --
24 okay. Who knows? Maybe with all the stuff going by you guys

1 were busy. I don't know.

2 MR. SMITH: Maybe so. Maybe so.

3 THE COURT: But nobody has said, nobody has said,
4 that Ponzo's role is over.

5 MR. SMITH: Good. Thank you, Your Honor.

6 THE COURT: Right? Okay. Thank you.

7 (PROCEEDINGS CONCLUDED AT 2:42:24)

8 * * * * *

9
10 ATTEST: I do hereby certify that I have truly and
11 correctly transcribed the digital proceedings in the
12 above-entitled case to the best of my ability.

13

14

15 /s/ Lee Ann Nussbaum
LEE ANN NUSSBAUM, CET
16 Certified Electronic Transcriber

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